

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-01**

**RESOLUTION APPROVING THE RE-APPOINTMENT OF TED BRANDVOLD
AS THE 2012 PLANNING COMMISSION REPRESENTATIVE TO THE BOARD
OF ZONING ADJUSTMENT**

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

WHEREAS, the Planning Commission met on November 7, 2011, and recommended the re-appointment of Ted Brandvold as its representative to the Board of Zoning Adjustment,

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

SECTION 1. Ted Brandvold is hereby re-appointed as the 2012 Planning Commission representative to the Board of Zoning Adjustment, with a term expiration of January 1, 2013.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-02**

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF AMY NEUMANN FROM THE PLANNING COMMISSION

WHEREAS, Amy Neumann was appointed a member of the Planning Commission on May 3, 2011, and

WHEREAS, Amy Neumann has tendered her resignation from the Planning Commission, and

NOW, THEREFORE, BE IT RESOLVED that the resignation of Amy Neumann from the Planning Commission be, and hereby is accepted with regret.

BE IT FURTHER RESOLVED that the City Council of the City of Modesto, on its own behalf, and on behalf of the citizens of the City, hereby expresses its sincere appreciation to Amy Neumann for her service to the community.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-03**

**A RESOLUTION REAPPOINTING CHRIS TYLER TO THE CITY OF
MODESTO PLANNING COMMISSION**

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

WHEREAS, the Economic Development Committee met on December 15, 2011, and recommended reappointment of Chris Tyler to the Modesto Planning Commission.

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

SECTION 1. Chris Tyler is hereby reappointed to the Planning Commission with a term expiration of January 1, 2016.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-04**

**A RESOLUTION APPOINTING SANDRA LUCAS TO THE CITY OF
MODESTO PLANNING COMMISSION**

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

WHEREAS, the Economic Development Committee met on December 15, 2011, and recommended appointment of Sandra Lucas to the Modesto Planning Commission.

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

SECTION 1. Sandra Lucas is hereby appointed to the Modesto Planning Commission with a term expiration of January 1, 2016.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-05**

**A RESOLUTION APPOINTING DENNIS SMITH TO THE CITY OF MODESTO
PLANNING COMMISSION**

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

WHEREAS, the Economic Development Committee met on December 15, 2011, and recommended appointment of Dennis Smith to the Modesto Planning Commission.

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

SECTION 1. Dennis Smith is hereby appointed to the Modesto Planning Commission with a term expiration of January 1, 2014 (Partial Term).

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-06**

RESOLUTION APPROVING AN AMENDMENT TO AN AGREEMENT BETWEEN THE CITY OF MODESTO AND MODESTO IRRIGATION DISTRICT RELATED TO THE RELOCATION OF ELECTRIC UTILITY POLES IN THE AMOUNT OF \$18,403.41 FOR THE ADDITIONAL EXPENSES WHICH OCCURRED DURING THE RELOCATION OF MODESTO IRRIGATION DISTRICT FACILITIES AT THE SOUTHEAST CORNER OF MCHENRY AVENUE AND BRIGGSMORE AVENUE; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO AGREEMENT

WHEREAS, the Congestion Mitigation Air Quality (CMAQ) Management CML 5059 (168) -- Construct Right Turn Lane Northbound (NB) McHenry Avenue to Eastbound (EB) Briggsmore Avenue Project involves the expansion of Briggsmore Avenue and McHenry Avenue to include a northbound right turn lane at the southeast corner of Briggsmore Avenue and McHenry Avenue, and

WHEREAS, the City of Modesto requested Modesto Irrigation District to relocate its facilities prior to the construction of the street improvements, and

WHEREAS, Caltrans determined this project to be a categorical exclusion pursuant to the National Environmental Policy Act (NEPA) and all other applicable federal environmental law, regulations and executive orders, and

WHEREAS, on March 25, 2010, Caltrans approved Categorical Exemption/Categorical Exclusion Document, and

WHEREAS, the project is consistent, and is in conformance to the General Plan Master E.I.R. and no additional California Environmental Quality Act clearance is needed, and

WHEREAS, the City of Modesto required an Agreement Related to the Relocation of Electric Utility Poles for the relocation of Modesto Irrigation District facilities, and

WHEREAS, the Agreement between the City of Modesto and Modesto Irrigation District related to the relocation of electric utility poles indicated the cost for relocation of facilities as an estimated amount, and

WHEREAS, the Right Turn Lane Northbound (NB) McHenry Avenue to Eastbound (EB) Briggsmore Avenue Project is eligible for CMAQ funds,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to the Agreement between the City of Modesto and Modesto Irrigation District related to the relocation of electric utility poles.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-07**

RESOLUTION AUTHORIZING THE AWARD OF BIDS FOR THE FURNISHING OF PUMP STATION REJUVENATION SERVICES FOR THE PUBLIC WORKS DEPARTMENT, WATER DIVISION AND WASTEWATER DIVISION, TO AMERINE SYSTEMS, INC. OAKDALE, CA AS "PRIMARY" CONTRACTOR, DON PEDRO PUMP, HUGHSON, CA AS "SECONDARY" CONTRACTOR AND GSE CONSTRUCTION CO., INC., LIVERMORE, CA AS "THIRD" CONTRACTOR, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE PURCHASE AGREEMENTS FOR AN ESTIMATED ANNUAL COST OF \$185,000

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the furnishing of pump station rejuvenation services, and

WHEREAS, the Purchasing Division issued RFB No. 1112-03 Pump Station Rejuvenation Services, to eight (8) prospective bidders, five (5) of which were local vendors, posted the bid on the City's website and formally advertised as required by law, and

WHEREAS, bids were formally opened in the City Clerk's Office. Three (3) companies chose to respond, none of which were local vendors. All three (3) companies provided responsive and responsible bids, and

WHEREAS, in order to ensure continued services to the City, contracts shall be 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, and

WHEREAS, based on providing responsive and responsible bids, City staff recommends the award of bids for the furnishing of pump station rejuvenation services for the Public Works Department, Water Division and Wastewater Division, to Amerine Systems, Inc. Oakdale, CA as “primary” contractor, Don Pedro Pump, Hughson, CA as “secondary” contractor and GSE Construction Co., Inc., Livermore, CA as “third” contractor, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. The award of bids for the furnishing of pump station rejuvenation services for the Public Works Department, Water Division and Wastewater Division, to Amerine Systems, Inc. Oakdale, CA as “primary” contractor, Don Pedro Pump, Hughson, CA as “secondary” contractor and GSE Construction Co., Inc., Livermore, CA as “third” contractor, conforms to the Modesto Municipal Code, and

WHEREAS, funds shall be budgeted for the furnishing of pump station rejuvenation services in Appropriation Unit: 4100-55090-53100 and 4210-54313-53100.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid for the furnishing of pump station rejuvenation services for the Public Works Department, Water Division and Wastewater Division, to Amerine Systems, Inc. Oakdale, CA as “primary” contractor, Don Pedro Pump, Hughson, CA as “secondary” contractor and GSE Construction Co., Inc., Livermore, CA as “third” contractor.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase agreement for an estimated annual cost of \$185,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-08**

RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE PURCHASE OF ONE TRANSFER TRUCK WITH TRAILER, FOR THE PUBLIC WORKS DEPARTMENT, STREETS DIVISION, THROUGH THE FLEET SERVICES DIVISION, TO DELTA TRUCK CENTER, FRENCH CAMP, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR A TOTAL ESTIMATED COST OF \$164,144

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, throughout FY 11/12 through various competitive processes, with the Purchasing Division coming back to Council for award authorization. The transfer truck and trailer were included in the FY 11/12 new vehicles and heavy equipment list authorized by the City Manager, and

WHEREAS, the transfer truck with trailer is a replacement for the Streets Division and has been subjected to a thorough evaluation and has met or exceeded the replacement criteria before being placed on the replacement list. The transfer truck with trailer falls under the City's compliance program, approved by the California Air Resources Board, requiring a progressive program to remove older diesel trucks from service, and

WHEREAS, on October 25, 2011, the City Council, by Resolution No. 2011-407, rejected all bids for the purchase of the transfer truck with trailer based on a letter received from one of the bidders. The information received suggested the motor being proposed by the lowest responsive and responsible bidder would not provide the performance and warranty required for the application, and

WHEREAS, the lowest responsive and responsible bidder retracted their proposed bid for the medium size engine and requested to price a heavy duty engine, and

WHEREAS, in the best interest of the City and to provide all vendors a fair and competitive process, staff recommended rejection of all bids and to re-issue a formal Request for Bid with revised specifications, and

WHEREAS, the Fleet Division discussed the engine requirements with the manufacturers and revised the specification to provide more specific details regarding the engine requirements and the use of this equipment, and

WHEREAS, the Purchasing Division issued RFB No. 1112-16 for the purchase of one transfer truck with trailer to fourteen (14) prospective bidders, posted the bid on the City's website and formally advertised as required by law. Three (3) of the fourteen (14) prospective bidders are located within Stanislaus County, one of which is a local vendor, and

WHEREAS, RFB's were formally opened in the City Clerk's office. Of the fourteen (14) prospective bidders, four (4) companies chose to respond, two (2) bidders are located in Stanislaus County. The one local vendor could not provide this type of equipment and did not submit a bid. All four (4) companies provided responsive and responsible bids, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid for the purchase of one transfer truck with trailer to Delta Truck Center, French Camp, CA, for a total estimated cost of \$164,144, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2011-12 in appropriation unit 5410-53241-57003, and

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

to be formally bid. The award of bid for the purchase of one transfer truck with trailer to Delta Truck Center, French Camp, CA, for the Public Works Department, Fleet Services 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 for the purchase of one transfer truck with trailer for the Public Works Department, Streets Division, through the Fleet Services Division, to Delta Truck Center, French Camp, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase order for a total estimated cost of \$164,144.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Hawn, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-09**

**RESOLUTION AMENDING THE FISCAL YEAR 2010-2011 AND 2011-2012
ANNUAL OPERATING BUDGETS**

WHEREAS, a financial analysis has been completed and it has been determined that a budget adjustment is required to the Annual Budgets of the City of Modesto for Fiscal Years 2010-2011 and 2011-2012,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2010-2011 and 2011-2012 annual operating budgets as shown in **Exhibit A**, which is **attached** hereto and incorporated by reference herein.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

CITY MANAGER'S OFFICE

An adjustment is necessary to City Manager's Office budget in the General Fund (0100) to recognize \$6,211 in previously unbudgeted Miscellaneous Donations/Contributions revenue from Stanislaus Foundation and appropriate it to Professional Services expense for Branding Modesto website development.

COMMUNITY AND ECONOMIC DEVELOPMENT

An adjustment is necessary to recognize \$2,060 of previously unbudgeted Miscellaneous Revenue in the Traffic Engineering Division of CEDD in the Surface Transportation Fund (1700) for rental of additional office space on the 4th floor of Tenth Street Place to the Parks, Recreation and Neighborhoods (PR&N) Solid Waste Management Division. The expense will be paid from existing budget in PR&N's Solid Waste Fund (4890).

An adjustment is necessary to close Project 100047-Coffee/Claratina Intersection Improvements and re-appropriate the project's \$1,054,936 existing expense budget to Project 100051-Claratina/McHenry/Coffee 4 Lanes in the Streets CFF Fund (3410). The two projects due to their similarity in scope and location are being combined into Project 100051 which will be renamed Claratina/McHenry to Coffee (4 Lanes & Intersection Improvements).

FINANCE

On October 21, 1997 the Modesto Public Financing Authority, by Resolution 97-1 approved the award of the 1997 Water Bonds. The 1997 Water Bonds were paid off in Fiscal Year 2010-11 and an adjustment is necessary to write off the remaining Deferred Amount on Refunding – Amortization expense in the amount \$1,000,428 in the Water COP 97 Fund (4120) in Fiscal Year 2010-11. The expense would have been amortized at \$74,736 annually until Fiscal Year 2022/23 had the bonds not been refunded. This action is a bookkeeping correction to reflect the refunding of the bonds and does not impact cash flow. **This transaction is for fiscal year 2010/11.**

Due to implementation of the City's new Oracle financial system spanning two fiscal years, \$81,270 budgeted but unspent for ERP temporary labor backfill expense fell to General Fund (0100) reserves at the end of Fiscal Year 2010-11. An adjustment is necessary in Fiscal Year 2011-12 to re-appropriate the \$81,270 to the Accounting Division in the Finance Department in the General Fund (0100) for Temporary Employee Services expense to backfill for key staff members who are vital in the success of the conversion.

An adjustment is necessary to increase the budgeted transfer from the General Fund (0100) to the Public Financing Authority 98 & 07 Bonds Fund (2150) in the amount of \$662,728 from General Fund reserves. As described in the agenda report for Resolution 2011-358, the execution and delivery of a reimbursement agreement fee letter for the 2008 Leave Revenue bonds included previously unbudgeted expense for legal and advisory services (\$157,728) and additional LOC costs (\$505,000), and, increase the expense budget in the Public Financing Authority 98 & 07 Bonds Fund (2150) to allow for the unbudgeted professional services and LOC costs.

POLICE

An adjustment is necessary to recognize \$2,500 of previously unbudgeted Miscellaneous Donation/Contribution revenue received from Target Corporation and appropriate the same City Council, January 10, 2012 Monthly Budget Adjustment Report – November & December 2011 Page 3 of 3 amount in Patrol Field Operations in the Police budget in the General Fund (0100) for Tools, Shop and Field Supplies expense to purchase McGruff kits for the Safe Kids Program.

PARKS, RECREATION AND NEIGHBORHOODS

An adjustment is necessary to appropriate \$50,000 from the Parks Fund (3130) reserves to the Thurman Field Improvements Project 100301 – Construction for two previously unbudgeted additional parking lots at John Thurman Field.

An adjustment is necessary to recognize \$89,343 in previously unbudgeted revenue in the Grants-RLF Housing Loan Program Fund (1150) and appropriate it to expense for the Housing Rehabilitation Programs in that fund.

PUBLIC WORKS

On November 10, 2009 on Resolution 2009-543 the City Council approved ARRA Grant funded Capital Improvement Project #100453 - ARRA Wells 283 & 236 Blending. Per the terms of the Grant Debt Service Repayment Agreement, once reimbursements are received for work completed, payments of principal and interest are payable to the Federal Government.

An adjustment is necessary to appropriate \$18,634 from Water Fund (4100) Reserves to establish a debt service budget for Safe Drinking Water State Revolving Fund ARRA Financing.

An adjustment is necessary to appropriate \$6,500 from the Wastewater Fund (4210) reserves to Salary and Wages in Laboratory Services for an Administrative Office Assistant II position approved by Council on June 7, 2011.

UTILITY PLANNING & PROJECTS

An adjustment is necessary to reduce the Engineering/Design/Administration expense budget by \$200,000 in Capital Improvement Project #100467 - Industrial Tank 13 Transmission Mains and re-appropriate the funds to Capital Improvement Project #100672 - Codoni Transmission Mains. The Codoni Transmission project was approved by the Capital Improvement Project Task Force on October 24, 2011.

An adjustment is necessary to re-appropriate \$250,000 from Capital Improvement Project #100568 - Install New Wells Primary project to Capital Improvement Project #100472 – Hickman Water Tank & Well project to provide additional budget for Engineering/Design/Administration activities in the Hickman Water Tank & Well project.

An adjustment is necessary to re-appropriate \$710,000 from Capital Improvement Project #100564 – Wellhead treatment Primary to Capital Improvement Project #100628 – Kiernan Ave. Water Main Extension for costs associated with the water main extension

from the intersection of Dale Rd and Bangs to Kiernan Avenue and the replacement of the existing water main on Kiernan Avenue from the Sisk Rd. intersection to across the Hwy 99 bridge.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-10**

**RESOLUTION AMENDING THE CITY'S ALCOHOL AND DRUG TESTING
POLICY AND PROCEDURE AND RENAMING IT THE ANTI-DRUG /
ALCOHOL MISUSE PROGRAM TO ENSURE CONTINUED COMPLIANCE
WITH REGULATIONS OF THE UNITED STATES DEPARTMENT OF
TRANSPORTATION**

WHEREAS, the Omnibus Transportation Employee Testing Act of 1991 requires drug and alcohol testing of safety-sensitive transportation employees in transportation industries, and

WHEREAS, on December 13, 1994, by Resolution No. 94-695, the Council of the City of Modesto approved the original Alcohol and Drug Testing Policy and Procedure, and

WHEREAS, on December 16, 1996, by Resolution No. 96-716, the Council of the City of Modesto amended the Alcohol and Drug Testing Policy and Procedure, and

WHEREAS, on March 10, 2009, by Resolution No. 2009-104, the Council of the City of Modesto amended the Alcohol and Drug Testing Policy and Procedure, and

WHEREAS, the City of Modesto Alcohol and Drug Testing Policy and Procedure is governed by both the Federal Motor Carrier Safety Administration and the Federal Transit Administration, and

WHEREAS, as a result of a recent audit, there is a need to revise the City's Alcohol and Drug Testing Policy and Procedure to ensure compliance with the Federal regulations of the United States Department of Transportation, and rename it the Anti-Drug/Alcohol Misuse Program,

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

SECTION I. POLICY AMENDMENT AND TITLE. The City's Alcohol and Drug Testing Policy and Procedure is hereby renamed the Anti-Drug/Alcohol Misuse Program. The Anti-Drug/Alcohol Misuse Program **attached** hereto is hereby approved.

SECTION II. EFFECTIVE DATE. This resolution shall become effective on and after January 10, 2012.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour
NOES: Councilmembers: None
ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

DRAFT

City of Modesto
ANTI-DRUG PROGRAM/ALCOHOL MISUSE PROGRAM
As required by the Department of Transportation

City of Modesto
1010 Tenth Street
PO Box 642
Modesto, CA 95353
Phone 209-577-5446 • Fax 209-576-7069

Please Note:

The following policy contains information in regards to the City's federally mandated drug and alcohol misuse policy for commercial license holders and safety sensitive positions covered by these regulations.

Employees and supervisors should be aware that there are other rules and policies that pertain to the subject of drug and alcohol use and this policy should not be considered a sole source for direction in all circumstances.

Additional related information may be found in the following documents as well as other sources not listed:

- Employee Handbook
- Personnel Rules
- City Alcohol and Drug Abuse Policy
- Memorandums of Understanding

Please contact Human Resources for guidance and questions.

Table of Contents

1. Purpose of Policy.....	4
2. Statement of Philosophy	4
3. Scope	5
4. Prohibited Substances	6
5. Prohibited Conduct.....	6
6. Testing Procedure.....	7
7. Employee admission of alcohol and controlled substances use	11
8. Prescription Drug Use	12
9. Over-The-Counter Medications	12
10. Evaluation/Rehabilitation	13
11. Employee and Supervisor Training	13
12. Medical Review Officer (MRO).....	14
13. Testing Laboratory.....	14
14. Reporting of Anti-Drug/Alcohol Testing Results	14
15. Confidentiality	14
<i>Terms and Definitions</i>	<i>16</i>
<i>Classifications covered by the DOT Drug & Alcohol Testing Policy - FMCSA.....</i>	<i>20</i>
<i>Classifications covered by the DOT Drug & Alcohol Testing Policy - FTA</i>	<i>21</i>
<i>DOT Post-Accident Drug and Alcohol Testing Decision and Documentation Form</i>	<i>22</i>
<i>Reasonable Suspicion Test Memorandum.....</i>	<i>24</i>
<i>Alcohol Fact Sheet.....</i>	<i>26</i>
<i>Amphetamine Fact Sheet.....</i>	<i>28</i>
<i>Cocaine Fact Sheet.....</i>	<i>30</i>
<i>Cannabinoids (Marijuana) Fact Sheet.....</i>	<i>32</i>
<i>Opiates (Narcotics) Fact Sheet.....</i>	<i>34</i>
<i>Phencyclidine (PCP) Fact Sheet.....</i>	<i>35</i>
<i>List of Department Directors and Their Designees.....</i>	<i>36</i>
<i>City of Modesto Employee Acknowledgement Form.....</i>	<i>39</i>

1. Purpose of Policy

This policy complies with 49 CFR Part 655, as amended, 49 CFR Part 40, as amended, and 49 CFR Part 382, as amended. All drug and alcohol testing is conducted in accordance with these regulations.

Copies of Parts 382, 655 and 40 are available in the Anti-Drug Program/Alcohol Misuse Program Manager's office and can be found on the internet at the Office of Drug & Alcohol Policy & Compliance's website <http://www.dot.gov/ost/dapc/index.html>.

The City of Modesto has written and implemented its Anti-Drug/Alcohol Misuse Program to ensure compliance with Federal Regulations of the Department of Transportation. This program is implemented in addition to the City's Drug-Free Workplace Program. This policy and these procedures are adjunct to the City of Modesto's Alcohol and Drug Abuse Policy, dated October 7, 2009. In the event that Federal Regulations conflict with the City's Drug-Free Workplace Program, the Federal Regulations shall prevail. In the event that Federal Regulations fail to provide language for a particular situation, the employee shall be subject to this policy, the City's 2009 Drug-Free Workplace Program or other applicable City Policies.

It is the goal of the City of Modesto to attract and maintain a work force that is free of alcohol or drugs that impair judgment, impact job performance or result in accident or injury to employees or the general public. For the purpose of this program an employee who tests positive on a drug test, as defined by DOT, shall be considered impaired.

2. Statement of Philosophy

A. Drugs and Alcohol in the Workplace

In passing the Omnibus Transportation Employee Testing Act of 1991, Congress found that:

- (1) Alcohol abuse and illegal drug use pose significant dangers to the safety and welfare of the Nation;
- (2) Millions of the Nation's citizens utilize transportation by aircraft, railroads, trucks, and buses, and depend on the operators of aircraft, trains, trucks and buses to perform in a safe and responsible manner;
- (3) The greatest efforts must be expended to eliminate the abuse of alcohol and use of illegal drugs, whether on duty or off duty, by those individuals who are involved in the operation of aircraft, trains, trucks and buses;
- (4) The use of alcohol and illegal drugs has been demonstrated to affect significantly the performance of individuals, and has been proven to have been a critical factor in transportation accidents;
- (5) The testing of uniformed personnel of the Armed Forces has shown that the most effective deterrent to abuse of alcohol and use of illegal drugs is increasing testing, including random testing;
- (6) Adequate safeguards can be implemented to ensure that testing for abuse of alcohol or use of illegal drugs is performed in a manner which protects an individual's right to privacy, ensures that no individual is harassed by being

- treated differently from other individuals, and ensures that no individual's reputation or career development is unduly threatened or harmed; and
- (7) Rehabilitation is a critical component of any testing program for abuse of alcohol or use of illegal drugs, and should be made available to individuals, as appropriate.

B. City Philosophy

As stated in the City of Modesto's Alcohol and Drug Abuse Policy, employees shall not utilize or be under the influence of alcohol or drugs while in City vehicles, at work locations, or while on duty or paid standby; shall not possess alcohol or drugs while on duty, or in City vehicles; shall not sell or provide or participate in or arrange for the selling or provision of prescription or illegal drugs to any other employee or to any person while such employee is on duty or paid standby; nor have their ability to work impaired as a result of the use of alcohol or drugs. Employees must be able to perform their duties safely and efficiently, in the interest of the public and their fellow workers, as well as themselves. The influence of drugs and alcohol on employees is not consistent with this objective.

The City will act to eliminate any substance abuse. Examples include alcohol, illegal drugs, prescription drugs, or any other substance which could impair an employee's ability to perform safely and effectively the functions of the particular job that increases the potential for accidents, absenteeism, substandard performance, poor employee morale, or damage to the City's reputation.

3. Scope

A. Covered Employees

This policy applies to every employee whose position requires the possession of a commercial driver's license (CDL); every employee performing a "safety-sensitive function" as defined herein, and any employee applying for such positions.

Under Federal Motor Carrier Safety Administration (**FMCSA**), an employee is performing a safety-sensitive function if they are:

- Driving a commercial motor vehicle which requires the driver to have a commercial driver's license (CDL),
- Inspecting, servicing, or repairing any commercial motor vehicle,
- Waiting to be dispatched to operate a commercial motor vehicle,
- Performing all other functions in or upon a commercial motor vehicle,
- Loading or unloading a commercial motor vehicle, supervising or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipment being loaded or unloaded,
- Performing driver requirements associated with an accident, or
- Repairing, obtaining assistance, or remaining in attendance upon a disabled commercial motor vehicle.

Under Federal Transportation Authority (**FTA**), you are a safety-sensitive employee if you perform any of the following:

- Operation of a revenue service vehicle, in or out of revenue service,
- Operation of a non-revenue vehicle requiring a CDL,
- Controlling movement or dispatch of a revenue service vehicle (this is optional and determined by employer),
- Security personnel who carry firearms,
- Maintenance (including repairs, overhaul and rebuilding) of a revenue service vehicle or equipment being used on revenue service, or
- Contract employees that stand in the shoes of Transit System employees who have to comply.

Covered employee means a person, including an applicant or transferee, who performs or will perform a safety-sensitive function. A volunteer is a covered employee if: (1) The volunteer is required to hold a commercial driver's license to operate the vehicle; or (2) The volunteer performs a safety-sensitive function for an entity subject to CFR 49 Part 655, 40 or 382 and receives remuneration in excess of his or her expenses incurred while engaged in the volunteer activity.

See Attachment A and B for a list of covered positions by job title.

B. Contact

For questions regarding the City's anti-drug use and alcohol misuse program, please contact the City's Program Manager 209-571-5134 or Risk & Loss Control Coordinator at 209-577-5446.

4. Prohibited Substances

- Marijuana
- Cocaine
- Amphetamines
- Opiates
- Phencyclidine (PCP)
- Alcohol

5. Prohibited Conduct

All covered employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR Part 40 (as amended).

Each covered employee is prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report to duty. If the covered employee claims ability to perform his or her safety-sensitive function despite prior consumption of alcohol, they must take an alcohol test before being allowed to work.

No department shall permit any covered employee to perform or continue to perform safety-sensitive functions if it has actual knowledge that the employee is using alcohol.

Each covered employee is prohibited from reporting to work or remaining on duty requiring performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater regardless of when the alcohol was consumed.

No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.

No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions.

6. Testing Procedure

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability using techniques, equipment and laboratory facilities which have been approved by the U.S. Department of Health and Human Services (HHS). All testing will be conducted consistent with the procedures as required in 49 CFR Part 40 (as amended). The following types of tests and testing protocols apply:

A. Pre-Employment Testing

Pre-employment alcohol tests are conducted after making a preliminary offer of employment or transfer that is subject to the employee passing the pre-employment alcohol test.

FTA Procedures: A negative pre-employment drug test result is required before an employee can first perform safety-sensitive duties.

A pre-employment (return to work) test is required for covered employees who are away from work for more than 90 consecutive calendar days, are removed from the random testing pool, and plan to return to a safety-sensitive function.

When a covered employee or applicant has previously failed or refused a DOT pre-employment drug and/or alcohol test, the employee must provide proof of having successfully completed a referral, evaluation and treatment plan meeting DOT requirements.

FMCSA Procedures: A negative pre-employment drug test result is required before an employee can first perform safety-sensitive duties. An employer is required to administer a pre-employment controlled substances test if:

- (1) The driver has participated in a controlled substances testing program that meets the requirements of this part within the previous 30 days; and
- (2) While participating in that program, either:
 - a) Was tested for controlled substances within the past six months (from the date of application with the City of Modesto), or
 - b) Participated in the random controlled substances testing program for the previous twelve months (from the date of application with the City of Modesto); and
- (3) The City of Modesto ensures that no prior employer of the driver (of whom the City of Modesto has knowledge) has records of a violation of this part or the controlled substances use rule of another DOT agency within the previous six months.

B. Reasonable Suspicion Testing

As currently provided in the City of Modesto's Alcohol and Drug Abuse Policy, the City shall conduct a drug and/or alcohol test when the City has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse.

The determination that reasonable suspicion exists shall be based on specific, contemporaneous, objective observations concerning the appearance, behavior, speech, or body odors of the covered employee. A supervisor or other City official, trained in detecting the signs and symptoms of drug use and alcohol misuse, must make the required observations and document them in writing on the form provided. (Attachment D)

You may ask to have a representative with you prior to being tested. We will provide access to a telephone to contact a representative. Your representative must be present within one and one half hours of the time we directed you to take the test. If the representative cannot be present or is not present within that time, we may allow additional time at our discretion or we may choose to have you undergo the evaluation and/or testing without your representative being present.

The City of Modesto may direct a covered employee to undergo DOT reasonable suspicion testing for alcohol only while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions; or just after the employee has ceased performing such functions. However, all City employees (BOT and non-DOT) can be tested under the City's Alcohol and Drug Abuse Policy for reasonable suspicion.

If an alcohol test is not administered within two (2) hours following the determination to conduct a reasonable suspicion test, the supervisor shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test is not administered within eight (8) hours following the determination to test, the City shall cease attempts to administer an alcohol test and update the record with the reasons for not administering the test in a timely manner.

Where there is reasonable suspicion that the employee is under the influence of alcohol or drugs, the manager or supervisor should arrange for the employee to be safely transported home after the employee has undergone testing. The employee shall be placed on paid administrative leave pending the outcome of the test.

C. Post-Accident Testing

FMCSA and FTA Procedures: Covered employees shall be subject to post-accident alcohol and controlled substances testing under the following circumstances:

Fatal Accidents: As soon as possible following an accident involving the loss of human life, DOT drug and alcohol tests are conducted on all surviving covered employees. In addition, any other covered employee whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision, is tested.

Non-Fatal Accidents: Post-accident testing is required if one of the following conditions is met,

- An accident results in injuries requiring immediate medical treatment away from the scene, and the covered employee may have contributed to the accident,

or

- One or more vehicles receive disabling damage and have to be towed from the scene, and the covered employee may have contributed to the accident.

In addition, any other covered employee whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision, is tested.

Disabling damage means damage which prevented the departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs.

Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, tail lights, turn signals, horn, or windshield wipers that makes them inoperative.

If an alcohol test is not administered within two hours following the time of the accident, the supervisor shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test is not administered within eight hours following the determination to test, the City shall cease attempts to administer an alcohol test and update the record with the reasons for not administering the test in a timely manner. The drug test should be taken as soon as possible. Cease attempts to collect the drug test after 32 hours.

If the decision not to administer a drug and/or alcohol test under this section shall be based on the City's determination, using the best available information at the time of the determination that the employee's performance could not have contributed to the accident, such a decision must be documented in detail, including the decision-making progress used to reach the decision not to test (Attachment C).

Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

D. Random Testing

Random drug and alcohol tests are unannounced and unpredictable, and the dates for administering random tests are spread reasonably throughout the calendar year. Random testing must be conducted at all times of the day when safety-sensitive functions are performed.

Testing rates will meet or exceed the minimal annual percentage rate set each year by the DOT Administrator. The current year testing rates can be viewed on line at <http://www.dot.gov/ost/dapc/rates.html>. The 2011 FMCSA minimum testing requirement is to annually perform drug tests on 50% and alcohol tests on 10% of the average number of commercial driver positions. The 2011 FTA minimum testing requirement is to annually perform drug tests on 25% and alcohol tests on 10% of the average number of safety-sensitive employees. If a given agency or driver is subject to random alcohol or controlled substances testing under the random alcohol or controlled substances testing of more than one DOT agency for the same employer, the drivers shall be subject to random alcohol and/or controlled substances testing at the annual percentage rate established for the calendar year by the DOT agency regulating more than 50 percent of the driver's function.

The selection of employees for random drug and alcohol testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator

that is matched with employees' Social Security numbers, payroll identification numbers, or other comparable identifying numbers. Under the selection process used, each covered employee shall have an equal chance of being tested each time selections are made.

Each employee selected for testing shall be tested during the selection period. A covered employee shall only be randomly tested for alcohol misuse while the employee is performing safety-sensitive functions; just before the employee is to perform safety-sensitive functions; or just after the employee has ceased performing such functions. A covered employee may be randomly tested for prohibited drug use anytime while on duty.

Each covered employee who is notified of selection for random drug or random alcohol testing shall proceed to the test site immediately.

E. Test Refusal

You have refused to take a test if you:

1. Fail to provide a breath or urine sample,
2. Provide an insufficient volume without valid medical explanation,
3. Adulterate or substitute a specimen,
4. Fail to appear within a reasonable time,
5. Leave the scene of an accident without just cause prior to submitting to a test,
6. Leave the collection facility prior to test completion,
7. Fail to permit an observed or monitored collection when required,
8. For an observed collection, fail to follow the observer's instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process,
9. Possess or wear a prosthetic or other device that could be used to interfere with the collection process,
10. Admit to the collector or MRO that you adulterated or substituted the specimen. As an employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test,
11. Fail to take a second test when required,
12. Fail to undergo a medical examination when required,
13. Fail to cooperate with any part of the testing process,
14. Fail to sign Step 2 of alcohol test form,
15. Once test is underway, fail to remain at site and provide a specimen, or
16. The MRO verifies that you provided an adulterated/substituted sample.

For pre-employment tests only, failure to appear, aborting the collection before the test commences, or failure to remain at site prior to commencement of test is NOT a test refusal.

F. Shy Bladder

If an employee is unable to provide at least 45 milliliters of urine, collection site personnel shall direct the individual to drink not more than 40 ounces of fluids and, after a period up to three (3) hours time, attempt to provide a complete sample. If employee is still not able to give an adequate sample the MRO shall refer the individual for a medical evaluation to determine if individual's inability to provide a sample is a genuine medical condition or constitutes a refusal to test. An employee's refusal to be examined by a physician shall be regarded as a refusal to test.

G. Dilute Samples

In instances where the employee produces a dilute specimen, he or she must undergo a second test.

Dilute negative results of 2-5 mg/dl require an immediate recollection under direct observation (see §40.155(c)).

H. Split Sample

Any covered employee who questions the results of a required drug test under this policy may request that the split sample be tested. The test must be conducted on the split sample that was provided by the employee at the time of the primary specimen. The employee's request must be made to the Medical Review Officer within 72 hours of notice of the verified results from the original sample. Requests after 72 hours will only be accepted at the discretion of the MRO. The split specimen test is at the employee's expense and will be sent to a different DHHS-certified laboratory for presence of the drug(s) for which a positive result was obtained in the test of the primary specimen.

I. Consequences

Following a positive drug or alcohol (BAC at or above 0.02) test result or test refusal, the employee is immediately removed from safety-sensitive duties, referred to a substance abuse professional (SAP), and put on paid administrative leave pending disciplinary action.

J. Return to Duty Testing

Any employee who is allowed to return to duty after a refusal to submit to a test or failing an alcohol and/or drug test, must first be evaluated by a substance abuse professional (SAP), and provide a negative drug, alcohol (or both) test result.

K. Follow-Up Testing

Employees returning to duty following a leave for substance abuse rehabilitation will be required to undergo unannounced follow-up alcohol and/or drug testing as directed by the SAP. The number and frequency of such follow-up testing shall be directed by the SAP. The employee will be subject to follow-up testing for a period of 1 to 5 years as determined by the SAP. All testing will be conducted in accordance with 49 CFR Part 40, subpart O. All such follow-up testing will be paid for by the employee.

L. Compensation

Time spent in conjunction with pre-duty (first test to add into the Random pool), post-accident, random and reasonable suspicion testing shall be considered as paid time. The City shall also pay for the cost of these tests, pre-employment tests and the initial evaluation by the SAP. Cost of SAP-required treatment and testing, time spent while testing for return to duty, and time spent on follow-up testing shall be borne by the employee.

7. Employee admission of alcohol and controlled substances use

All employees are encouraged to make use of the available resources for treatment for alcohol misuse and illegal drug use problems. Under the City of Modesto's policy, any employee who **voluntarily discloses** a substance abuse problem **before a disciplinary matter develops and/or before notification for a required test**, will be subject to return-to-duty and follow-up testing under the City of Modesto's authority (using non-DOT testing paperwork). The purpose of the return to duty testing is to provide a degree of assurance that the employee is drug and alcohol free and that the employee is able to return to work without undue concern of continued drug abuse or alcohol misuse.

The employee must be referred to EAP and evaluated by a substance abuse professional and pass a return-to-duty test. A return to duty test must include both drug and alcohol testing as well as meet other return-to-duty requirements. The employee must have a verified negative drug test result and a breath alcohol test result of less than 0.02 before returning to his/her safety-sensitive functions. Once returned and as a condition of ongoing employment, the employee must follow the recommended frequency and duration of follow-up testing from the EAP/substance abuse professional. **Any employee who refuses or fails to comply with requirements for treatment, after care, or return-to-duty shall be subject to disciplinary action, up to and including termination.** The cost of any treatment or rehabilitation services will be paid for directly by the employee or their insurance provider. Employees will be allowed to take accumulated sick leave and vacation leave to participate in the prescribed rehabilitation program.

Any follow-up testing will be apart from and in addition to participation in the random testing program.

8. Prescription Drug Use

The appropriate use of legally prescribed drugs and non-prescription medication is not prohibited. It is however, the employee's responsibility to explain to their physician their job duties and ask their physician, or other health care professional, whether or not the prescribed drug may impair their job performance or mental or motor function. It is the responsibility of the employee to remove themselves from service if they are unfit for duty due to prescription drug use.

Employees are required to report the use of medically authorized drugs or other substances that may create a direct threat by impairing performance of safety-sensitive functions to his/her supervisor, and to provide written medical authorization to work from a physician.

Failure to report the use of such drugs or failure to provide proper evidence of medical authorization to work may result in disciplinary action, up to and including termination.

9. Over-The-Counter Medications

It is the responsibility of the employee, when selecting an over-the-counter medication, to read all warning labels **before** selecting medications for use while performing safety-sensitive function. Medications known to affect mental function, motor skills or judgment should not be selected. The advice of a pharmacist, if available at the purchase site may be helpful in making a selection that is appropriate for the safety-sensitive functions. If no alternate medication is available for the condition, the employee should seek professional assistance from a pharmacist or physician. Ultimately, the employee may be the best judge of how a substance is impacting him/her. It is the responsibility of the employee to refrain from using any over-the-counter medication that may cause altering side effects inconsistent with doing their job.

10. Evaluation/Rehabilitation

The Substance Abuse Professional (SAP) must be a licensed physician (medical doctor or doctor of osteopathy), licensed or certified psychologist, social worker, employee assistance professional; or an addiction counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or the International Certification Reciprocity Consortium/Alcohol and other Drug Abuse.

The SAP will perform responsibilities and retain confidential records as required by 49 CFR Part 40 (as amended).

An employee who fails a drug test, alcohol test (0.02 or greater), or refuses to be tested will be referred to a substance abuse professional who shall determine what assistance the employee needs in resolving problems associated with alcohol misuse or drug use. Applicants not hired and employees who are to be disciplined as a result of a violation of this policy shall also be referred to the SAP. Each employee identified as needing assistance in resolving problems associated with alcohol misuse or drug use shall be evaluated by a substance abuse professional to determine if the employee has properly followed a rehabilitation program and shall be subject to unannounced follow-up alcohol and controlled substance testing.

Participation in rehabilitation through the EAP will not result in disciplinary action. However, successful completion of the prescribed program, if it is determined that participation in such a program is needed, will be required for the employee to continue in the employment of the City of Modesto. The employee shall be placed on sick leave, vacation leave, or leave without pay if sick or vacation leave is not available, in order to enter into an approved rehabilitation program.

Participation in rehabilitation through the EAP will not prevent or prohibit disciplinary action where warranted for violations of rules and regulations.

Return to duty will be conditioned upon consent for substance/alcohol retesting as scheduled by the SAP for a time period not to exceed 60 months. Positive results on a follow-up test or other evidence of relapse will be grounds for disciplinary action, up to and including termination.

The SAP's determination that an employee is medically qualified to be returned to duty will not prevent or prohibit disciplinary action for violation of rules and regulations.

Employees who have been determined to need treatment to resolve an alcohol misuse or drug use problem shall be referred to the City's Employee Assistance Program.

11. Employee and Supervisor Training

Every safety-sensitive employee will receive a copy of this policy and will have ready access to the corresponding federal regulations including 49 CFR Part 40 and Part 655 (as amended) on the City's Intranet, by contacting the Program Manager, or by contacting the Risk & Loss Control Coordinator.

All-covered employees will undergo a minimum of 60 minutes of initial training on the signs and symptoms of drug use including the side effects and consequences of drug use on personal health, safety, and the work environment. Follow-up training will be done as regulations and requirements change. The initial training also includes manifestations and behavioral cues that may indicate prohibited drug use. Upon completion of the training, employees will sign and date the Employee Acknowledgement Form to confirm receiving the document and the training. Training forms will be forwarded to Human Resources for retention.

All supervisory and management personnel who are in a position to determine employee fitness for duty will receive a minimum of 90 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse. Follow-up training will be done as regulations and requirements change.

Information on the signs, symptoms, health effects, and consequences of substance abuse is found in Attachment G of this policy.

12. Medical Review Officer (MRO)

The MRO must be a licensed physician or doctor of osteopathy who is responsible for receiving laboratory results generated by the drug testing program and who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his/her medical history and any other relevant biomedical information.

The MRO will perform responsibilities, perform notifications, and retain confidential records as required by 49 CFR Part 40 as amended.

13. Testing Laboratory

The City shall use a drug testing laboratory certified under HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs; 53 FR 11970, April 11, 1988 and subsequent amendments.

The testing laboratory will comply with all methods and procedures of 49 CFR Parts 40, 382, and 655 (as amended). The laboratory shall have a qualified individual to assume professional, organizational, educational, and administrative responsibilities for the laboratory's urine drug testing facility.

14. Reporting of Anti-Drug/Alcohol Testing Results

The City shall prepare and maintain an annual calendar year summary of the results of its alcohol and controlled substances testing programs. By March 15 of each year, the City shall complete the annual summary covering the previous calendar year.

If the City is notified, during the month of January, of a request by the FMCSA and/or FTA to report the employer's annual calendar year summary information, the City shall prepare and submit the report to FMCSA and/or FTA by March 15 of that year. The report shall be in the form and manner prescribed by FMCSA and/or FTA in their requests. When the report is submitted to FMCSA and/or FTA by mail or electronic transmission, the information requested shall be typed, except for the signature of the certifying official.

Each annual calendar year summary containing information on controlled substances and alcohol screening test results shall include all informational elements as required by the FTA.

15. Confidentiality

Each individual's record of testing and results under this policy will be maintained as private and confidential. Except as provided by law or expressly authorized by DOT regulations, the results of individual drug/alcohol tests will not be released to anyone without the specific, written consent of a safety-sensitive employee authorizing release of the information to an identified person. Prior to testing, the individual will be informed about who will receive test data (e.g., testing laboratory, MRO, Program Manager, or Department Administrator if removal from safety-sensitive function is necessary).

All written records will be stored in locked containers or in a secure location with access available only by the Program Manager and DOT upon request. Drug and alcohol testing and/or rehabilitation records shall only be released to subsequent DOT covered employers upon written consent from the covered employee. Under these circumstances, only the specific information requested by the employee shall be released.

Terms and Definitions

Accident – The types of accidents requiring testing can be found under Post-Accident Testing.

Air Blank – A reading by an Evidential Breath Testing Device (EBT) of ambient air containing no alcohol.

Alcohol – The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol including methyl and isopropyl alcohol.

Alcohol Concentration – The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath testing device.

Alcohol Use – The consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

Blind Sample or Blind Performance Test – A urine specimen submitted to a laboratory for quality control testing purposes, with a fictitious identifier, so that the laboratory cannot distinguish it from employee specimens. This specimen is spiked with known quantities of specific drugs or can be blank, containing no drugs.

Breath Alcohol Technician – An individual who instructs and assists individuals in the alcohol testing process and operates an EBT.

Canceled or Invalid Test – In drug testing, a drug test that has been declared invalid by a Medical Review Officer. A canceled test is neither a positive nor a negative test. A sample that has been rejected for testing by a laboratory is treated the same as a canceled test. In alcohol testing, a test that is deemed to be invalidated under §40 Subpart N – Problems in Alcohol Testing is considered canceled or invalid.

Certification – A recipient's (of federal funds) written statement, authorized by the organization's governing board or other authorizing official, that the recipient has complied with the provisions of this part (FTA).

Chain of Custody – Procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen. These procedures shall require that an appropriate drug testing custody form from a Department of Health & Human Services (DHHS) certified laboratory be used from time of collection to receipt by the laboratory.

Collection Site – A place designated by the employer where individuals present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of drugs.

Collection Site Person – A person who instructs and assists individuals at a collection site and who receives and makes a screening examination of the urine specimen provided by those individuals.

Commercial Motor Vehicle (CMV) – means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor 1) Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight of more than 10,000 pounds; or 2) Has a gross vehicle weight rating of 26,001 pounds; or 3) Is designed to transport 16 or more passengers, including the driver; or 4) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous

Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulation (49 CFR Part 172, subpart F).

Confirmation Test – For alcohol testing this means a second test, following a screening test with a result of 0.02 or greater, that provides quantitative data of alcohol concentration. For controlled substances testing this means a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screen test and which uses a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy.

Covered Position (Safety-Sensitive position) – A duty position or job category that requires the performance of safety-sensitive (covered) function(s).

Covered Function (Safety-Sensitive Function) (1) FMCSA: operation of a commercial motor vehicle. (2) FTA: (a) Operating a revenue service vehicle, including when not in service; (b) Operating a non-revenue service vehicle, when required to be operated by a holder of a Commercial Driver's License; (c) Maintaining a revenue service vehicle or equipment used in revenue service; (d) Carrying a firearm for security purposes; (e) A volunteer who operates a vehicle designed to transport sixteen or more passengers, including the driver.

Dilute Specimen – A specimen with creatinine and specific gravity values that are lower than expected for human urine.

DOT Agency – An agency of the United States Department of Transportation administering regulations related to drug or alcohol testing. The Federal Motor Carrier Safety Administration and Federal Transit Administration are DOT agencies.

Drug Metabolite – The specific substance produced when the human body metabolizes a given drug as it passes through the body and is excreted in the urine.

Drug Test – The laboratory analysis of urine specimen collected in accordance with 49 CFR part 40 and analyzed in a DHHS-approved laboratory.

Education – Efforts that include the display and distribution of informational materials, a telephone number for employee assistance, and the City's policy(ies) regarding drug use in the workplace.

Employee Assistance Program (EAP) – A program provided to assist employees in dealing with drug or alcohol dependency and other personal problems. Rehabilitation and reentry to the work force are usually arranged through the EAP.

Employer or operator – (1) FMCSA: means any person who owns or leases a commercial motor vehicle or assigns persons to operate such a vehicle. (2) FTA: A recipient or other entity that provides mass transportation service or which performs a safety-sensitive function for such recipient or other entity.

Evidential breath testing device (EBT) – A device approved by the National Highway Traffic Safety Administration (NHTSA) for evidential testing of breath and placed on NHTSA's conforming products list of evidential breath measurement devices (CPL), and identified on the CPL as conforming with the model specifications available from the National Highway Traffic Safety Administration, Office of Alcohol and State Programs.

Federal Motor Carrier Safety Administration (FMCSA) – The DOT operating authority that regulates commercial motor vehicles.

Large Operator – 1) FMCSA: an employer who has more than 50 covered employees, 2) FTA: A recipient or subrecipient primarily operating in an area of 200,000 or more in population.

Medical Review Officer (MRO) – A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information.

Performing a Covered Function: An employee is considered to be performing a covered function during any period in which he or she is actually performing, ready to perform, or immediately available to perform such covered functions.

Permanent Employee – An employee hired for a period of more than 120 days (FTA).

Post-Accident Test – A drug test administered to an employee when an accident has occurred and the employee performed a safety-sensitive function that either contributed to the accident, or cannot be completely discounted as a contributing factor in the accident.

Pre-Employment Test – A drug test given to an applicant or employee who is being considered for a safety-sensitive position. The applicant or employee must be informed of the purpose for the urine collection prior to actual collection.

Prohibited Drug – Marijuana (including all hemp products), cocaine, opiates, phencyclidine (PCP), and amphetamines.

Random Test – A drug test of safety-sensitive employees who are selected on a scientifically defensible random and unannounced basis. The number of tests performed is based on a percentage of safety-sensitive employees as directed by DOT.

Reason to Believe – Objective information indicating that a particular individual may alter or substitute a urine specimen.

Recipient – FTA: An entity receiving Federal financial assistance under Section 3, 9, or 18, of the FT Act, or under Section 103(e)(4) of Title 23 of the United States Code.

Refuse to Submit to Test – means that a covered employee (1) Fails to provide adequate breath for testing without a valid medical explanation after he/she has received notice of the requirement for breath testing; (2) Fails to provide adequate urine for controlled substances testing without a valid medical explanation after he/she has received notice of the requirement for urine testing; or (3) Engages in conduct that clearly obstructs the testing process.

Return to Duty Test – An initial drug or alcohol test prior to return to duty and additional unannounced drug tests (Follow-up Tests) given to employees performing in safety-sensitive functions who previously tested positive, or refused a drug/or alcohol test and are returning to safety-sensitive positions.

Revenue Service Vehicle – A vehicle used to transport passengers, including a bus, van, car, railcar, locomotive, trolley car, trolley bus, ferry boat, or a vehicle used on a fixed guideway or inclined plane.

Screening Test (Initial Test) - In alcohol testing, it means an analytical procedure to determine whether a covered employee may have a prohibited concentration of alcohol in his/her system.

In controlled substances testing, it means an immunoassay screen to eliminate “negative” urine specimens from further consideration.

Specimen Bottle – The bottle that, after being labeled and sealed, is used to transmit a urine sample to the laboratory.

Split Specimen – An additional specimen collected with the original specimen, to be tested in the event the original specimen tests positive for alcohol or drugs.

Substance Abuse Professional (SAP) – The Substance Abuse Professional for this program must be a 1) licensed physician (medical doctor or doctor of osteopathy), licensed or certified psychologist, social worker, employee assistance professional; or 2) an addiction counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or the International Certification Reciprocity Consortium/Alcohol and other Drug Abuse.

Training – Providing information about the effects and consequences of drug use on personal health, safety, and the work environment; and about manifestations and behavioral clues that may indicate drug use or abuse.

Verified Positive (Drug Test Result) – A drug test result reviewed by a Medical Review Officer and determined to have evidence of prohibited drug use.

Volunteer – A permanent, temporary, or part-time worker who is not compensated for his/her service. Volunteers are included in the requirements of FTA drug and alcohol regulations if a CDL is required to operate the vehicle.

ATTACHMENT A

Classifications covered by the DOT Drug & Alcohol Testing Policy - FMCSA

Incumbents in the following Classifications are "covered employees" if they perform "safety sensitive functions" as described in Section C of the DRUG AND ALCOHOL TESTING POLICY and or drive any of the vehicles listed on Page 2 of this Attachment (Attachment A2).

Airport Maintenance Crewleader
Airport Maintenance Worker
Electrician Assistant I/II/III
Electrician-Traffic & Buildings
Equipment Mechanic
Equipment Mechanic Crewleader
Equipment Service Technician
Equipment Operator
Heavy Equipment Mechanic
Heavy Equipment Mechanic Crewleader
Maintenance Worker I (only when hired with a Class B)
Maintenance Worker II
Operations Crewleader
Parks Equipment Mechanic
Parks Maintenance Mechanic
Parks Maintenance Crewleader
Senior Equipment Operator
Tree Trimmer
Tree Trimmer Crew Leader
Wastewater Collection Systems Operator I/II
Wastewater Collections System Crewleader
Water Distribution Operator I/II/III
Water Division Crewleader
Water Production Operator I/II
Water Quality Control Technician I/II
Water Services Equipment Operator I/II

Exempt Classifications

Building Maintenance Technician
Compost Heavy Equipment Mechanic
Cross Connection Specialist
Custodian I/II
Electrician-Utilities (5210)
Environmental Compliance Inspector I/II
Environmental Compliance Technician
Fleet Procurement Technician
Groundskeeper (3522)
Head Groundskeeper (3522)
Instrumentation Technician
Laboratory Analyst I/II/III
Parking Facilities Crewleader
Production Technician
Senior WWTP Operator
Traffic Operations Crewleader
Water Conservation Specialist
Welder/Fabricator
Wastewater Treatment Plant Operator I/II/III

ATTACHMENT B

Classifications covered by the DOT Drug & Alcohol Testing Policy - FTA

Incumbents in the following Classifications are "covered employees" if they perform "safety sensitive functions" as described in Section C of the DRUG AND ALCOHOL TESTING POLICY and or drive any of the vehicles listed on Page 2 of this Attachment (Attachment A2).

Bus Fueler
Equipment Mechanic
Equipment Mechanic Crewleader
Equipment Service Technician
Equipment Operator
Fire Equipment Mechanic
Heavy Equipment Mechanic
Heavy Equipment Mechanic Crewleader
Senior Equipment Operator
Senior Fire Equipment Mechanic

Exempt Classifications

Fire Engineers
Police Transit Center Duty
Police Command Unit

ATTACHMENT C

DOT Post-Accident Drug and Alcohol Testing Decision and Documentation Form

Accident Information:

Date of Accident _____ Time of Accident _____ a.m./p.m.
Employee Name _____ Location of Accident _____
Covered under _____ FTA or _____ FSCMA ?

Decision Questions:

Was there a fatality? Yes _____ No _____ (If yes, DOT drug and alcohol testing required)

If there was NO fatality, answer the following questions:

Did any individual involved in the accident suffer bodily injury and immediately receive medical treatment away from the scene of the accident?

Yes _____ (If yes, drug and alcohol testing required) No _____

Did the commercial vehicle or any other vehicle involved in the accident sustain disabling damage* requiring any of the vehicles to be transported away from the scene by a tow truck or other vehicle?

Yes _____ (If yes, drug and alcohol testing required) No _____

If there was No fatality AND you checked YES for either or both of the answers above, a DOT Post-Accident DRUG and ALCOHOL test is required unless you determine, using the best information available at the time of the decision, that the employee's performance can be completely discounted as a contributing factor in the accident. Any reason for discounting the employee's performance as a contributing factor to the accident MUST be documented on page two of this form.

Could the actions of any other safety-sensitive employee have contributed to the accident (e.g., mechanic)?

Yes _____ (If yes, contact the employee's supervisor to report the testing requirement)

No _____

*DISABLING DAMAGE is damage that precludes the departure of any vehicle from the scene of an accident in its usual manner in daylight hours after simple repairs. Disabling damage includes: damage to vehicles that could have been operated, but would have caused further damage if so operated. Disabling damage does not include: damage that could be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, or windshield wipers that makes them inoperable.

If ALCOHOL testing is not conducted within 2 hours after the accident, document the reason for the delay on page two of this form. If no alcohol test is administered within 8 hours, cease all efforts to have the test administered and update the documentation.

If DRUG testing is not conducted within the first 8 hours after the accident, document the reason for the delay on page two of this form. If no drug test is administered within 32 hours, cease all efforts to have the test administered and update the documentation.

DOT Alcohol Testing Location: _____

DOT Alcohol Testing Time: _____

DOT Urine Drug Testing Location: _____

DOT Urine Drug Testing Time: _____

If testing is delayed, document the reasons below:

Reason the ALCOHOL test was not conducted within 2 hours after the accident. Update this statement if no test conducted within 8 hours.

Reason the DRUG test was not conducted within 8 hours after the accident. Update this statement if no test conducted within 32 hours.

Reason the employee's performance was completely DISCOUNTED as a contributing factor to the accident and therefore, FTA post-accident testing was not conducted.

Supervisor Signature: _____

ATTACHMENT D

CITY OF MODESTO

Reasonable Suspicion Test Memorandum

Date: _____

Time: _____

TO: _____

FROM: _____

_____ (Department Director or designee or designated city management staff) is directing you to submit to a drug or alcohol screening test and/or a medical evaluation. You are being directed to submit to the screening and/or evaluation because I suspect you are under the influence of alcohol or drugs so that your ability to perform the functions of your job efficiently and safely is impaired. I observed or have information regarding the following:

- ___ Odor of alcoholic beverage on breath
- ___ Slurred and/or thick speech
- ___ Staggered gait (Unsteady walking and movement)
- ___ Vertical and/or horizontal nystagmus
- ___ Abnormally constricted pupils (below 2.5 mm), which are non-responsive to light
- ___ Abnormally dilated pupils (above 6.5 mm), which are non-responsive to light
- ___ Loss of attention span under controlled conditions
- ___ Inability to comprehend under controlled conditions
- ___ Hallucinating
- ___ An accident involving City property, where there is reason to believe that employee impairment may have been a factor
- ___ Possession of alcohol on the job
- ___ Possession of an illegal drug
- ___ Possession of a prescription drug without a valid prescription
- ___ Objective symptoms of drug usage identified by a trained medical practitioner or law enforcement officer
- ___ Other _____

This/these were observed by _____ at _____

You will be transported to _____

Anti-Drug Program/Alcohol Misuse Program

Reasonable Suspicion Test Memo

Page 2

There you may be evaluated by professional health care staff. At the site, you may also be required to provide a sample for drug and/or alcohol testing. If you refuse to submit to the testing, you may be disciplined, up to and including termination. If you leave the worksite or testing site without my permission or the permission of _____ prior to testing or evaluation, you may be disciplined. Because I believe your ability to drive may be impaired, I may arrange for you to be transported home at an appropriate time.

You may ask to have a representative with you prior to being tested. We will provide access to a telephone to contact a representative. Your representative must be present within one and one half hours of the time we directed you to take the test. If the representative cannot be present or is not present within that time, we may allow additional time at our discretion or we may choose to have you undergo the evaluation and/or testing without your representative being present.

ATTACHMENT E

Alcohol Fact Sheet

Alcohol is a socially acceptable drug that has been consumed throughout the world for centuries. It is considered a recreational beverage when consumed in moderation for the enjoyment and relaxation during social gatherings. However, when consumed primarily for its physical and mood-altering effects, it is a substance of abuse. As a depressant, it slows down physical responses and progressively impairs mental functions.

Signs and Symptoms of Use

- Dulled mental processes
- Lack of coordination
- Odor of alcohol on breath
- Possible constricted pupils
- Sleepy or stupor like condition
- Slowed reaction rate
- Slurred speech

(Note: Except for the odor, these are general signs and symptoms of any depressant substance.)

Health Effects

The chronic consumption of alcohol (average of three servings per day of beer [12 ounces/serving], whiskey [1 ounce/serving], or wine [6 ounce/serving]) over time may result in the following health hazards:

- Decreased sexual functioning
- Dependency (up to 10 percent of all people who drink alcohol become physically and/ or mentally dependent on alcohol and can be termed "alcoholic")
- Fatal liver diseases
- Pancreatitis
- Spontaneous abortion and neonatal mortality
- Ulcers
- Birth defects (up to 54 percent of all birth defects are alcohol related).

Social Issues

- Two-thirds of all homicides are committed by people who drink prior to the crime.
- Two to three percent of the driving population is legally drunk at any one time. This rate is doubled at night and on weekends.
- Two-thirds of all Americans will be involved in an alcohol-related vehicle accident during their lifetimes.
- The rate of separation and divorce in families with alcohol dependency problems is 7 times the average.
- Forty percent of family court cases are alcohol problem related.
- Alcoholics are 15 times more likely to commit suicide than are other segments of the population.
- More than 60 percent of burns, 40 percent of falls, 69 percent of boating accidents, and 76 percent of private aircraft accidents are alcohol related.

The Annual Toll

- 24,000 people will die on the highway due to the legally impaired driver.
- 16,000 more will die on the highway due to the alcohol-affected driver.
- 15,800 will die in non-highway accidents.
- 30,000 will die due to alcohol-caused liver disease.
- 15,000 will die due to alcohol-induced brain disease or suicide.
- Up to another 125,000 will die due to alcohol-related conditions or accidents.

Workplace Issues

- It takes one hour for the average person (150 pounds) to process one serving of an alcoholic beverage from the body.
- Impairment in coordination and judgment can be objectively measured with as little as two drinks in the body.
- A person who is legally intoxicated is 6 times more likely to have an accident than a sober person.

Amphetamine Fact Sheet

Amphetamines are central nervous system stimulants that speed up the mind and body. The physical sense of energy at lower doses and the mental exhilaration at higher doses are the reasons for their abuse. Although widely prescribed at one time for weight reduction and mood elevation, the legal use of amphetamines is now limited to a very narrow range of medical conditions. Most amphetamines that are abused are illegally manufactured in foreign countries and smuggled into the U.S. or clandestinely manufactured in crude laboratories.

Description

- Amphetamine is sold in counterfeit capsules or as white, flat, double-scored "mini-bennies." It is usually taken by mouth.
- Methamphetamine is often sold as a creamy white and granular powder or in lumps and is packaged in aluminum foil wraps or sealable plastic bags. Methamphetamine may be taken orally, injected, or snorted into the nose.
- Trade/street names include Biphphetamine, Delcobese, Desotyn, Detedrine, Chetrol, Ritalin, Speed, Meth, Crank, Crystal, Monster, Black Beauties, and Rits.

Signs and Symptoms of Use

- Hyper-excitability, restlessness
- Dilated pupils
- Increased heart rate and blood pressure
- Heart palpitations and irregular beats
- Profuse sweating
- Rapid respiration
- Confusion
- Panic
- Talkativeness
- Inability to concentrate
- Heightened aggressive behavior

Health Effects

- Regular use produces strong psychological dependence and increasing tolerance to drug.
- High doses may cause toxic psychosis resembling schizophrenia.
- Intoxication may induce a heart attack or stroke due to spiking of blood pressure.
- Chronic use may cause heart and brain damage due to severe constriction of capillary blood vessels.
- The euphoric stimulation increases impulsive and risk-taking behaviors, including bizarre and violent acts.
- Withdrawal from the drug may result in severe physical and mental depression.

Workplace Issues

Since amphetamines alleviate the sensation of fatigue, they may be abused to increase alertness because of unusual overtime demands or failure to get rest.

Low-dose amphetamine use will cause a short-term improvement in mental and physical

functioning. With greater use or increasing fatigue, the effect reverses and has an impairing effect. Hangover effect is characterized by physical fatigue and depression, which may make operation of equipment or vehicles dangerous.

Cocaine Fact Sheet

Cocaine is used medically as a local anesthetic. It is abused as a powerful physical and mental stimulant. The entire central nervous system is energized. Muscles are more tense, the heart beats faster and stronger, and the body burns more energy. The brain experiences an exhilaration caused by a large release of neurohormones associated with mood elevation.

Description

The source of cocaine is the coca bush, grown almost exclusively in the mountainous regions of northern South America. Cocaine Hydrochloride "snorting coke" is a white to creamy granular or lumpy powder that is chopped into a fine powder before use. It is snorted into the nose, rubbed on the gums, or injected in veins. The effect is felt within minutes and lasts 40 to 50 minutes per "line" (about 60 to 90 milligrams). Common paraphernalia include a single-edged razor blade and a small mirror or piece of smooth metal, a half straw or metal tube, and a small screw cap vial or folded paper packet containing the cocaine. Cocaine Base is a small crystalline rock about the size of a small pebble. It boils at a low temperature, is not soluble in water, and is up to 90 percent pure. It is heated in a glass pipe and the vapor is inhaled. The effect is felt within seven seconds. Common paraphernalia includes a "crack pipe" (a small glass smoking device for vaporizing the crack crystal) and a lighter, alcohol lamp, or small butane torch for heating. Trade/street names include Coke, Rock, Crack, Free Base, Flake, Snow, Smoke, and Blow.

Signs and Symptoms of Use

- Financial problems
- Frequent and extended absences from meetings or work assignment
- Increased physical activity and fatigue
- Isolation and withdrawal from friends and normal activities
- Secretive behaviors, frequent non-business visitors, delivered packages, phone calls
- Unusual defensiveness, anxiety, agitation
- Wide mood swings
- Runny or irritated nose
- Difficulty in concentration
- Dilated pupils and visual impairment
- Restlessness
- Formication (sensation of bugs crawling on skin)
- High blood pressure, heart palpitations, and irregular rhythm
- Hallucinations
- Hyper-excitability and overreaction to stimulus
- Insomnia
- Paranoia and hallucinations
- Profuse sweating and dry mouth
- Talkativeness

Health Effects

Research suggests that regular cocaine use may upset the chemical balance of the brain. As a result, it may speed up the aging process by causing irreparable damage to critical nerve cells. The onset of nervous system illnesses such as Parkinson's disease could also occur. Cocaine use causes the heart to beat faster and harder and rapidly increases blood pressure. In addition, cocaine causes spasms of blood vessels in the brain and heart. Both effects lead to ruptured vessels causing strokes or heart attacks. Strong psychological dependency can occur

with one "hit" of crack. Usually, mental dependency occurs within days (crack) or within several months (snorting coke). Cocaine causes the strongest mental dependency of any known drug. Treatment success rates are lower than for other chemical dependencies. Cocaine is extremely dangerous when taken with depressant drugs. Death due to overdose is rapid. The fatal effects of an overdose are not usually reversible by medical intervention. The number of cocaine overdose deaths has tripled in the last four years. Cocaine overdose was the most common drug emergency.

Workplace Issues

- Extreme mood and energy swings create instability. Sudden noises can cause a violent reaction.
- Lapses in attention and ignoring warning signals greatly increase the potential for accidents.
- The high cost of cocaine frequently leads to workplace theft and/or dealing.
- A developing paranoia and withdrawal create unpredictable and sometimes violent behavior.
- Work performance is characterized by forgetfulness, absenteeism, tardiness, and missed assignments.

Cannabinoids (Marijuana) Fact Sheet

Marijuana is one of the most misunderstood and underestimated drugs of abuse. People use marijuana for the mildly tranquilizing and mood- and perception-altering effects it produces.

Description

Usually sold in plastic sandwich bags, leaf marijuana will range in color from green to light tan. The leaves are usually dry and broken into small pieces. The seeds are oval with one slightly pointed end. Less prevalent, hashish is a compressed, sometimes tar like substance ranging in color from pale yellow to black. It is usually sold in small chunks wrapped in aluminum foil. It may also be sold in an oily liquid. Marijuana has a distinctly pungent aroma resembling a combination of sweet alfalfa and incense. Cigarette papers, roach clip holders, and small pipes made of bone, brass, or glass are commonly found. Smoking "bongs" (large bore pipes for inhaling large volumes of smoke) can easily be made from soft drink cans and toilet paper rolls. Trade/street names include Marinol, THC, Pot, Grass, Joint, Reefer, Acapulco Gold, Sinsemilla, Thai Sticks, Hash, and Hash Oil.

Signs and Symptoms of Use

- Reddened eyes (often masked by eye drops)
- Slowed speech
- Distinctive odor on clothing
- Lackadaisical "I don't care" attitude
- Chronic fatigue and lack of motivation
- Irritating cough, chronic sore throat

Health Effects

- When marijuana is smoked, it is irritating to the lungs. Chronic smoking causes emphysema-like conditions.
- One joint causes the heart to race and be overworked. People with undiagnosed heart conditions are at risk.
- Marijuana is commonly contaminated with the fungus *Aspergillus*, which can cause serious respiratory tract and sinus infections.
- Marijuana smoking lowers the body's immune system response, making users more susceptible to infection. The U.S. government is actively researching a possible connection between marijuana smoking and the activation of AIDS in positive human immunodeficiency virus (HIV) carriers.

Pregnancy Problems and Birth Defects

The active chemical, tetrahydrocannabinol (THC), and 60 other related chemicals in marijuana concentrate in the ovaries and testes. Chronic smoking of marijuana in males causes a decrease in sex hormone, testosterone, and an increase in estrogen, the female sex hormone. The result is a decrease in sperm count, which can lead to temporary sterility. Occasionally, the onset of female sex characteristics including breast development occurs in heavy users. Chronic smoking of marijuana in females causes a decrease in fertility and an increase in testosterone. Pregnant women who are chronic marijuana smokers have a higher than normal incidence of stillborn births, early termination of pregnancy, and higher infant mortality rate during the first few days of life. In test animals, THC causes birth defects, including malformations of the brain, spinal cord, forelimbs, and liver and water on the brain and spine.

Offspring of test animals who were exposed to marijuana have fewer chromosomes than normal, causing gross birth defects or death of the fetus. Pediatricians and surgeons are concluding that the use of marijuana by either or both parents, especially during pregnancy, leads to specific birth defects of the infant's feet and hands. One of the most common effects of prenatal cannabinoid exposure is underweight newborn babies. Fetal exposure may decrease visual functioning and causes other ophthalmic problems.

Mental Function

Regular use can cause the following effects:

- Delayed decision-making
- Diminished concentration
- Impaired short-term memory, interfering with learning
- Impaired signal detection (ability to detect a brief flash of light), a risk for users who are operating machinery
- Impaired tracking (the ability to follow a moving object with the eyes) and visual distance measurements
- Erratic cognitive function
- Distortions in time estimation
- Long-term negative effects on mental function known as "acute brain syndrome," which is characterized by disorders in memory, cognitive function, sleep patterns, and physical condition

Acute Effects

- Aggressive urges
- Anxiety
- Confusion
- Fearfulness
- Hallucinations
- Heavy sedation
- Immobility
- Mental dependency
- Panic Paranoid reaction
- Unpleasant distortions in body image

Workplace Issues

The active chemical, THC, stores in body fat and slowly releases over time. Marijuana smoking has a long-term effect on performance. A 500 to 800 percent increase in THC concentration in the past several years makes smoking three to five joints a week today equivalent to 15 to 40 joints a week in 2008. In 2009 over 16.7 million Americans admitted to using marijuana at least once a month. Combining alcohol or other depressant drugs and marijuana can produce a multiplied effect, increasing the impairing effect of both the depressant and marijuana.

Opiates (Narcotics) Fact Sheet

Opiates (also called narcotics) are drugs that alleviate pain, depress body functions and reactions, and, when taken in large doses, cause a strong euphoric feeling.

Description

Varieties of opiates include natural and natural derivatives—opium, morphine, codeine, and heroin as well as synthetics such as meperidine (Demerol), oxymorphone (Numorphan), and oxycodone (Percodan). Opiates may be taken in pill form, smoked, or injected, depending upon the type of narcotic used. Trade/street names include Smack, Horse, Emma, Big D, Dollies, Juice, Syrup, and China White.

Signs and Symptoms of Use

- Mood changes
- Impaired mental functioning and alertness
- Constricted pupils
- Depression and apathy
- Impaired coordination
- Physical fatigue and drowsiness
- Nausea, vomiting, and constipation
- Impaired respiration

Health Effects

IV needle users have a high risk for contracting hepatitis and AIDS due to the sharing of needles. Narcotics increase pain tolerance. As a result, people could more severely injure themselves or fail to seek medical attention after an accident due to the lack of pain sensitivity. Narcotics' effects are multiplied when used in combination with other depressant drugs and alcohol, causing increased risk for an overdose.

Social Issues

There are over 600,000 heroin addicts in the U.S., most of whom are IV needle users. An even greater number of medicinal narcotic-dependent persons obtain their narcotics through prescriptions. Because of tolerance, there is an ever-increasing need for the narcotic to produce the same effect. Strong mental and physical dependency occurs. The combination of tolerance and dependency creates an increasing financial burden for the user. Costs for heroin can reach hundreds of dollars a day.

Workplace Issues

Unwanted side effects such as nausea, vomiting, dizziness, mental clouding, and drowsiness place the legitimate user and abuser at higher risk for an accident. Narcotics have a legitimate medical use in alleviating pain. Workplace use may cause impairment of physical and mental functions.

Phencyclidine (PCP) Fact Sheet

Phencyclidine (PCP) was originally developed as an anesthetic, but the adverse side effects prevented its use except as a large animal tranquilizer. Phencyclidine acts as both a depressant and a hallucinogen, and sometimes as a stimulant. It is abused primarily for its variety of mood-altering effects. Low doses produce sedation and euphoric mood changes. The mood can change rapidly from sedation to excitation and agitation. Larger doses may produce a coma-like condition with muscle rigidity and a blank stare with the eyelids half closed. Sudden noises or physical shocks may cause a "freak out" in which the person has abnormal strength, extremely violent behavior, and an inability to speak or comprehend communication.

Description

PCP is sold as a creamy, granular powder and is often packaged in one-inch square aluminum foil or folded paper "packets." It may be mixed with marijuana or tobacco and smoked. It is sometimes combined with procaine, a local anesthetic, and sold as imitation cocaine. Trade/street names include Angel Dust, Dust, and Hog.

Signs and Symptoms of Use

- Impaired coordination
- Severe confusion and agitation
- Extreme mood shifts
- Muscle rigidity
- Nystagmus (jerky eye movements)
- Dilated pupils
- Profuse sweating
- Rapid heartbeat
- Dizziness.

Health Effects

The potential for accidents and overdose emergencies is high due to the extreme mental effects combined with the anesthetic effect on the body. PCP is potentiated by other depressant drugs, including alcohol, increasing the likelihood of an overdose reaction. Misdiagnosing the hallucinations as LSD induced, and then treating with Thorazine, can cause a fatal reaction. Use can cause irreversible memory loss, personality changes, and thought disorders. There are four phases to PCP abuse. The first phase is acute toxicity. It can last up to three days and can include combativeness, catatonia, convulsions, and coma. Distortions of size, shape, and distance perception are common. The second phase, which does not always follow the first, is a toxic psychosis. Users may experience visual and auditory delusions, paranoia, and agitation. The third phase is a drug-induced schizophrenia that may last a month or longer. The fourth phase is PCP-induced depression. Suicidal tendencies and mental dysfunction can last for months.

Workplace Issues

PCP abuse is less common today than in recent years. It is also not generally used in a workplace setting because of the severe disorientation that occurs. However, use in the workplace can expose the user and others to extreme safety hazards.

ATTACHMENT F

List of Department Directors and Their Designees

As Defined by the City of Modesto Alcohol and Drug Abuse Policy

JOB TITLE	DEPARTMENT
City Attorney	City Attorney
Assistant City Attorney	City Attorney
Legal Services Administrator	City Attorney
City Clerk/Auditor	City Clerk/Auditor
Assistant City Clerk	City Clerk/Auditor
City Manager	City Manager
Deputy City Manager	City Manager
Director	C&ED
Chief Building Official	C&ED
Deputy Chief Building Official	C&ED
Business Dev Division Mgr	C&ED
Planning Division Mgr	C&ED
Admin Services Officer	C&ED
Director	Finance
Deputy Director	Finance
Budget & Financial Analysis Mgr	Finance
Accounting Division Manager	Finance
Purchasing Manager	Finance
Fire Chief	Fire
Fire Division Chief	Fire
Director	Human Resources
Risk Loss & Control Coordinator	Human Resources
DOT Program Manager	Human Resources
Chief Information Officer	IT
Deputy Chief Information Officer	IT
IT Unit Manager	IT
Chief Information Officer	IT
Director	PR&N
Deputy Director	PR&N
Parks Planning & Develop Mgr.	PR&N
Parks Operations Supt	PR&N
Admin Services Officer	PR&N

Solid Waste Program Manager	PR&N
HUD Manager	PR&N
Police Chief	Police
Police Captain	Police
Police Lieutenant	Police
Director	Public Works
Deputy Director – Water Services	Public Works
Deputy Director – Wastewater Services	Public Works
Streets Manager	Public Works
Administrative Services Officer	Public Works
Airport Manager	Public Works
Environmental & Regulatory Compliance Administrator	Public Works
Fleet Manager	Public Works
Wastewater Collections Manager	Public Works
Water Superintendent	Public Works
Water Quality Control Plant Manager	Public Works
Transit Manager	Public Works

ATTACHMENT G

City of Modesto Employee Acknowledgement Form

Name: _____

Date: _____

Social Security #: _____

Job Title: _____

In accordance with the City's Department of Transportation's Anti-Drug/Alcohol Misuse Program, please be advised that you have been placed in the pool of employees subject to the drug/alcohol testing procedures as mandated by the Federal Department of Transportation.

Attached is a copy of the Anti-Drug/Alcohol Misuse Program, version dated _____. Your signature below certifies that you have received the Program. Please sign and return this form to the DOT Program Manager. Contact the Program Manager at 209-571-5134 if you have any questions.

Lynda Adams
Program Manager

Signature of Employee

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-11**

RESOLUTION APPROVING A \$70,600 HOME REPAIR PROGRAM/DISABLED ACCESS PROGRAM (HPR/DAP) LOAN FOR CHRISTI MARIE WHITE AND SHERRY M WHITE OF 3833 HONEY CREEK ROAD, MODESTO, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE RELATED DOCUMENTS

WHEREAS, the City Council, on May 3, 2011, by Resolution No. 2011-154, approved the Fiscal Year 2011-12 U.S Department of Housing and Urban Development Annual Action Plan, and

WHEREAS, funding was approved to provide low interest loans to low/moderate income households to repair or eliminate dangerous conditions in homes, including critical health and safety hazards, and

WHEREAS, funding was approved to provide low interest loans to assist disabled persons to make homes more accessible and safe, and

WHEREAS, this 1,582 square foot home, located at 3833 Honey Creek Road, Modesto owned by Christi Marie White and Sherry M. White, needs a large number of improvements, and

WHEREAS, the household income is less than 50% of Median Area Income for a household of four, and therefore, is eligible for a deferred payment loan, and

WHEREAS, eight bids were received for this project, and

WHEREAS, Scott Redenbaugh Construction, Modesto was the lowest responsible bid at \$61,325, and

WHEREAS, the \$70,600 loan amount includes additional funds for contingency, permit fees, title insurance, and the 2% loan fee, and

WHEREAS, the Housing Rehabilitation Loan Committee considered the proposed request at its November 3, 2011 meeting, and recommends that the City Council approve the relocation costs and recommends Council approval of the proposed loan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a \$70,600 HPR/DAP loan for Christi Marie White and Sherry M White of 3833 Honey Creek Road, Modesto.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-12**

RESOLUTION ACCEPTING THE WORK BY ELITE LANDSCAPING, INC., FOR THE HIGHWAY PLANTING AND IRRIGATION STATE ROUTE 99 AT BRIGGSMORE AVENUE PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING \$944,947.39

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the Highway Planting and Irrigation State Route 99 at Briggsmore Avenue project has been completed by Elite Landscaping, Inc., in accordance with the contract agreement dated January 22, 2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Highway Planting and Irrigation State Route 99 at Briggsmore Avenue project is hereby accepted as complete from said contractor Elite Landscaping, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder and that payment of amounts totaling \$944,947.39 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 10th day of January, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-13**

RESOLUTION ACCEPTING THE WORK BY AMERINE SYSTEMS, INC., FOR THE AIRPORT IRRIGATION WELL PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER UPON RECEIPT OF APPROVED WARRANTY BOND, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING \$123,882

WHEREAS, a report has been filed by the Interim Director of Utility Planning and Projects that the Airport Irrigation Wells project has been completed by Amerine Systems, Inc., in accordance with the contract agreement dated June 9, 2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Airport Irrigation Well project is hereby accepted as complete from said contractor Amerine Systems, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder upon receipt of approved Warranty Bond, and that payment of amounts totaling \$123,882 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 10th day of January, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-14**

RESOLUTION FINDING THAT THE FOLLOWING SUBSEQUENT PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 2007072023): AMENDMENT TO PLANNED DEVELOPMENT ZONE, P-D(347), PROPERTY LOCATED ON THE SOUTH SIDE OF SYLVAN MEADOWS DRIVE BETWEEN HAIG WAY AND FOREST GLENN DRIVE, 3621 FOREST GLENN DRIVE (GIRL SCOUTS HEART OF CENTRAL CALIFORNIA)

WHEREAS, on October 14, 2008, the City Council of the City of Modesto certified the Final Master Environmental Impact Report (“Master EIR”) (SCH No. 2007072023) for the Modesto Urban Area General Plan, and

WHEREAS, Girl Scouts Heart of Central California has proposed an amendment to Planned Development Zone, P-D(347) to expand the uses allowed to include permitted and conditional uses allowed in the P-O, Professional Office Zone, property located on the south side of Sylvan Meadows Drive between Haig Way and Forest Glenn Drive, and

WHEREAS, pursuant to Section 21157.1 of the Public Resources Code, the City of Modesto’s Community & Economic Development Department prepared an Environmental Assessment Initial Study EA/C&ED EA/C&ED 2011-32 (“Initial Study”) which analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report, and

WHEREAS, in accordance with CEQA guidelines beginning on November 29, 2011, the City caused to be published a 20-day notice of the City’s intent to make a finding that the subsequent project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on January 10, 2012, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed amendment to P-D(347), a copy of which is **attached** hereto as **Exhibit "A"**, and incorporated herein by reference, and based on substantial evidence in the Initial Study makes the following findings:

1. An Initial Study was prepared by the City of Modesto that analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report.
2. The subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158 of the Public Resources Code, that was not identified in the Master EIR.
3. No new or additional mitigation measures or alternatives are required.
4. The subsequent project is within the scope of the project covered by the Master EIR.
5. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A
Initial Study
EA/C&ED 2011-32

City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study Environmental Checklist C&ED No. 2011-32

For the proposed:

**Amendment to Planned Development Zone, P-D(347), to
Expand the Uses Allowed to Include All Permitted and
Conditional Uses Allowed in the P-O, Professional Office
Zone for the Existing
Girl Scouts Program Service Center**

**Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division**

October 21, 2011

(Intentional Blank Page)

City of Modesto Master EIR Initial Study Environmental Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master Environmental Impact Report ("Master EIR" or "MEIR"). This Initial Study Environmental Checklist ("Initial Study") is used in determining whether the Planned Development Amendment Project P-D(347) is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 2007072023) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformance.

A subsequent project is "within the scope" of the Master EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and
2. no new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. [Public Resources Code Section 21158(d)]

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (CEQA Guidelines Section 15384)

II. PROJECT DESCRIPTION

- A. Title: Amendment to Planned Development Zone, P-D(347), to Expand the Uses Allowed to Include All Permitted and Conditional Uses Allowed in the P-O, Professional Office Zone for the existing Girl Scouts Program Center
- B. Address or Location: South west corner of Sylvan Meadows Drive and Forest Glenn Drive, located at 3621 Forest Glenn Dr. Modesto, CA 95355
- C. Applicant: Bill Emmart, Girl Scouts Heart of Central California 6601 Elvas Avenue.
Sacramento, CA 95819
- D. City Contact Person: Rita Doscher

Project Manager: Rita Doscher
Department: Community and Economic Development Department
Phone Number: (209) 577-5267
E-mail address: rdoscher@modestogov.com

- E. Current General Plan Designation(s): "C" Commercial
- F. Current Zoning Classification(s): Planned Development zone, P-D(347)

- G. Surrounding Land Uses: North: Low Density Residential, R-1
 South: Planned Development Zone, P-D (53)
 East: Medium Density Residential, R-2
 West: Planned Development Zone, P-D(418)

- H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

The project site is currently zoned Planned Development Zone, P-D(347). The Girl Scouts Program Center consists of one large single-story building (totaling 9,751 square feet), with required on-site parking. The applicant is proposing to amend P-D(347) to expand the uses allowed to include permitted and conditional uses allowed in the P-O, Professional Office Zone.

- I. Other Public Agencies Whose Approval is Required:

None

III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. **Within the Scope** - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. All of the following statements are found to be true:

- A. The subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158 of the Public Resources Code, that was not identified in the Master EIR.
- B. No new or additional mitigation measures or alternatives are required.
- C. The subsequent project is within the scope of the project covered by the Master EIR.
- D. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

2. **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following statements are all found to be true:

- A. The proposed project is of a type described in Chapter II of the Master EIR.
- B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

3. **Focused EIR Required-** On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. All of the following statements are found to be true:

- A. The proposed project is of a type described in Chapter II of the Master EIR.
- B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.
- C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

Original signed copy on file with CEDD

Project Manager

Associate Planner

Title

October 21, 2011

Date

4. Within the Scope Analysis of this Document:

The Master EIR allows projects to be found within the scope of the MEIR if certain criteria are met. If the following statements are found to be true for all 21 impact categories included in this Initial Study, then the proposed project is addressed by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

	YES	NO
(1) The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(2) City policies which reduce, avoid, or mitigate environmental effects will continue to be in effect and, therefore, would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template. Project impacts would be mitigated to a less-than-significant level using MEIR mitigations only.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(3) Federal, State, regional, and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(4) No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(5) The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(6) Development within the project will comply with all appropriate mitigation measures contained and enumerated in the 2008 General Plan Master EIR.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed Sections 1 through 21 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any "no" response must be explained.

	YES	NO
(1) Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(2) This project is described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(a) No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(b) No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(c) Policies remain in effect which require site-specific mitigation, and avoidance or other	<input checked="" type="checkbox"/>	<input type="checkbox"/>

mitigation of impacts as a prerequisite to future development.		
--	--	--

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, discloses whether the proposed project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is "within the scope" of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR. Adoption of the findings specified in Section III.1, above after completion of the Initial Study fulfills the City's obligation in that situation.

All environmental effects cited reflect 2025 conditions resulting from the Urban Area General Plan, as identified in the Master EIR.

The environmental impact analysis in the Master EIR for the Urban Area General Plan is organized in twenty-one subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of reference, the sections are numbered in the same order as the analyses in Chapter V.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable traffic and circulation impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Increased automobile traffic will result in roadway segments (see MEIR on Table 1-7, pages V-1-32 to V-1-34) operating at LOS D, Modesto's significance threshold for automobile traffic, or lower (LOS E or F).

Effect: The substantial increase in traffic relative to the existing load and capacity of the street system will cause, either individually or cumulatively, the violation of automobile service standards established by StanCOG's Congestion Management Plan for designated roads and highways.

Effect: A substantial increase in automobile vehicle miles traveled and automobile vehicle hours of travel and a decrease in average automobile vehicle speed (see MEIR Table 1-6, page V-1-31).

Cumulative Impacts

Effect: Potential for growth inducement or acceleration of development resulting from highway and local road projects.

Effect: Substantial increase in traffic in relation to the existing traffic load and capacity of the street system, including a violation, either individually or cumulatively, of an automobile LOS standard established by the Congestion Management Plan for designated roads and highways.

Effect: Increased demand for capacity-enhancing alterations to existing roads or automobile traffic reduction.

Other impact categories affected by Traffic and Circulation are addressed throughout this Initial Study (see also Section 2, Degradation of Air Quality; Section 3, Generation of Noise; Section 7 Loss of Sensitive Wildlife and Plant Habitat; Section 8, Disturbance of Archaeological/Historic Sites; Section 14 Increased Demand for Fire Services; Section 18, Energy; Section 19, Visual Resources; Section 20, Land Use and Planning, and Section 21, Climate Change).

Discussion:

The proposed expansion of uses to the Girl Scouts Program Center site is compatible with the existing surrounding residential and office development and church located in this neighborhood. The project is consistent with the surrounding uses and will not result in a change to the existing road capacities or levels of services.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Traffic and Circulation mitigation measures pertinent to this project are found on MEIR pages V-1-9 through V-1-28. All mitigation measures appropriate to the project, including any new measures, will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes none from the MEIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-1.B of the Master EIR provides analysis of Traffic and Circulation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
1. TRAFFIC AND CIRCULATION				
1) The proposed project exceeds traffic generation assumptions in the Master EIR for the site by 100 trips or more and City Engineering and	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Transportation staff has determined that the project would have additional potentially significant project-specific effects that are not avoided or reduced by the Master EIR's mitigation measures.				
2) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would cause additional roadway segments in the General Plan area to exceed LOS D and/or cause additional violations of standards in the Congestion Management Plan, and/or cause an increase in automobile vehicle miles or vehicle hours of travel or a decrease in automobile travel speed, as compared to the impacts disclosed in the Master EIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project would cause emergency response times to exceed acceptable standards established by the Fire Department, as compared to impacts disclosed in the Master EIR (see Section 14, Increased Demand for Fire Services).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5) The proposed project would result in less parking than required by the Municipal Code or as determined by staff.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6) The proposed project would conflict with adopted policies, plans, or programs that support alternative transportation, including, but not limited to the Regional Transportation Plan, the Sustainable Communities Strategy, the Bicycle Action Plan, and so on.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7) The proposed project would result in an increase in automobile vehicle miles traveled on a per capita basis, in excess of that considered in the Urban Area General Plan MEIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) Engineering and Transportation Staff reviewed the proposed project and have no comments pertaining to the project:
 - A. The proposed project will not generate traffic impacts to the adjacent roadways in excess of what was assumed under the MEIR. No traffic study is required.
 - B. A site access study is not required for this project.
- (2) The project will not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment). The City Engineering

and Traffic Department has evaluated the project and has determined that the existing design layout of the project is in accordance to City standards.

- (3) Police and Fire Staff have reviewed this proposal and have indicated that there is no emergency access problem.
- (4) The 48 parking spaces located in to the south of the existing building provided by the original P-D approval meets the parking required for medical and/or dental office uses, and exceeds office and/or services parking requirements.

2. DEGRADATION OF AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable air quality impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Expected automobile traffic will result in increased operational emissions of reactive organic gases (ROG) and oxides of nitrogen (NO_x) (see MEIR Table 2-8, page V-2-27).

Effect: Expected automobile traffic will result in increased emissions of particulate matter 10 microns or less (PM₁₀) and 2.5 microns or less in diameter (PM_{2.5}) (see MEIR Table 2-8, page V-2-27).

Effect: Expected automobile traffic will result in increased carbon monoxide (CO) levels in the project area (see MEIR Table 2-7, page V-2-26, and Table 2-8, page V-2-27).

Cumulative Impacts

The Master EIR indicates the same impacts identified as direct impacts above will contribute to regional impacts on air quality for the criteria pollutants ROG, NO_x, PM₁₀, and PM_{2.5}.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Air quality mitigation measure(s) pertinent to the proposed project are found on pages V-2-13 through V-2-24 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes: AQ-17 from the MEIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-2.B of the Master EIR is the analysis of air quality impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
2. DEGRADATION OF AIR QUALITY				
1) The proposed project exceeds the project-level emissions thresholds established for CO, ROG, NO _x , PM ₁₀ , and PM _{2.5} by the San Joaquin Valley Air Pollution Control District (SJVUAPCD) and is not consistent with the development assumptions for the project site, as established in the Urban Area General Plan and Master EIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project does not incorporate the best management practices established by the SJVAPCD for CO, ROG, NO _x , PM ₁₀ , and PM _{2.5} .	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project does not comply with the air quality policies in the Modesto Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project would expose sensitive receptors to pollutant concentrations in excess of those expected to occur as a result of implementation of the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5) The proposed project would create objectionable odors affecting a substantial number of people.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project was not referred to the San Joaquin Valley Unified Air Pollution Control District because the project is to allow an expansion of uses not development, and it was determined that the project would not have any significant effect on the ambient air quality.
- (2) This project does incorporate the best management practices for PM10 reduction established by the SJVUAPD (see mitigations measures above).
- (3) Applicable General Plan Policies will be applied to the project. Therefore, project-specific effects will be less than significant for this impact (see mitigations measures above).
- (4) The project is not a contributor to pollution levels. PM10 emissions created through any construction will be mitigated as called for by the MEIR by the measures listed above.
- (5) The proposed project will not produce any objectionable odors.

3. GENERATION OF NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable noise impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Future automobile traffic noise levels and roadway construction and maintenance activities resulting from development of the Urban Area General Plan will exceed the City’s noise thresholds at various locations, but particularly in areas adjacent to heavily traveled roadways (see MEIR Table 3-3, page V-3-10, and Figure VII-2 and Table 3-6, pages V-3-18 and V-3-19).

Effect: Expected noise from airport operations and airport construction projects may expose up to 468 dwellings and three churches to noise levels of 65 dB CNEL and up to eight dwellings to noise levels of 70 dB CNEL.

Effect: Expose noise-sensitive land uses to noise from the construction of bicycle and transit projects.

Effect: Expose noise-sensitive land uses to noise from freight and passenger rail operations.

Cumulative Impacts

Effect: Traffic from development in the City of Modesto would, when combined with traffic from new development in the County and other cities, contribute to a cumulative increase in roadside noise levels on major roads and highways throughout Stanislaus County.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-11 through V-3-15 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes: N-4, N-5 and N-6 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-3.B of the MEIR discloses noise impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of the proposed project’s effects are based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3. GENERATION OF NOISE				
1) The proposed project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project will not comply with the noise policies of, or otherwise be inconsistent with, the Modesto Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project will result in an increase in ambient noise levels in the project vicinity above those disclosed in the Master EIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels disclosed in the Master EIR implementation of the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The City's noise policy is incorporated into the conditions of approval as a mitigation measure.
- (2) The project is consistent with the noise policies of the General Plan. The noise mitigation measures called for by the General Plan for projects within the baseline-developed area are incorporated into the conditions of approval for the project.
- (3) The only permanent noise levels produced by the project would be associated with traffic. The increased traffic levels are within the scope of what the MEIR assumed for the site. Therefore, this project will not result in a substantial permanent increase in ambient noise levels.
- (4) The project will not result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity. There will be some construction related noise, but the noise mitigation measures called for by the General Plan for projects within the baseline developed area, are incorporated into the conditions of approval for the project.

4. EFFECTS ON AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on agricultural lands expected after application of mitigations/policies:

Direct Impacts

Effect: Between 1995 and 2025, development of the Urban Area General Plan may convert up to approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area to urban uses.

Effect: Approximately 1,200 acres of urban development along a 28.5-mile boundary 350 feet wide between urban and agricultural uses could be affected by continued agricultural operations, including noise, dust, and chemical overspray or drift.

Cumulative Impacts

Effect: Growth within Modesto’s planning area would contribute considerably to the loss of agricultural land within Stanislaus County, accounting for the conversion of as much as approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area from 1995 to 2025.

Discussion:

The site is not zoned for agriculture or designated on the General Plan for future agricultural use. The proposed project will not affect areas zoned for agriculture or designated on the General Plan for future agricultural use. The project is an infill development and the surrounding properties are located within a fully developed urbanized area.

b. Master EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural land mitigation measures pertinent to the proposed project are found on pages V-4-6 to and V-4-8 of the Master EIR. All mitigation measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-4.B of the Master EIR discloses the impacts resulting from the implementation of the Urban Area General Plan on agricultural lands. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
4. EFFECTS ON AGRICULTURAL LANDS				
1) The proposed project is inconsistent with the Urban Area General Plan’s policies relating to agricultural land.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
2) The proposed project will either directly or indirectly result in the development of land outside the 2008 Urban Area General Plan's planning area boundary.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project will conflict with existing zoning for agricultural use, or there is an existing Williamson Act contract on the project site.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project will involve other changes in the existing environment not anticipated in the Master EIR which, due to their location or nature, could result in conversion of farmland to non-agricultural use.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project is consistent with the General Plan land use policies. It is an infill project, proposed within the urbanized area of the City. There are no agricultural parcels affected by the proposal and no agricultural and will be converted.
- (2) The project is within the Baseline-Developed area of the City and therefore will not result in the development of land outside the March 2003 planning area boundaries.
- (3) The project site is not zoned for agriculture nor is it under Williamson Act contract.
- (4) The project will not involve changes to the existing environment that could result in the conversion of farmland to non-agricultural uses. The project is completely surrounded by urbanized land.

5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on long-term water supplies expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts have been disclosed in the Master EIR.

Cumulative Impacts

Effect: Operational yields of the Modesto and Turlock sub-basins, both of which underlie the City of Modesto, are unknown, although the City is participating in a study with the United States Geological Survey in order to quantify the operational yields of both sub-basins. Groundwater withdrawals from both basins by the City, when combined with other users' withdrawals, may result in overdrafting both sub-basins.

Effect: Despite available options, during drought years, significant water shortages are forecast for the San Joaquin River basin, which includes both the Modesto and Turlock subbasins, by 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Water supply mitigation measures pertinent to the proposed project are found on pages V-5-6 through V-5-12 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-5.B of the Master EIR discloses impacts on long-term water supplies resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES				
1) The proposed project is inconsistent with water supply policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) Water demand for the proposed project will exceed estimates for similar projects or for development on the project site anticipated in the Urban Area General Plan or sufficient water supplies are not otherwise available to serve the project from existing entitlements and resources.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would deplete groundwater supplies to a greater degree than anticipated in the Urban Area General Plan or would interfere with groundwater recharge.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.
- (2) The project was referred to Engineering and Transportation for comment and there was no determination that there is insufficient capacity to serve the project.

6. INCREASED DEMAND FOR SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on sanitary sewer services after application of mitigations/policies:

Direct Impacts

Effect: Development resulting from implementation of the Urban Area General Plan will require substantial new sewage treatment and disposal capacity, treatment plant improvements, sewer mains and collection lines, and pump stations. The Wastewater Master Plan anticipates the need for these facilities and its EIR evaluates the impact of developing those facilities. Potential impacts include degradation of water quality through erosion and chemical releases; localized flooding; construction noise; exposure of construction workers and the public to hazardous materials; and on the habitat of the elderberry longhorn beetle, burrowing owl, and Swainson's hawk, as well as certain other regulated habitats. All of these impacts are mitigated to a less-than-significant level.

Additional impacts that are not mitigated to a less-than-significant level include loss of farmland cause by construction of the Phase IA tertiary treatment facility at the Jennings Road Secondary Treatment Facility, an increase in pollutant loads from increased wastewater flows to the San Joaquin River, and an increase in noise and criteria air pollutants due to construction activities, including traffic.

Cumulative Impacts

Effect: No additional cumulative impacts were identified in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Sewer service mitigation measures pertinent to the proposed project are found on pages V-6-3 through V-6-8 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-6.B of the Master EIR discloses impacts on the Increased Demand for Sanitary Sewer Service resulting from implementation of the Urban Area General Plan. The following is an analysis of

whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
6. INCREASED DEMAND FOR SANITARY SEWER SERVICES				
1) The proposed project is inconsistent with water supply policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project will generate sewage flows greater than those anticipated in the Urban Area General Plan for the project site.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.
- (2) The project was referred to Engineering and Transportation for comment and there was no indication that there is insufficient capacity to serve the project.

7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on sensitive wildlife and plant habitat expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant impacts on sensitive wildlife and plan habitat are expected to occur with the application of the policies contained in the Urban Area General Plan.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will contribute to the cumulative impact of habitat loss in the San Joaquin Valley. Requiring density development than has occurred in the past

or that is expected in the future would minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Wildlife and plant habitat mitigation measures pertinent to the proposed project are found on pages V-7-17 through V-7-24 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-7.B of the Master EIR discloses impacts on the Loss of Sensitive Wildlife and Plant Habitat resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT				
1) The project is inconsistent with the policies pertaining to the loss of sensitive wildlife and plant habitat contained in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on a candidate, sensitive, or special status species in excess of the impact disclosed in the Master EIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption, or other means, in excess of the impact disclosed in the Master EIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project would substantially interfere with the movement of any native resident	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.				
5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6) The proposed project would conflict with provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.
- (2) The project site is not a biologically sensitive site as defined by Figures V-7-1a through V.7-1e of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.
- (3) There is no conflict with any local policies or ordinances protecting biological resources.

8. DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on archaeological/historical sites expected after application of mitigations/policies:

Direct Impacts

Effect: Modification resulting in a substantial adverse change in the significance of a historic resource or the demolition of a listed or eligible historic resource.

Effect: The modification or demolition of a structure more than 50 years in age may be significant.

Effect: Discovery of archaeological resources in areas outside of the riparian corridors, as a result of construction activities.

Effect: Construction in an area of high archaeological sensitivity.

Cumulative Impacts

Effect: No additional cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Archaeological or historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-16 through V-8-20 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes: AH-8, from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-8.B of the MEIR discloses impacts on archaeological/historical resources resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
8. DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES				
1) The proposed project is inconsistent with the archaeological/historical resource policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would demolish a building eligible for listing as a historic resource or remove a landmark from the Modesto inventory.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would modify or demolish a structure more than 50 years in age.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.
- (2) The project would not adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site. The mitigation measure called for by the General Plan is incorporated into the conditions of approval for the project.

9. INCREASED DEMAND FOR STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on storm drainage expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious surface area and associated increases in storm water runoff. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. This cumulative impact is considered significant and unavoidable.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Storm Drainage mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-9. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes: SD-7, from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-9.B of the MEIR discloses impacts on the demand for storm drainage resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
9. INCREASED DEMAND FOR STORM DRAINAGE				
1) The proposed project is inconsistent with the storm drainage policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite, as compared to impacts anticipated to result from the Urban Area General Plan or create substantial unanticipated sources of polluted runoff.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project does not utilize Low Impact Development strategies to reduce runoff from the site and increase infiltration, resulting in no net increase in runoff before and after development.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.
- (2) The project does not propose to increase the impervious surface, the building already exists. The project will meet the standards contained in the "Guidance Manual for New Development-Storm Water Quality Control Measures," adopted by the City as required by the above-listed mitigation measures.
- (3) The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on flooding and water quality expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Flooding and Water Quality mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-10-6 through V-10-9 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes: FWQ-14, from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-10.B of the Master EIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
10. FLOODING AND WATER QUALITY				
1) The proposed project is inconsistent with the flooding and water quality policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would place more housing within a 100-year flood hazard zone than assumed in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project would place structure within a 100-year flood hazard area so that they would impede or redirect floodwater or would substantially alter the existing on-site drainage pattern or a watercourse, in such a way as to cause flooding on- or offsite.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5) The proposed project does not comply with Modesto's Guidance Manual for New Development	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Storm Water Quality Control Measures.				
6) The proposed project would violate water quality standards or waste discharge requirements.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7) The proposed project would substantially alter the existing drainage pattern of the site or area or a watercourse in a manner that would result in substantial erosion or siltation on- or offsite in excess of the assumptions of the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
8) The proposed project would create or contribute runoff, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff, not expected as part of Urban Area General Plan implementation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.
- (2) The project would comply with the Federal Clean Water Act and the Porter Cologne Act requirements.
- (3) The project will comply with the Guidance Manual for New Development Storm Water Quality Control Measures.
- (4) The project would not create or contribute to runoff water in excess of the capacity of existing or planned storm water drainage systems or provide additional sources of polluted runoff.

11. INCREASED DEMAND FOR PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on parks and open space expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Parks and open space mitigation measures pertinent to the proposed project are found on pages V-11-3 through V-11-9 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes: none from the Master EIR. It is not near any of the riparian areas identified by Figures V-7-1a through V-11-19 MEIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-11.B of the MEIR discloses impacts of the Urban Area General Plan on parks and open space. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
11. INCREASED DEMAND FOR PARKS AND OPEN SPACE				
1) The proposed project is inconsistent with the parks and open space policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would eliminate parks or open space.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would cause an increase in the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility in question would occur or be accelerated or the proposed project would include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

1. The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

12. INCREASED DEMAND FOR SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on school facilities expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR. By statute, the impact of new students is considered to be mitigated below a level of significance by payment of school impact fees and the exercise of any or all of the financing options set out in Government Code Section 65997.

Cumulative Impacts

Effect: Similar to direct impacts of implementation of the Urban Area General Plan, no residual significant direct impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. As long these policies are applied to all subsequent projects, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995).

The following schools mitigation measures on pages V-12-5 through V-12-7 of the Master EIR are pertinent to the proposed project. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures are listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-12.B of the Master EIR discloses impacts resulting from implementation of the Urban Area General Plan associated with increased demand for schools. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
12. INCREASED DEMAND FOR SCHOOLS				
1) The proposed project is inconsistent with the policies relating to schools in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which state that compliance results in less-than-significant impacts on schools.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project is consistent with the General Plan in both land use and intensity.
- (2) The project was referred to Modesto City Schools who indicated no opposition to the project.

13. INCREASED DEMAND FOR POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on police services expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Police services mitigation measures pertinent to the proposed project are found on pages V-13-2 through V-13-5 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-13.B of the Master EIR discloses impacts on police services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
13. INCREASED DEMAND FOR POLICE SERVICES				
1) The proposed project is inconsistent with policies relating to police services in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.
- (2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

14. INCREASED DEMAND FOR FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on fire services expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-4 through V-14-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-14.B of the Master EIR discloses impacts on fire services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
14. INCREASED DEMAND FOR FIRE SERVICES				
1) The proposed project is inconsistent with the fire service policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project, based upon substantial evidence, would cause the erosion or elimination of fire protection services in adjoining fire protection districts.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.
- (2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

15. GENERATION OF SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on solid waste expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Solid waste mitigation measures pertinent to the proposed project are found on pages V-15-4 through V-15-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-15.B of the Master EIR discloses solid waste impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
15. GENERATION OF SOLID WASTE				
1) The project is inconsistent with the solid waste policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The County is unable to expand its solid waste disposal capacity, as expected, causing all new development to result in cumulative impacts on the County's disposal capacity.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project is consistent with the Modesto Urban Area General Plan "C" (Commercial) designations in both land use and intensity.
- (2) This project was referred to the County and Solid Waste Division of the Engineering and Transportation Division for review, and no indication was given that there would be a problem serving this project.

16. GENERATION OF HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts regarding hazardous materials expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Hazardous materials mitigation measures pertinent to the proposed project are found on pages V-16-8 through V-16-13 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-16.B of the Master EIR discloses impacts on hazardous materials resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
--	---------------------------------------	---	-------------------------------------	------------------

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
16. GENERATION OF HAZARDOUS MATERIALS				
1) The project is inconsistent with the hazardous materials policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project would be constructed on a contaminated site not known to the State of California as of March 2008.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project is consistent with the Modesto Urban Area General "C" (Commercial) designations in both land use and intensity.
- (2) - This is an infill project, which involves an expansion of uses to an existing Girl Scouts Program Center. No hazardous materials will be involved with this project.
- (3) The project site is not known to contain any contaminants.
- (4) The project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste.
- (5) The project would not be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would not create a significant hazard to the public or the environment.

17. GEOLOGY, SOILS, AND MINERAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts related to geology, soils, and mineral resources expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Geology, soils, and mineral resource mitigation measures pertinent to the proposed project are found on pages V-17-9 and V-17-10 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of the proposed project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-17.B of the Master EIR discloses geology, soils, and mineral resource impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
17. GEOLOGY, SOILS, AND MINERAL RESOURCES				
1) The project is inconsistent with policies relating to geology, soils, and mineral resources contained in the Urban Area General Plan.	[]	[]	[]	[X]
2) The proposed project would expose people or structures to potential substantial adverse effects including the risk of loss, injury, or death involving fault rupture, strong seismic activity; location on an expansive soil; result in the loss of topsoil; location on soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater; result in the loss of known mineral resources that would be of value to the region and the state; or result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan.	[]	[]	[]	[X]

Discussion:

- (1) The proposed project is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of C "Commercial". The Commercial land use designation allows for uses as permitted within the P-O Zone, subject to Planned Development Amendment approval by the Planning Commission.
- (2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project. The project site is already developed with one building used as the Girl Scouts Program Center.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to energy expected after application of mitigations/policies:

Direct Impacts

Effect: Continued development in the Planned Urbanizing Area would have an impact on available energy supplies. Energy consumption likely would increase substantially by 2025 as a result of implementation of the Urban Area General Plan.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on energy consumption.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following energy mitigation measures pertinent to the proposed project are found on pages V-18-2 through V-18-8 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
18. ENERGY				
1) The proposed project is inconsistent with policies relating to energy in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would result in energy consumption during construction, operation, maintenance, or removal that is more wasteful, inefficient, and unnecessary than assumed in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project is consistent with the Modesto Urban Area General Plan "C" (Commercial) designations in both land use and intensity.

19. EFFECTS ON VISUAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on visual resources expected after application of mitigations/policies:

Direct Impacts

Effect: New development in the Planned Urbanizing Area will occur in areas that are in agricultural production or are otherwise lightly developed, which could lead to the introduction of light and glare in areas that have little nighttime illumination.

Cumulative Impacts

Effect: No additional cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following visual resources mitigation measures pertinent to the proposed project are found on pages V-19-3 and V-19-4 in the Master EIR. All mitigation measures appropriate to the proposed project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
19. EFFECTS ON VISUAL RESOURCES				
1) The proposed project is inconsistent with policies relating to visual resources in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would degrade views from riverside areas and parks to a greater degree than assumed in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would degrade views of riverside areas from public roadways and nearby properties to a greater degree than assumed in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project is consistent with the General Plan in both land use and intensity.
- (2) There are no Scenic Vistas from the location of the proposed development. It is completely surrounded by urbanization. Views to the Diablo and Sierra Mountain Ranges are already precluded from this site and its surroundings.
- (3) The project would not substantially degrade the existing visual character or quality of the project site and its surroundings.
- (4) The project would not create a substantial source of light or glare that would adversely affect daytime or nighttime views in the area. The development already exists.

20. LAND USE AND PLANNING

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to land use and planning expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following land use and planning mitigation measures pertinent to the proposed project are found on pages V-20-6 through V-20-17 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-20.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on land use and planning. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
20. LAND USE AND PLANNING				
1) The proposed project is inconsistent with land use and planning policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project contains elements that would physically divide an established community in a way not assumed in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project conflicts with a land use plan, policy or regulation established for the purpose of avoiding or mitigating an environmental impact by an agency that has jurisdiction over the proposed project.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project conflicts with an applicable habitat conservation plan or natural community conservation plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project is consistent with the Modesto Urban Area General Plan "C" (Commercial) designations in both land use and intensity.
- (2) No amendment to the General Plan is required by this project.
- (3) The project is an infill project that will not result in division of a community.

21. CLIMATE CHANGE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to climate change expected after application of mitigations/policies:

Direct Impacts

Effect: Impacts resulting from implementation of the Urban Area General Plan are not substantial enough to result in a significant direct impact on climate change, as disclosed in the Master EIR.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on climate change.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following climate change mitigation measures pertinent to the proposed project are found on pages V-21-7 through V-21-10 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on climate change. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
21. CLIMATE CHANGE				
1) The proposed project is inconsistent with policies relating to climate change in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would result in average automobile trip lengths or CO ₂ emissions higher than those assumed in the Master EIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would conflict with the Sustainable Communities Strategy or Alternative Planning Strategy that the Air Resources Board has agreed will achieve the goals of AB 32.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

(1-3) The proposed project is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of "C" (Commercial). The Commercial land use designation allows for uses as permitted within the Planned Development Zone, P-D(347)/P-O Zone, subject to approval by the Planning Commission. Any future development would be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

V. MITIGATION MEASURES APPLIED TO THE PROPOSED PROJECT

If the Initial Study results in the determination that a Finding of Conformance can be adopted for the proposed project Section A below applies. If the Initial Study results in the determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration/EIR must be prepared for the project then Section B, below applies.

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to Public Resources Code Section 21157.1(c), in order for a Finding of Conformance to be made, all appropriate mitigation measures from the Master EIR shall be incorporated into the proposed project. Urban Area General Plan Policies/Master EIR mitigation measures shall be made part of the proposed project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan.

All applicable and appropriate mitigation measures have been applied to the project (see mitigation measures listed below).

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the significance criteria for each environmental impact category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the

project against the significance criteria thresholds established in the Master EIR for all impact categories in this Initial Study.

A Mitigated Negative Declaration or Focused EIR shall be prepared for the project. The following additional project-specific mitigation measures listed below are necessary to reduce the identified new significant effect:

Traffic and Circulation:

N/A

Degradation of Air Quality:

1. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

Generation of Noise:

1. The City's noise ordinance (Modesto Municipal Code Section 4-9.101) prohibits the "loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine."

The noise ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State or federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):

- A. A hammer, or any other device or implement used to pound or strike an object.
- B. An impact wrench, or other tool or equipment powered by compressed air.
- C. A hand-powered saw.
- D. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.
- E. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.
- F. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.
- G. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or

permitted action, depending upon the nature of the emergency and the type of action requested.

- H. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

Effects on Agricultural Lands:

N/A

Increased Demand for Long-Term Water Supplies:

N/A

Increased Demand for Sanitary Sewer Services:

N/A

Loss of Sensitive Wildlife and Plant Habitat:

N/A

Disturbance of Archaeological/Historic Sites:

N/A

Increased Demand for Storm Drainage:

N/A

Flooding and Water Quality:

N/A

Increased Demand for Parks and Open Space:

N/A

Increased Demand for Schools:

N/A

Increased Demand for Police Services:

N/A

Increased Demand for Fire Services:

N/A

Generation of Solid Waste:

N/A

Generation of Hazardous Materials:

N/A

Geology, Soils, and Mineral Resources:

N/A

Energy:

N/A

Effects on Visual Resources:

N/A

Land Use and Planning:

N/A

Climate Change:

N/A

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-15**

RESOLUTION AMENDING A LABOR POLICY FOR PAYING AND REPORTING THE VALUE OF EMPLOYER PAID MEMBER CONTRIBUTIONS TO THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (CALPERS) ON BEHALF OF EMPLOYEES REPRESENTED BY THE MODESTO CITY EMPLOYEES ASSOCIATION (MCEA); AND REPEALING RESOLUTION NO. 2000-396

WHEREAS, the City Council, by Resolution No. 2000-396, adopted a labor policy providing for Public Employees' Retirement System (PERS) employee contributions to be paid by the City on behalf of employees and for reporting of employer-paid normal member contributions to PERS as compensation, and

WHEREAS, the City amended its contract with CalPERS to provide a second tier retirement formula 2% @ 60 to local miscellaneous members entering employment with the City of Modesto for the first time in the miscellaneous classification effective January 17, 2012, and

WHEREAS, the governing body of the City of Modesto has the authority to implement Government Code Section 20636(c)(4) pursuant to Section 20691, and

WHEREAS, the governing body of the City of Modesto has a written labor policy or agreement which specifically provides for the normal member contributions to be paid by the employer, and reported as additional compensation, and

WHEREAS, one of the steps in the procedures to implement Section 20691 is the adoption by the governing body of the City of Modesto of a Resolution to commence paying and reporting the value of said Employer Paid Member Contributions, and

WHEREAS, the governing body has the authority to amend all members in a group or class of employment pursuant to Government Code Section 20691,

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

For Miscellaneous employees hired before January 17, 2012, the City of Modesto elects to pay six and six-tenths percent (6.6%) of the normal member contributions of seven percent (7%) as employer paid member contributions and report the same value to CalPERS as compensation earnable as additional compensation.

For Miscellaneous employees hired on or after January 17, 2012, the City of Modesto elects to pay zero percent (0%) of the normal member contributions of seven percent (7%). No payment shall be implemented pursuant to the provisions of Section 20636 (c)(4) of the California Government Code.

BE IT FURTHER RESOLVED that this Resolution shall become effective on January 17, 2012.

BE IT FURTHER RESOLVED that effective January 17, 2012 Resolution No. 2000-396 is hereby repealed in its entirety.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-16**

RESOLUTION AMENDING A LABOR POLICY FOR PAYING AND REPORTING THE VALUE OF EMPLOYER PAID MEMBER CONTRIBUTIONS TO THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (CALPERS) ON BEHALF OF EMPLOYEES REPRESENTED BY THE MODESTO POLICE AND FIRE NON-SWORN ASSOCIATION (MPNSA); AND REPEALING RESOLUTION NO. 2000-396

WHEREAS, the City Council, by Resolution No 2000-396, adopted a labor policy providing for Public Employees' Retirement System (PERS) employee contributions to be paid by the City on behalf of employees and for reporting of employer-paid normal member contributions to PERS as compensation, and

WHEREAS, the City amended its contract with CalPERS to provide a second tier retirement formula 2% @ 60 to local miscellaneous members entering employment with the City of Modesto for the first time in the miscellaneous classification effective January 17, 2012, and

WHEREAS, the governing body of the City of Modesto has the authority to implement Government Code Section 20636(c)(4) pursuant to Section 20691, and

WHEREAS, the governing body of the City of Modesto has a written labor policy or agreement which specifically provides for the normal member contributions to be paid by the employer, and reported as additional compensation, and

WHEREAS, one of the steps in the procedures to implement Section 20691 is the adoption by the governing body of the City of Modesto of a Resolution to commence paying and reporting the value of said Employer Paid Member Contributions, and

WHEREAS, the governing body has the authority to amend all members in a group or class of employment pursuant to Government Code Section 20691,

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

For Miscellaneous employees hired before January 17, 2012, the City of Modesto elects to pay six and six-tenths percent (6.6%) of the normal member contributions of seven percent (7%) as employer paid member contributions and report the same value to CalPERS as compensation earnable as additional compensation.

For employees hired on or after January 17, 2012, the City of Modesto elects to pay zero percent (0%) of the normal member contributions of seven percent (7%). No payment shall be implemented pursuant to the provisions of Section 20636 (c)(4) of the California Government Code.

BE IT FURTHER RESOLVED that this Resolution shall become effective on January 17, 2012.

BE IT FURTHER RESOLVED that effective January 17, 2012, Resolution No. 2000-396 is hereby repealed in its entirety.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

RESCINDED

JUL 10 2012

THIS RESOLUTION WAS
RESCINDED BY MODESTO
CITY COUNCIL RESOLUTION
NO. 2012-273

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-17**

RESOLUTION AMENDING A LABOR POLICY FOR PAYING AND REPORTING THE VALUE OF EMPLOYER PAID MEMBER CONTRIBUTIONS TO THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (CALPERS) ON BEHALF OF EMPLOYEES REPRESENTED BY THE MODESTO CONFIDENTIAL AND MANAGEMENT ASSOCIATION (MCMA); AND REPEALING RESOLUTION NO. 2000-273

WHEREAS, the City Council, by Resolution No. 2000-273, adopted a labor policy providing for Public Employees' Retirement System (PERS) employee contributions to be paid by the City on behalf of employees and for reporting of employer-paid normal member contributions to PERS as compensation, and

WHEREAS, the City amended its contract with CalPERS to provide a second tier retirement formula 2% @ 60 to local miscellaneous members entering employment with the City of Modesto for the first time in the miscellaneous classification effective January 17, 2012, and

WHEREAS, the governing body of the City of Modesto has the authority to implement Government Code Section 20636(c)(4) pursuant to Section 20691, and

WHEREAS, the governing body of the City of Modesto has a written labor policy or agreement which specifically provides for the normal member contributions to be paid by the employer, and reported as additional compensation, and

WHEREAS, one of the steps in the procedures to implement Section 20691 is the adoption by the governing body of the City of Modesto of a Resolution to commence paying and reporting the value of said Employer Paid Member Contributions, and

WHEREAS, the governing body has the authority to amend all members in a group or class of employment pursuant to Government Code Section 20691,

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

For Miscellaneous employees hired before January 17, 2012, the City of Modesto elects to pay six and six-tenths percent (6.6%) of the normal member contributions of seven percent (7%) as employer paid member contributions and report the same value to CalPERS as compensation earnable as additional compensation.

For Miscellaneous employees hired on or after January 17, 2012, the City of Modesto elects to pay zero percent (0%) of the normal member contributions of seven percent (7%). No payment shall be implemented pursuant to the provisions of Section 20636 (c)(4) of the California Government Code.

BE IT FURTHER RESOLVED that this Resolution shall become effective on January 17, 2012.

BE IT FURTHER RESOLVED that effective January 17, 2012 Resolution No. 2000-273 is hereby repealed in its entirety.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-18

RESOLUTION AMENDING A LABOR POLICY FOR PAYING AND REPORTING THE VALUE OF EMPLOYER PAID MEMBER CONTRIBUTIONS TO THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (CALPERS) ON BEHALF OF EMPLOYEES REPRESENTED BY THE MODESTO CITY FIRE FIGHTERS' ASSOCIATION (MCFFA); AND REPEALING RESOLUTION NO. 95-401

WHEREAS, the City Council, by Resolution No. 95-401, adopted a labor policy providing for Public Employees' Retirement System (PERS) employee contributions to be paid by the City on behalf of employees and for reporting of employer-paid normal member contributions to PERS as compensation, and

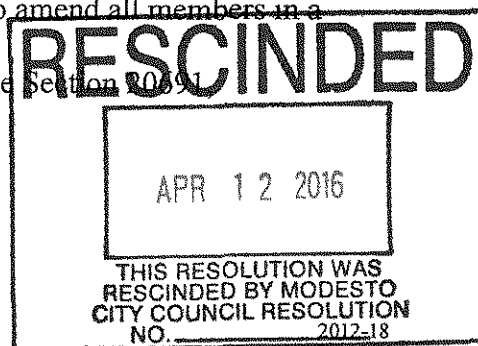
WHEREAS, the City amended its contract with CalPERS to provide a second tier retirement formula 3% @ 55 to local fire safety members entering employment with the City of Modesto for the first time in the fire classification effective January 17, 2012, and

WHEREAS, the governing body of the City of Modesto has the authority to implement Government Code Section 20636(c)(4) pursuant to Section 20691, and

WHEREAS, the governing body of the City of Modesto has a written labor policy or agreement which specifically provides for the normal member contributions to be paid by the employer, and reported as additional compensation, and

WHEREAS, one of the steps in the procedures to implement Section 20691 is the adoption by the governing body of the City of Modesto of a Resolution to commence paying and reporting the value of said Employer Paid Member Contributions, and

WHEREAS, the governing body has the authority to amend all members in a group or class of employment pursuant to Government Code Section 20691



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

For Fire Safety employees hired before January 17, 2012, the City of Modesto elects to pay seven and one half percent (7.5%) of the normal member contributions of nine percent (9%) as employer paid member contributions and report the same value to CalPERS as compensation earnable as additional compensation.

For Fire Safety employees hired on or after January 17, 2012, the City of Modesto elects to pay zero percent (0%) of the normal member contributions of nine percent (9%). No payment shall be implemented pursuant to the provisions of Section 20636 (c)(4) of the California Government Code.

BE IT FURTHER RESOLVED that this Resolution shall become effective on January 17, 2012.

BE IT FURTHER RESOLVED that effective January 17, 2012, Resolution No. 95-401 is hereby repealed in its entirety.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

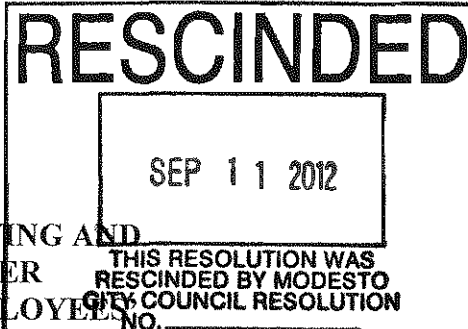
ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-19



RESOLUTION AMENDING A LABOR POLICY FOR PAYING AND REPORTING THE VALUE OF EMPLOYER PAID MEMBER CONTRIBUTIONS TO THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (CALPERS) ON BEHALF OF UNREPRESENTED MANGEMENT AND CONFIDENTIAL EMPLOYEES; AND REPEALING RESOLUTION NO. 2000-273

THIS RESOLUTION WAS
RESCINDED BY MODESTO
CITY COUNCIL RESOLUTION
NO.

2012-372
and
2012-373

WHEREAS, the City Council, by Resolution No. 2000-273, adopted a labor policy providing for Public Employees' Retirement System (PERS) employee contributions to be paid by the City on behalf of employees and for reporting of employer-paid normal member contributions to PERS as compensation, and

WHEREAS, the City amended its contract with CalPERS to provide a second tier retirement formula 2% @ 60 to local miscellaneous members entering employment with the City of Modesto for the first time in the miscellaneous classification effective January 17, 2012, and

WHEREAS, the City amended its contract with CalPERS to provide a second tier retirement formula 3% @ 55 to local fire safety members entering employment with the City of Modesto for the first time in the fire classification effective January 17, 2012, and

WHEREAS, the governing body of the City of Modesto has the authority to implement Government Code Section 20636(c)(4) pursuant to Section 20691, and

WHEREAS, the governing body of the City of Modesto has a written labor policy or agreement which specifically provides for the normal member contributions to be paid by the employer, and reported as additional compensation, and

WHEREAS, one of the steps in the procedures to implement Section 20691 is the adoption by the governing body of the City of Modesto of a Resolution to commence paying and reporting the value of said Employer Paid Member Contributions, and

WHEREAS, the governing body has the authority to amend all members in a group or class of employment pursuant to Government Code Section 20691,

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

For Miscellaneous employees hired before January 17, 2012, the City of Modesto elects to pay six and six-tenths percent (6.6%) of the normal member contributions of seven percent (7%) as employer paid member contributions and report the same value to CalPERS as compensation earnable as additional compensation.

For Fire Safety employees hired before January 17, 2012, the City of Modesto elects to pay seven and one half percent (7.5%) of the normal member contributions of nine percent (9%) as employer paid member contributions and report the same value to CalPERS as compensation earnable as additional compensation.

For Miscellaneous employees hired on or after January 17, 2012, the City of Modesto elects to pay zero percent (0%) of the normal member contributions of seven percent (7%).

For Fire Safety employees hired on or after January 17, 2012, the City of Modesto elects to pay zero percent (0%) of the normal member contributions of nine percent (9%). No payment shall be implemented pursuant to the provisions of Section 20636 (c)(4) of the California Government Code.

BE IT FURTHER RESOLVED that this Resolution shall become effective on January 17, 2012.

BE IT FURTHER RESOLVED that effective January 17, 2012 Resolution No. 2000-273 is hereby repealed in its entirety.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-20**

RESOLUTION APPROVING A REQUEST FROM THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS TO ACQUIRE AT A COST OF \$61,000, THE PROPERTY LOCATED AT 505 EAST COOLIDGE AVENUE, MODESTO TO PROVIDE HOUSING UNITS FOR THE EMANCIPATED FOSTER YOUTH AND/OR HOMELESS YOUTH PROGRAM PARTICIPANTS AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND RELATED DOCUMENTS

WHEREAS, on January 14, 2010, the City of Modesto (City) was granted \$25 million under the Neighborhood Stabilization Program 2 of which \$6 million was specifically set-aside for an innovative program under the Housing Authority of the County of Stanislaus, and

WHEREAS, this program, the Emancipated Foster Youth and/or Homeless Youth Program, is intended to acquire 40 foreclosed, abandoned or vacant units, to house foster and homeless youth between the ages of 18 to 28, and

WHEREAS, on January 11, 2011, the City and the Housing Authority of Stanislaus County entered into a Memorandum of Understanding to implement the Emancipated Foster Youth and/or Homeless Youth Program, and

WHEREAS, on November 28, 2011, the City received a request from the Housing Authority to purchase a foreclosed duplex located at 505 E. Coolidge Avenue, Modesto, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes staff to acquire the property located at 505 E. Coolidge Avenue, Modesto for the Emancipated Foster Youth and/or Homeless Youth Program for a total cost not to exceed \$61,000,

NOW, THEREFORE, BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager, or his designee, to execute the Agreement and related documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-21**

A RESOLUTION APPROVING THE TERM SHEET TO BE USED IN THE DEVELOPMENT OF A NEW SERVICE AGREEMENT WITH COVANTA STANISLAUS, INC.; AUTHORIZING THE CITY MANAGER OR DESIGNEE TO SIGN THE TERM SHEET SO A NEW SERVICE AGREEMENT CAN BE DEVELOPED; AUTHORIZING THE CITY MANAGER OR DESIGNEE TO NEGOTIATE A NEW SERVICE AGREEMENT WITH STANISLAUS COUNTY AND COVANTA STANISLAUS, INC.; AND, AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH SIDLEY AUSTIN, LLP, FOR THE DEVELOPMENT OF THE NEW SERVICE AGREEMENT ON BEHALF OF THE CONTRACTING COMMUNITIES

WHEREAS, on December 17, 1985, the City of Modesto and County of Stanislaus (Contracting Communities) entered into an agreement for administration of the City/County Service Agreement with the Stanislaus Waste Energy Company (now Covanta Stanislaus) for supply and acceptance of solid waste, and

WHEREAS, since that time, the City has been partners with Stanislaus County and Covanta Stanislaus in the Stanislaus Resource Recovery Facility (the "Waste-to-Energy" or "WTE" Facility), and

WHEREAS, the City and County operate the project as a Joint Powers Agency under a Joint Powers Agreement, with the County acting as the Treasurer, and

WHEREAS, under the current Service Agreement, the Contracting Communities pay Covanta a service fee to operate the facility and are also responsible for all pass through costs associated with the facility such as taxes, insurance, air permit fees, ash disposal, etc., and

WHEREAS, the Contracting Communities are also responsible for any costs associated with unforeseen circumstances such as changes in law, major upgrades or any

acts, events or conditions that have a material adverse effect on the operation of the facility, and

WHEREAS, the Contracting Communities are responsible for delivering wastes to the facility under a minimum tonnage guarantee of 243,300 tons, and Covanta uses this waste to generate electricity, which it sells to PG&E under a Power Purchase Agreement (PPA), and

WHEREAS, the Contracting Communities currently retain 90% of the electric revenue generated by the facility, all of the disposal fees, 50% of metal recycling revenue and 30% of supplemental waste revenue, which revenues are used to offset costs, and

WHEREAS, the existing Service Agreement was set to expire on December 31, 2009, and in 2007, staff from the County Department of Environmental Resources and the City of Modesto Solid Waste Division began negotiations on a new contract with Covanta, and

WHEREAS, those negotiations proved unsuccessful, so in May 2009, the County and the City of Modesto exercised an option given in the original contract to extend the contract under the same terms an additional six years through December 31, 2015, and

WHEREAS, when the Power Purchase Agreement (PPA) with PG&E expired in January, 2010, Covanta elected to extend its contract with PG&E under extension provisions pursuant to California Public Utilities Commission (CPUC) Decision No. 07-09-040, and

WHEREAS, those provisions caused the price paid for power to revert to the Short Run Avoided Cost, or "SRAC", which was about \$55 per MW at the time and has since dropped even further, and

WHEREAS, this pricing also did not include a premium for renewable energy, and the capacity payment was reduced, and as a result, revenues from electricity generation declined sharply resulting in a significant operating deficit, and

WHEREAS, both the Contracting Communities and Covanta recognized that it would be in our joint interests to return to the negotiating table and secure a long term commitment that would motivate Covanta to negotiate a new PPA at much more favorable rates than current SRAC rates, and

WHEREAS, a new negotiating team was formed and reopened negotiations with Covanta, with the objectives of preserving the current RRA balance, a stable and predictable tipping fee, a commitment to no increased importation of waste, meeting diversion requirements and preserving landfill capacity, and reducing City/County risk exposure from change-in-law, public perception, and change in science/technology, and

WHEREAS, the Contracting Communities negotiating team has met on a regular basis over the past year and has provided periodic updates on the status of negotiations to the Solid Waste-to-Energy Executive Committee and the City-County Liaison Committee, and

WHEREAS, major deal points from the negotiations have been agreed upon by the team and Covanta and are outlined in the **attached** Term Sheet (**Attachment A**), and

WHEREAS, Legal Counsel to the Executive Committee, Sidley Austin LLP, has reviewed the Term Sheet and provided comments on the terms to protect the interests of the Contracting Communities, and

WHEREAS, upon approval of the Term Sheet, staff is also recommending that the City Manger be authorized to enter into a contract with Sidley Austin, LLP, for the

development of the New Service Agreement on behalf of the Contracting Communities,
and

WHEREAS, upon approval of the Term Sheet, staff is also recommending that the City Manager, or designee, be directed to negotiate a new Service Agreement with Stanislaus County and Covanta Stanislaus, Inc. consistent with the Term Sheet and return to the City Council for final approval of the new Service Agreement, and

WHEREAS, now that the major business points have been negotiated and outlined in the Term Sheet, staff is working to expedite the development of the New Service Agreement and return to the City Council for final approval.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the Term Sheet to be used in the development of a new Service Agreement with Covanta Stanislaus, Inc., a copy of which is **attached** hereto as **Attachment "A"** and incorporated herein by reference.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to sign the Term Sheet.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby directed to negotiate a new Service Agreement with Stanislaus County and Covanta Stanislaus, Inc. consistent with the Term Sheet and to return to the City Council for final approval of the new Service Agreement

BE IT FURTHER RESOLVED that the City Manger is authorized to enter into a contract with Sidley Austin, LLP, for the development of the New Service Agreement on behalf of the Contracting Communities,

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

TERM SHEET
among Covanta Stanislaus, Inc. ("Covanta"),
the City of Modesto, CA (the "City") and
the County of Stanislaus, CA (the "County");
the City and the County, collectively
(the "Contracting Communities")

The Contracting Communities and Covanta are parties to that certain Amended and Restated Service Agreement for the Supply and Acceptance of Solid Waste dated as of June 1986, as amended through the date hereof (the "**Original Service Agreement**"). The term of the Original Service Agreement, as previously extended, is scheduled to expire January 1, 2016. Covanta and the Contracting Communities wish to amend and restate in its entirety the Original Service Agreement in accordance with this Term Sheet. The Original Service Agreement as so amended and restated is hereinafter referred to as the "**New Service Agreement**". The term of the New Service Agreement shall commence on April 1, 2012 and continue until April 1, 2027. This Term Sheet is not intended and shall not be construed as a binding contract between the parties but shall serve solely to memorialize the understanding between the parties on the issues addressed herein. Capitalized terms used but not defined in this Term Sheet, if defined in the Original Service Agreement, shall have the meaning ascribed to such terms in the Original Service Agreement.

1. **Tipping Fee.** The tipping fee shall be \$32 per ton of Acceptable Waste, escalated annually on July 1st of each year, beginning July 1, 2013, by the increase as of January 1st of the then current year compared to January 1st of the immediately preceding year, in the Consumer Price Index, "Urban Wage Earners and Clerical Workers, All items, West – Size B/C (1996 = 100, not seasonally adjusted)". At the time of each annual escalation, the as-escalated tip fee shall be (a) no greater than 120% of the average of the posted gate rates per ton for the landfills (whether or not owned by the County) within fifty miles of the Facility; and (b) no less than \$32 per ton; and if 120% of such average is less than \$32 per ton, then the tip fee for such year shall nevertheless be \$32 per ton (the "**Tipping Fee**").
2. **Electric Revenues.** Subject to Sections 3(a)(ii) and 3(b)(ii) below, Covanta shall have the right to receive and retain all electric revenues generated by the Project. Electric revenues shall mean all revenues derived from the sale of electrical energy, capacity or ancillary services from the Facility, including any benefit of environmental attributes reflected in the price of the foregoing. (the "**Electric Revenues**").
3. **Unforeseen Circumstance Cost.**
 - (a) From April 1, 2012 until January 1, 2016:
 - (i) Covanta shall bear 75% of Unforeseen Circumstance Costs (including Cap and Trade Costs as defined below) and the Contracting Communities shall bear 25% of such Unforeseen Circumstance Costs, subject to Cost Substantiation.
 - (ii) Covanta shall separately account for the portion of Electric Revenues in excess of \$82.50/MWH (the "**Excess Electric Revenues**"). Excess Electric Revenues

shall be deemed to reduce the costs of complying with legislation or regulations imposing a cap and trade program on greenhouse gas emissions (“Cap & Trade Costs”), including without limitation, regulations promulgated pursuant to the Global Warming Solutions Act of 2006, if any, before the allocation between the parties described in Section 3(a)(i) above is applied, and the Contracting Communities shall have no responsibility for Cap & Trade Costs in excess of 25% of the net amount remaining after such deemed reduction. If on January 2, 2016, the New Service Agreement remains in effect and there are any Excess Electric Revenues which have not been applied as contemplated by the immediately preceding sentence, then any such balance of Excess Electric Revenues shall be added to the amounts provided under Section 3(b)(ii) below and applied as provided therein. However, if there is a termination of the New Service Agreement before January 2, 2016, and there is any such balance of Excess Electric Revenues remaining, then such balance shall be for the account of Covanta.

(b) From January 2, 2016 until the termination of the New Service Agreement:

(i) Covanta shall bear 75% of Unforeseen Circumstance Costs and the Contracting Communities shall bear 25% of Unforeseen Circumstance Costs, subject to Cost Substantiation.

(ii) Covanta shall separately account for Excess Electric Revenues from Electric Revenues in excess of \$92.50/MWH. Such Excess Electric Revenues, together with any balance transferred in accordance with Section 3(a)(ii) above, shall be deemed to reduce any and all Unforeseen Circumstance Costs before the allocation between the parties described in Section 3(b)(i) above is applied, and the Contracting Communities shall have no responsibility for Unforeseen Circumstance Costs in excess of 25% of the net amount remaining after such deemed reduction. If upon expiration or termination of the New Service Agreement after January 2, 2016 there is any balance of such Excess Electric Revenues remaining, then such balance shall be for the account of Covanta.

(c) The Contracting Communities shall have the right to cause an independent third party to audit the books and records of Covanta relating to the accounting of all revenues, costs, liabilities or expenditures that affect the rights, obligations or liabilities of the Contracting Communities under the New Service Agreement, by providing to Covanta written notice of exercise of such audit right within three years after the closing of the books for any period to be audited. The independent third party shall enter into a confidentiality agreement reasonably acceptable to Covanta and the Contracting Communities before accessing such books and records of Covanta. Following execution of such confidentiality agreement, Covanta shall cooperate in all reasonable respects with the audit. The parties shall reconcile any discrepancy revealed by the audit within 60 days after the conclusion thereof, subject to the dispute resolution provisions of the New Service Agreement for any good faith disputes arising from the conclusion of the audit.

(d) If the cumulative total Unforeseen Circumstance Costs incurred from the date of commencement of the New Service Agreement collectively by Covanta and by the Contracting Communities exceeds \$15,000,000, excluding amounts reimbursed by proceeds of insurance and excluding Excess Electric Revenues applied pursuant to Section 3(a)(ii) or Section 3(b)(ii) above (such net amount being the “**Initial UCC Termination Threshold**”), then each of Covanta, on the one hand, and the Contracting Communities, acting jointly on the other hand, shall have the right to terminate the New Service Agreement (a “**UCC Termination**”) by providing written notice thereof to the other within 90 days after receiving notice or other written confirmation that such Initial UCC Termination Threshold has been reached. The party to whom such notice of termination is given shall have the right to avoid the UCC Termination by paying to the party giving the notice, within 30 days after receipt of the notice, the amount incurred in excess of \$3.75 million in the case of the Contracting Communities, and the amount in excess of \$11.25 million in the case of Covanta (each a “**Termination Avoidance Amount**”). If neither party timely exercises the UCC Termination when the Initial UCC Termination Threshold is reached, or if a party avoids the UCC Termination pursuant to the immediately preceding sentence, then the New Service Agreement shall continue uninterrupted and in full force and effect, unless and until additional Unforeseen Circumstance Costs, in excess of the Initial UCC Termination Threshold, incurred collectively by Covanta and by the Contracting Communities exceed a cumulative total of \$1,500,000 (a “**Subsequent UCC Termination Threshold**”), at which time a UCC Termination right shall arise for each party again in accordance with the foregoing provisions of this Section 3(d), based on a Subsequent UCC Termination Threshold amount of \$1,500,000 (rather than \$15,000,000) and including the termination avoidance provisions with Termination Avoidance Amounts of \$375,000 for the Contracting Communities and \$1,125,000 for Covanta. If neither party timely exercises the UCC Termination when the Subsequent UCC Termination Threshold is reached, or if a party avoids the UCC Termination pursuant to the immediately preceding sentence, then this same process shall apply each time a new Subsequent UCC Termination Threshold is reached during the term of the New Service Agreement.

4. Waste Delivery and Disposal Obligations.

(a) Quantity of Waste. The Contracting Communities shall deliver or cause to be delivered to the Facility, on a put-or-pay basis, and the Company shall accept, for Processing or, subject to Section 9(e) below, disposal, 243,300 tons of Acceptable Waste per year during the term of the New Service Agreement (“**Guaranteed Tonnage**”). Acceptable Waste delivered or tendered for delivery to the Facility by or on behalf of the Contracting Communities and rejected by Covanta due to one or more scheduled maintenance outages during any calendar year which aggregate more than 672 hours shall count towards the put-or-pay obligation of the Contracting Communities, in addition to other remedies if any applicable to such rejection under the New Service Agreement. In addition, the Contracting Communities may tender for delivery, and if so tendered and if Processing Capacity (hereinafter defined) at the Facility is available, the Company shall accept, additional Acceptable Waste (originating within the territorial limits of the Contracting Communities) in excess of 243,300 tons per year up to the Processing Capacity of the Facility as set forth in Section 9 below (“**Excess Waste**”). The tipping fee for the first 10,000 tons per year of Excess Waste shall be \$2 per ton less than the then applicable Tipping Fee, and the Tipping Fee for all further Excess Waste shall be \$4 per ton less than the then applicable Tipping Fee. The Contracting Communities acknowledge that waste that requires

special handling or secure destruction "**Special Waste**" will have priority over the processing of Excess Waste, as provided in Section 9(e) below.

(b) Quality of Waste. The Contracting Communities shall deliver Acceptable Waste to the Facility. Any inadvertent delivery of Hazardous Waste and/or Unacceptable Waste to the Facility by the Contracting Communities shall not constitute a breach of the Contracting Communities, and the New Service Agreement shall contain provisions similar to the Original Service Agreement governing the procedures, costs and liabilities associated with the delivery of Hazardous Waste and/or Unacceptable Waste to the Facility. If Hazardous Waste and/or Unacceptable Waste are delivered to the Facility by or on behalf of third parties, the Contracting Communities' share of the cost incurred to remedy such delivery shall be in accordance with their share of the tipping fee benefit from the delivery of such Waste to the Facility had it been Acceptable Waste.

(c) Delivery Schedule. The New Service Agreement shall contain a delivery schedule which is negotiated between Covanta and the Contracting Communities. The delivery schedule will set forth the hours for waste deliveries to the Facility and the daily and monthly tonnage maximums. Also, the New Service Agreement will outline terms for notifying Contracting Communities when the Facility is unable to accept and Process Acceptable Waste.

(d) Weight. The tonnage of waste delivered to the Facility shall be weighed at the scales owned by Covanta, but operated by the County of Stanislaus at the Facility. The New Service Agreement shall contain provisions similar to the Original Service Agreement for addressing periods when the scales become inoperative, for maintaining the accuracy of the scales, resolving discrepancies, observing testing and other procedures.

5. Landfill Disposal. The Contracting Communities shall provide disposal capacity throughout the term of the New Service Agreement at the Fink Road Landfill (the "**Landfill**") for Covanta's disposal of all Process Residue, Unacceptable Waste and By-Pass Waste from the Facility. Covanta may dispose of all Process Residue, Unacceptable Waste and By-Pass Waste from the Facility at the Landfill and shall pay to the Contracting Communities (i) a tipping fee of \$26 for each ton of Process Residue, and (ii) the then-posted gate rate at the Landfill for By-Pass Waste, delivered to the Landfill. Such tipping fee for Process Residue shall escalate annually at the same time and by the same percentage as the tipping fee for Acceptable Waste escalates, after giving effect to the limiting parameters described in Section 1(a) and (b) above. Covanta may dispose of Unacceptable Waste delivered to the Facility by or on behalf of the Contracting Communities at the Landfill free of charge. The Contracting Communities shall not be obligated to pay to Covanta the tipping fee for Unacceptable Waste delivered to the Facility by or on behalf of the Contracting Communities but shall only pay to Covanta substantiated incremental handling, removal and transport costs for removing such Unacceptable Waste from the Facility, provided that the Contracting Communities make the Landfill available to Covanta for disposal of such Unacceptable Waste free of charge. The New Service Agreement shall otherwise contain provisions similar to the provisions in Article VII of the Original Service Agreement.

6. Recovered Resources. Subject to Section 3 above, Covanta shall have the sole and absolute right, at Covanta's option, and pursuant to such terms and conditions as Covanta determines in its sole and absolute discretion, to sell, trade, donate or otherwise alienate any and

all Recovered Resources, solely for the account of Covanta. “Recovered Resources” means (i) steam, electric energy, capacity, ancillary services, ferrous and non-ferrous metals, ash and such other materials of whatever nature or description as the Company may from time-to-time recover from Solid Waste, Process Residue or any other material, whether at the Facility or elsewhere, as determined by the Company in its sole and absolute discretion, and (ii) offsets, credits or benefits of whatever nature or description, for emissions, pollution, green house gas, renewable energy generation, investment, production, taxes or any certificate, grant or intangible entitlement relating to the Facility or its operation, exclusive of diversion credits from the State for wastes processed by the Facility.

7. **Costs of Facility.**

(a) Except as provided in Section 3 above and clause (b) below in this Section, or as is expressly provided in the Facility Site Lease or the New Service Agreement, Covanta shall solely bear all costs and risks and have all benefits of ownership, operation and maintenance of the Facility including casualties and liability.

(b) Notwithstanding the immediately preceding sentence, Covanta shall have a right to reimbursement from the Contracting Communities for any taxes, assessments or fees imposed by the County, the City, or any special taxing district or authority under the control of the County or City, that are imposed on Covanta, the Facility, its operation or the solid waste industry and that are not generally applicable throughout the entire County (collectively, “Discriminatory Taxes”). Except for Discriminatory Taxes, Covanta will be responsible for the payment of any ad valorem, personal or business property and possessory interest lease or property taxes.

8. **Site Lease.** The Facility Site Lease Agreement dated as of June 1, 1986 between the County and Covanta shall be amended as follows:

(a) The initial term thereof shall be extended to expire on April 1, 2027. One fifteen-year renewal option shall remain in effect; and

(b) The rental provision shall be amended to provide for a fixed annual base rent of \$198,000 per year until the earlier of (i) the termination of the New Service Agreement or (ii) April 1, 2027.

9. **Waste Capacity.**

(a) The Contracting Communities shall have a right of first use of all Processing Capacity (as such term is defined in Section 9(d) below) at the Facility, subject to the following procedures. If at any time and from time to time the Contracting Communities have not delivered sufficient waste to fill the Processing Capacity of the Facility, then within 24 hours of Covanta’s notice to the Contracting Communities of the existence of excess Processing Capacity at the Facility, Covanta shall have the right to market, for the benefit of both the Contracting Communities and Covanta as provided in Section 9(c) below, the difference between the Processing Capacity and the total of Acceptable Waste being delivered by the Contracting Communities.

(b) If Covanta procures waste from third parties to mitigate a shortfall in the Contracting Communities meeting their scheduled Guaranteed Tonnage (a **“Waste Delivery Shortfall”**), then Covanta shall be entitled to, and the Contracting Communities shall owe, a procurement fee of 15% (the **“Procurement Commission”**) of the tipping fee paid by such third parties (the **“Third Party Tipping Fee”**) for the procurement of such waste. In addition, if the Third Party Tipping Fee is less than the Tipping Fee then, in addition to the Procurement Commission, (a) the Contracting Communities will pay the difference between the Third Party Tipping Fee and the then current Tipping Fee (**“Shortfall Payment”**), but (b) the Contracting Communities shall have the right, upon 48 hours notice, to terminate any such supply arrangement which results in net payments by the Contracting Communities and direct Covanta to accept waste from alternative sources procured by the Contracting Communities in order to reduce the Waste Delivery Shortfall. If the Third Party Tipping Fee is greater than the then current Tipping Fee, the **“excess revenues”** derived therefrom shall be separately accounted for and used as a credit to satisfy past, present and/or future Shortfall Payments. For the purposes of this calculation, it is assumed that the Procurement Commission, in such cases will be paid separately by the Contracting Communities to Covanta, and the Contracting Communities may permit such excess revenues to be applied toward such purpose. Any such excess revenues remaining at the expiration or termination of the New Service Agreement shall be entirely for Covanta’s account.

(c) If Covanta is procuring Excess Waste (other than Special Waste) from third parties, (i) Covanta shall retain for its own account the portion of the tipping fee for such Excess Waste up to the then applicable reduced Tipping Fee (under Section 4(a)), and (ii) the portion of such tipping fee in excess of the then applicable reduced Tipping Fee shall be split 60% to Covanta and 40% to Contracting Communities. Covanta shall retain for its own account the entire tipping fee for Special Waste. Covanta agrees that the Contracting Communities may dispose at the Facility, free of charge, Special Waste arising out of governmental activities occurring within Stanislaus County, such as illegal drugs confiscated by law enforcement agencies.

(d) **“Processing Capacity”** shall mean the actual Processing Capacity of the Facility but not more than 310,000 tons per year unless the Contracting Communities consent to the establishment of a greater amount, which consent for a greater amount shall not be unreasonably withheld, conditioned or delayed if the basis for the Processing Capacity being set above 310,000 tons per year is due to the lower heating value of the waste then being Processed at the Facility. Any Cap & Trade Costs resulting from an increase in the capacity of the Facility beyond 310,000 tons shall be solely Covanta’s responsibility, unless otherwise agreed to by the Contracting Communities. The definition of Processing Capacity shall not alter or diminish Covanta’s obligation to accept the Guaranteed Tonnage.

(e) Acceptable Waste delivered by the Contracting Communities pursuant to this Agreement shall have priority over any waste arranged by Covanta, except that Excess Waste shall be subordinate as follows:

(i) From April 1, 2012 until January 1, 2016, up to 7,300 tons per year of Special Waste arranged by Covanta shall have priority over Excess Waste; and

(ii) From January 2, 2016 until April 1, 2027, up to 12,200 tons per year of Special Waste arranged by Covanta shall have priority over Excess Waste.

10. **Default & Termination.** Events of default similar to those set forth in the Original Service Agreement (and adjusted to remove construction related defaults), which continue following notice and an applicable cure period negotiated as part of the New Service Agreement, shall permit the non-defaulting party to pursue the defaulting party for the put-or-pay amount and/or direct damages, as applicable and subject to Section 11 below, and/or terminate the New Service Agreement. Direct damages for the Contracting Communities and for Covanta will be further described as mutually agreed in the New Service Agreement. If Covanta defaults by violating the Contracting Communities' right of first use of the Facility, as described in Section 9 above, then the Contracting Communities shall have as an additional remedy the right to seek a decree of specific performance to enforce such right of first use and to preliminary and permanent injunctive relief in connection therewith and/or similar remedies in equity. If the Contracting Communities default in their delivery obligations by delivering Acceptable Waste to locations other than the Facility while failing to meet their obligation to deliver the Guaranteed Tonnage, then Covanta shall have as an additional remedy the right to seek a decree of specific performance to enforce such delivery obligations and to preliminary and permanent injunctive relief in connection therewith and/or similar remedies in equity. The remedies described in this Section 10 shall be the sole and exclusive remedies of the parties.

11. **Limit of Liability.** Notwithstanding any other provision of the New Service Agreement, in no event shall Covanta, on the one hand, or the Contracting Communities, on the other hand, be obligated to pay damages to the other for any and all breaches and events of default from the beginning of the New Service Agreement and thereunder, in a cumulative amount in excess of \$25 million. Excluded from such limit of liability are tort claims for injury to persons or damage to property, even if pursued under a provision of contractual indemnity. And if either party reaches the \$25 million limit, the other party shall have the right to terminate the New Service Agreement. The defaulting party's obligation to make payment, up to the limit of liability, shall survive such termination of the New Service Agreement.

12. **Right of First Refusal.** During the term of the New Service Agreement, the Contracting Communities shall have a right of first refusal to purchase the Facility, on the same terms and conditions and for the same price, as set forth in an offer to purchase from a third party which Covanta is willing to accept. The New Service Agreement will contain notice provisions and procedures for exercising such right of first refusal. The right of first refusal will not be triggered by one or more sales of equity interests in Covanta or its direct or indirect parent companies.

13. **Purchase Option.** At the expiration of the term of the New Service Agreement(2027), and at the end of the term of the Site Lease if extended (2042) by Covanta exercising its renewal option, or upon earlier termination of the Site Lease as result of a Covanta default thereunder, the Contracting Communities shall have the option to purchase the Facility for its fair market value. The option to purchase will contain notice provisions and exercise and valuation procedures similar to those set forth Sections 11.19 and 11.20 of the Original Service Agreement.

14. **Parent Guaranty**. Covanta Holding Corporation (“CHC”) shall provide a financial guaranty of the obligations of Covanta under the New Service Agreement. The guaranty agreement will contain provisions permitting substitution of guarantors (i) without the approval of the Contracting Communities if the substituted guarantor assumes CHC’s obligations under the guaranty and posts for the benefit of the Contracting Communities a letter of credit in the amount of the limit of liability, or (ii) with the approval of the Contracting Communities, which approval shall not be unreasonably withheld.

[Signatures appear on the next page]

Executed as of the date set forth below.

Dated: _____, 2012

COVANTA STANISLAUS, INC.

By: _____

Name: _____

Title: _____

CITY OF MODESTO

By: _____

Name: _____

Title: _____

COUNTY OF STANISLAUS

By: _____

Name: _____

Title: _____

**MODESTO CITY COUNCIL
RESOLUTION NO 2012-22**

**A RESOLUTION DIRECTING THE CITY MANGER TO NEGOTIATE
AMENDMENT NO. 3 TO THE AGREEMENT BETWEEN CITY OF MODESTO
AND COUNTY OF STANISLAUS RELATING TO ADMINISTRATION OF
SERVICE AGREEMENT FOR SUPPLY AND ACCEPTANCE OF SOLID
WASTE WITH THE COUNTY OF STANISLAUS**

WHEREAS, on December 17, 1985, the City of Modesto and County of Stanislaus entered into an agreement for administration of the City/County Service Agreement with the Stanislaus Waste Energy Company (now Covanta Stanislaus) for supply and acceptance of solid waste, and

WHEREAS, since that time, the City has been partners with Stanislaus County and Covanta Stanislaus in the Stanislaus Resource Recovery Facility (the “Waste-to-Energy” or “WTE” Facility), and

WHEREAS, the City and County operate the project as a Joint Powers Agency under a Joint Powers Agreement, with the County acting as the Treasurer, and

WHEREAS, under the current Service Agreement, the Contracting Communities pay Covanta a service fee to operate the facility and are also responsible for all pass through costs associated with the facility such as taxes, insurance, air permit fees, ash disposal, etc., and

WHEREAS, the Contracting Communities are also responsible for any costs associated with unforeseen circumstances such as changes in law, major upgrades or any acts, events or conditions that have a material adverse effect on the operation of the facility, and

WHEREAS, the Contracting Communities are responsible for delivering wastes to the facility under a minimum tonnage guarantee of 243,300 tons, and Covanta uses this

waste to generate electricity, which it sells to PG&E under a Power Purchase Agreement (PPA), and

WHEREAS, the Contracting Communities currently retain 90% of the electric revenue generated by the facility, all of the disposal fees, 50% of metal recycling revenue and 30% of supplemental waste revenue, which revenues are used to offset costs, and

WHEREAS, the existing Service Agreement was set to expire on December 31, 2009, and in 2007, staff from the County Department of Environmental Resources and the City of Modesto Solid Waste Division began negotiations on a new contract with Covanta, and

WHEREAS, those negotiations proved unsuccessful with Covanta, so in May 2009, the County and the City of Modesto exercised an option given in the original contract to extend the contract under the same terms an additional six years through December 31, 2015, and

WHEREAS, when the Power Purchase Agreement (PPA) with PG&E expired in January, 2010, Covanta elected to extend its contract with PG&E under extension provisions pursuant to California Public Utilities Commission (CPUC) Decision No. 07-09-040, and

WHEREAS, those provisions caused the price paid for power to revert to the Short Run Avoided Cost, or "SRAC", which was about \$55 per MW at the time and has since dropped even further, and

WHEREAS, this pricing also did not include a premium for renewable energy, and the capacity payment was reduced, and as a result, revenues from electricity generation declined sharply resulting in a significant operating deficit, and

WHEREAS, both the Contracting Communities and Covanta recognized that it would be in our joint interests to return to the negotiating table and secure a long term commitment that would motivate Covanta to negotiate a new PPA at much more favorable rates than current SRAC rates, and

WHEREAS, a new negotiating team was formed and reopened negotiations with Covanta, with the objectives of preserving the current RRA balance, a stable and predictable tipping fee, a commitment to no increased importation of waste, meeting diversion requirements and preserving landfill capacity, and reducing City/County risk exposure from change-in-law, public perception, and change in science/technology, and

WHEREAS, the Contracting Communities negotiating team has met on a regular basis over the past year and has provided periodic updates on the status of negotiations to the Solid Waste-to-Energy Executive Committee and the City-County Liaison Committee, and

WHEREAS, major deal points from the negotiations have been agreed upon by the team and Covanta and are outlined in the **attached** Term Sheet (**Attachment A**), and

WHEREAS, Legal Counsel to the Executive Committee, Sidley Austin LLP, has reviewed the Term Sheet and provided comments on the terms to protect the interests of the Contracting Communities, and

WHEREAS, as the Contracting Communities enter into a new contractual arrangement with Covanta, it will also be important to discuss and clarify a number of areas relative to the ongoing working relationship between the County and City, such as the disposition of the Resource Recovery Account (RRA), guaranteed tonnage

obligations, gate processing, notifications, etc., through the negotiation of an Amendment to the JPA Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby directs the City Manger to negotiate Amendment No. 3 to the Agreement Between City Of Modesto And County Of Stanislaus Relating To Administration Of Service Agreement For Supply And Acceptance Of Solid Waste with the County of Stanislaus regarding the disposition of the Resource Recovery Account and other operating procedures upon commencement of a new Service Agreement, and return to the City Council for final approval of the Amendment concurrent with the approval of the new Service Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

TERM SHEET
among Covanta Stanislaus, Inc. ("Covanta"),
the City of Modesto, CA (the "City") and
the County of Stanislaus, CA (the "County");
the City and the County, collectively
(the "Contracting Communities")

The Contracting Communities and Covanta are parties to that certain Amended and Restated Service Agreement for the Supply and Acceptance of Solid Waste dated as of June 1986, as amended through the date hereof (the "**Original Service Agreement**"). The term of the Original Service Agreement, as previously extended, is scheduled to expire January 1, 2016. Covanta and the Contracting Communities wish to amend and restate in its entirety the Original Service Agreement in accordance with this Term Sheet. The Original Service Agreement as so amended and restated is hereinafter referred to as the "**New Service Agreement**". The term of the New Service Agreement shall commence on April 1, 2012 and continue until April 1, 2027. This Term Sheet is not intended and shall not be construed as a binding contract between the parties but shall serve solely to memorialize the understanding between the parties on the issues addressed herein. Capitalized terms used but not defined in this Term Sheet, if defined in the Original Service Agreement, shall have the meaning ascribed to such terms in the Original Service Agreement.

1. **Tipping Fee.** The tipping fee shall be \$32 per ton of Acceptable Waste, escalated annually on July 1st of each year, beginning July 1, 2013, by the increase as of January 1st of the then current year compared to January 1st of the immediately preceding year, in the Consumer Price Index, "Urban Wage Earners and Clerical Workers, All items, West – Size B/C (1996 = 100, not seasonally adjusted)". At the time of each annual escalation, the as-escalated tip fee shall be (a) no greater than 120% of the average of the posted gate rates per ton for the landfills (whether or not owned by the County) within fifty miles of the Facility; and (b) no less than \$32 per ton; and if 120% of such average is less than \$32 per ton, then the tip fee for such year shall nevertheless be \$32 per ton (the "**Tipping Fee**").

2. **Electric Revenues.** Subject to Sections 3(a)(ii) and 3(b)(ii) below, Covanta shall have the right to receive and retain all electric revenues generated by the Project. Electric revenues shall mean all revenues derived from the sale of electrical energy, capacity or ancillary services from the Facility, including any benefit of environmental attributes reflected in the price of the foregoing. (the "**Electric Revenues**").

3. **Unforeseen Circumstance Cost.**
 - (a) From April 1, 2012 until January 1, 2016:
 - (i) Covanta shall bear 75% of Unforeseen Circumstance Costs (including Cap and Trade Costs as defined below) and the Contracting Communities shall bear 25% of such Unforeseen Circumstance Costs, subject to Cost Substantiation.

 - (ii) Covanta shall separately account for the portion of Electric Revenues in excess of \$82.50/MWH (the "**Excess Electric Revenues**"). Excess Electric Revenues

shall be deemed to reduce the costs of complying with legislation or regulations imposing a cap and trade program on greenhouse gas emissions (“**Cap & Trade Costs**”), including without limitation, regulations promulgated pursuant to the Global Warming Solutions Act of 2006, if any, before the allocation between the parties described in Section 3(a)(i) above is applied, and the Contracting Communities shall have no responsibility for Cap & Trade Costs in excess of 25% of the net amount remaining after such deemed reduction. If on January 2, 2016, the New Service Agreement remains in effect and there are any Excess Electric Revenues which have not been applied as contemplated by the immediately preceding sentence, then any such balance of Excess Electric Revenues shall be added to the amounts provided under Section 3(b)(ii) below and applied as provided therein. However, if there is a termination of the New Service Agreement before January 2, 2016, and there is any such balance of Excess Electric Revenues remaining, then such balance shall be for the account of Covanta.

(b) From January 2, 2016 until the termination of the New Service Agreement:

(i) Covanta shall bear 75% of Unforeseen Circumstance Costs and the Contracting Communities shall bear 25% of Unforeseen Circumstance Costs, subject to Cost Substantiation.

(ii) Covanta shall separately account for Excess Electric Revenues from Electric Revenues in excess of \$92.50/MWH. Such Excess Electric Revenues, together with any balance transferred in accordance with Section 3(a)(ii) above, shall be deemed to reduce any and all Unforeseen Circumstance Costs before the allocation between the parties described in Section 3(b)(i) above is applied, and the Contracting Communities shall have no responsibility for Unforeseen Circumstance Costs in excess of 25% of the net amount remaining after such deemed reduction. If upon expiration or termination of the New Service Agreement after January 2, 2016 there is any balance of such Excess Electric Revenues remaining, then such balance shall be for the account of Covanta.

(c) The Contracting Communities shall have the right to cause an independent third party to audit the books and records of Covanta relating to the accounting of all revenues, costs, liabilities or expenditures that affect the rights, obligations or liabilities of the Contracting Communities under the New Service Agreement, by providing to Covanta written notice of exercise of such audit right within three years after the closing of the books for any period to be audited. The independent third party shall enter into a confidentiality agreement reasonably acceptable to Covanta and the Contracting Communities before accessing such books and records of Covanta. Following execution of such confidentiality agreement, Covanta shall cooperate in all reasonable respects with the audit. The parties shall reconcile any discrepancy revealed by the audit within 60 days after the conclusion thereof, subject to the dispute resolution provisions of the New Service Agreement for any good faith disputes arising from the conclusion of the audit.

(d) If the cumulative total Unforeseen Circumstance Costs incurred from the date of commencement of the New Service Agreement collectively by Covanta and by the Contracting Communities exceeds \$15,000,000, excluding amounts reimbursed by proceeds of insurance and excluding Excess Electric Revenues applied pursuant to Section 3(a)(ii) or Section 3(b)(ii) above (such net amount being the “**Initial UCC Termination Threshold**”), then each of Covanta, on the one hand, and the Contracting Communities, acting jointly on the other hand, shall have the right to terminate the New Service Agreement (a “**UCC Termination**”) by providing written notice thereof to the other within 90 days after receiving notice or other written confirmation that such Initial UCC Termination Threshold has been reached. The party to whom such notice of termination is given shall have the right to avoid the UCC Termination by paying to the party giving the notice, within 30 days after receipt of the notice, the amount incurred in excess of \$3.75 million in the case of the Contracting Communities, and the amount in excess of \$11.25 million in the case of Covanta (each a “**Termination Avoidance Amount**”). If neither party timely exercises the UCC Termination when the Initial UCC Termination Threshold is reached, or if a party avoids the UCC Termination pursuant to the immediately preceding sentence, then the New Service Agreement shall continue uninterrupted and in full force and effect, unless and until additional Unforeseen Circumstance Costs, in excess of the Initial UCC Termination Threshold, incurred collectively by Covanta and by the Contracting Communities exceed a cumulative total of \$1,500,000 (a “**Subsequent UCC Termination Threshold**”), at which time a UCC Termination right shall arise for each party again in accordance with the foregoing provisions of this Section 3(d), based on a Subsequent UCC Termination Threshold amount of \$1,500,000 (rather than \$15,000,000) and including the termination avoidance provisions with Termination Avoidance Amounts of \$375,000 for the Contracting Communities and \$1,125,000 for Covanta. If neither party timely exercises the UCC Termination when the Subsequent UCC Termination Threshold is reached, or if a party avoids the UCC Termination pursuant to the immediately preceding sentence, then this same process shall apply each time a new Subsequent UCC Termination Threshold is reached during the term of the New Service Agreement.

4. Waste Delivery and Disposal Obligations.

(a) Quantity of Waste. The Contracting Communities shall deliver or cause to be delivered to the Facility, on a put-or-pay basis, and the Company shall accept, for Processing or, subject to Section 9(e) below, disposal, 243,300 tons of Acceptable Waste per year during the term of the New Service Agreement (“**Guaranteed Tonnage**”). Acceptable Waste delivered or tendered for delivery to the Facility by or on behalf of the Contracting Communities and rejected by Covanta due to one or more scheduled maintenance outages during any calendar year which aggregate more than 672 hours shall count towards the put-or-pay obligation of the Contracting Communities, in addition to other remedies if any applicable to such rejection under the New Service Agreement. In addition, the Contracting Communities may tender for delivery, and if so tendered and if Processing Capacity (hereinafter defined) at the Facility is available, the Company shall accept, additional Acceptable Waste (originating within the territorial limits of the Contracting Communities) in excess of 243,300 tons per year up to the Processing Capacity of the Facility as set forth in Section 9 below (“**Excess Waste**”). The tipping fee for the first 10,000 tons per year of Excess Waste shall be \$2 per ton less than the then applicable Tipping Fee, and the Tipping Fee for all further Excess Waste shall be \$4 per ton less than the then applicable Tipping Fee. The Contracting Communities acknowledge that waste that requires

special handling or secure destruction "**Special Waste**" will have priority over the processing of Excess Waste, as provided in Section 9(e) below.

(b) Quality of Waste. The Contracting Communities shall deliver Acceptable Waste to the Facility. Any inadvertent delivery of Hazardous Waste and/or Unacceptable Waste to the Facility by the Contracting Communities shall not constitute a breach of the Contracting Communities, and the New Service Agreement shall contain provisions similar to the Original Service Agreement governing the procedures, costs and liabilities associated with the delivery of Hazardous Waste and/or Unacceptable Waste to the Facility. If Hazardous Waste and/or Unacceptable Waste are delivered to the Facility by or on behalf of third parties, the Contracting Communities' share of the cost incurred to remedy such delivery shall be in accordance with their share of the tipping fee benefit from the delivery of such Waste to the Facility had it been Acceptable Waste.

(c) Delivery Schedule. The New Service Agreement shall contain a delivery schedule which is negotiated between Covanta and the Contracting Communities. The delivery schedule will set forth the hours for waste deliveries to the Facility and the daily and monthly tonnage maximums. Also, the New Service Agreement will outline terms for notifying Contracting Communities when the Facility is unable to accept and Process Acceptable Waste.

(d) Weight. The tonnage of waste delivered to the Facility shall be weighed at the scales owned by Covanta, but operated by the County of Stanislaus at the Facility. The New Service Agreement shall contain provisions similar to the Original Service Agreement for addressing periods when the scales become inoperative, for maintaining the accuracy of the scales, resolving discrepancies, observing testing and other procedures.

5. Landfill Disposal. The Contracting Communities shall provide disposal capacity throughout the term of the New Service Agreement at the Fink Road Landfill (the "**Landfill**") for Covanta's disposal of all Process Residue, Unacceptable Waste and By-Pass Waste from the Facility. Covanta may dispose of all Process Residue, Unacceptable Waste and By-Pass Waste from the Facility at the Landfill and shall pay to the Contracting Communities (i) a tipping fee of \$26 for each ton of Process Residue, and (ii) the then-posted gate rate at the Landfill for By-Pass Waste, delivered to the Landfill. Such tipping fee for Process Residue shall escalate annually at the same time and by the same percentage as the tipping fee for Acceptable Waste escalates, after giving effect to the limiting parameters described in Section 1(a) and (b) above. Covanta may dispose of Unacceptable Waste delivered to the Facility by or on behalf of the Contracting Communities at the Landfill free of charge. The Contracting Communities shall not be obligated to pay to Covanta the tipping fee for Unacceptable Waste delivered to the Facility by or on behalf of the Contracting Communities but shall only pay to Covanta substantiated incremental handling, removal and transport costs for removing such Unacceptable Waste from the Facility, provided that the Contracting Communities make the Landfill available to Covanta for disposal of such Unacceptable Waste free of charge. The New Service Agreement shall otherwise contain provisions similar to the provisions in Article VII of the Original Service Agreement.

6. Recovered Resources. Subject to Section 3 above, Covanta shall have the sole and absolute right, at Covanta's option, and pursuant to such terms and conditions as Covanta determines in its sole and absolute discretion, to sell, trade, donate or otherwise alienate any and

all Recovered Resources, solely for the account of Covanta. “**Recovered Resources**” means (i) steam, electric energy, capacity, ancillary services, ferrous and non-ferrous metals, ash and such other materials of whatever nature or description as the Company may from time-to-time recover from Solid Waste, Process Residue or any other material, whether at the Facility or elsewhere, as determined by the Company in its sole and absolute discretion, and (ii) offsets, credits or benefits of whatever nature or description, for emissions, pollution, green house gas, renewable energy generation, investment, production, taxes or any certificate, grant or intangible entitlement relating to the Facility or its operation, exclusive of diversion credits from the State for wastes processed by the Facility.

7. **Costs of Facility.**

(a) Except as provided in Section 3 above and clause (b) below in this Section, or as is expressly provided in the Facility Site Lease or the New Service Agreement, Covanta shall solely bear all costs and risks and have all benefits of ownership, operation and maintenance of the Facility including casualties and liability.

(b) Notwithstanding the immediately preceding sentence, Covanta shall have a right to reimbursement from the Contracting Communities for any taxes, assessments or fees imposed by the County, the City, or any special taxing district or authority under the control of the County or City, that are imposed on Covanta, the Facility, its operation or the solid waste industry and that are not generally applicable throughout the entire County (collectively, “**Discriminatory Taxes**”). Except for Discriminatory Taxes, Covanta will be responsible for the payment of any ad valorem, personal or business property and possessory interest lease or property taxes.

8. **Site Lease.** The Facility Site Lease Agreement dated as of June 1, 1986 between the County and Covanta shall be amended as follows:

(a) The initial term thereof shall be extended to expire on April 1, 2027. One fifteen-year renewal option shall remain in effect; and

(b) The rental provision shall be amended to provide for a fixed annual base rent of \$198,000 per year until the earlier of (i) the termination of the New Service Agreement or (ii) April 1, 2027.

9. **Waste Capacity.**

(a) The Contracting Communities shall have a right of first use of all Processing Capacity (as such term is defined in Section 9(d) below) at the Facility, subject to the following procedures. If at any time and from time to time the Contracting Communities have not delivered sufficient waste to fill the Processing Capacity of the Facility, then within 24 hours of Covanta’s notice to the Contracting Communities of the existence of excess Processing Capacity at the Facility, Covanta shall have the right to market, for the benefit of both the Contracting Communities and Covanta as provided in Section 9(c) below, the difference between the Processing Capacity and the total of Acceptable Waste being delivered by the Contracting Communities.

(b) If Covanta procures waste from third parties to mitigate a shortfall in the Contracting Communities meeting their scheduled Guaranteed Tonnage (a “**Waste Delivery Shortfall**”), then Covanta shall be entitled to, and the Contracting Communities shall owe, a procurement fee of 15% (the “**Procurement Commission**”) of the tipping fee paid by such third parties (the “**Third Party Tipping Fee**”) for the procurement of such waste. In addition, if the Third Party Tipping Fee is less than the Tipping Fee then, in addition to the Procurement Commission, (a) the Contracting Communities will pay the difference between the Third Party Tipping Fee and the then current Tipping Fee (“**Shortfall Payment**”), but (b) the Contracting Communities shall have the right, upon 48 hours notice, to terminate any such supply arrangement which results in net payments by the Contracting Communities and direct Covanta to accept waste from alternative sources procured by the Contracting Communities in order to reduce the Waste Delivery Shortfall. If the Third Party Tipping Fee is greater than the then current Tipping Fee, the “**excess revenues**” derived therefrom shall be separately accounted for and used as a credit to satisfy past, present and/or future Shortfall Payments. For the purposes of this calculation, it is assumed that the Procurement Commission, in such cases will be paid separately by the Contracting Communities to Covanta, and the Contracting Communities may permit such excess revenues to be applied toward such purpose. Any such excess revenues remaining at the expiration or termination of the New Service Agreement shall be entirely for Covanta’s account.

(c) If Covanta is procuring Excess Waste (other than Special Waste) from third parties, (i) Covanta shall retain for its own account the portion of the tipping fee for such Excess Waste up to the then applicable reduced Tipping Fee (under Section 4(a)), and (ii) the portion of such tipping fee in excess of the then applicable reduced Tipping Fee shall be split 60% to Covanta and 40% to Contracting Communities. Covanta shall retain for its own account the entire tipping fee for Special Waste. Covanta agrees that the Contracting Communities may dispose at the Facility, free of charge, Special Waste arising out of governmental activities occurring within Stanislaus County, such as illegal drugs confiscated by law enforcement agencies.

(d) “**Processing Capacity**” shall mean the actual Processing Capacity of the Facility but not more than 310,000 tons per year unless the Contracting Communities consent to the establishment of a greater amount, which consent for a greater amount shall not be unreasonably withheld, conditioned or delayed if the basis for the Processing Capacity being set above 310,000 tons per year is due to the lower heating value of the waste then being Processed at the Facility. Any Cap & Trade Costs resulting from an increase in the capacity of the Facility beyond 310,000 tons shall be solely Covanta’s responsibility, unless otherwise agreed to by the Contracting Communities. The definition of Processing Capacity shall not alter or diminish Covanta’s obligation to accept the Guaranteed Tonnage.

(e) Acceptable Waste delivered by the Contracting Communities pursuant to this Agreement shall have priority over any waste arranged by Covanta, except that Excess Waste shall be subordinate as follows:

(i) From April 1, 2012 until January 1, 2016, up to 7,300 tons per year of Special Waste arranged by Covanta shall have priority over Excess Waste; and

(ii) From January 2, 2016 until April 1, 2027, up to 12,200 tons per year of Special Waste arranged by Covanta shall have priority over Excess Waste.

10. **Default & Termination.** Events of default similar to those set forth in the Original Service Agreement (and adjusted to remove construction related defaults), which continue following notice and an applicable cure period negotiated as part of the New Service Agreement, shall permit the non-defaulting party to pursue the defaulting party for the put-or-pay amount and/or direct damages, as applicable and subject to Section 11 below, and/or terminate the New Service Agreement. Direct damages for the Contracting Communities and for Covanta will be further described as mutually agreed in the New Service Agreement. If Covanta defaults by violating the Contracting Communities' right of first use of the Facility, as described in Section 9 above, then the Contracting Communities shall have as an additional remedy the right to seek a decree of specific performance to enforce such right of first use and to preliminary and permanent injunctive relief in connection therewith and/or similar remedies in equity. If the Contracting Communities default in their delivery obligations by delivering Acceptable Waste to locations other than the Facility while failing to meet their obligation to deliver the Guaranteed Tonnage, then Covanta shall have as an additional remedy the right to seek a decree of specific performance to enforce such delivery obligations and to preliminary and permanent injunctive relief in connection therewith and/or similar remedies in equity. The remedies described in this Section 10 shall be the sole and exclusive remedies of the parties.

11. **Limit of Liability.** Notwithstanding any other provision of the New Service Agreement, in no event shall Covanta, on the one hand, or the Contracting Communities, on the other hand, be obligated to pay damages to the other for any and all breaches and events of default from the beginning of the New Service Agreement and thereunder, in a cumulative amount in excess of \$25 million. Excluded from such limit of liability are tort claims for injury to persons or damage to property, even if pursued under a provision of contractual indemnity. And if either party reaches the \$25 million limit, the other party shall have the right to terminate the New Service Agreement. The defaulting party's obligation to make payment, up to the limit of liability, shall survive such termination of the New Service Agreement.

12. **Right of First Refusal.** During the term of the New Service Agreement, the Contracting Communities shall have a right of first refusal to purchase the Facility, on the same terms and conditions and for the same price, as set forth in an offer to purchase from a third party which Covanta is willing to accept. The New Service Agreement will contain notice provisions and procedures for exercising such right of first refusal. The right of first refusal will not be triggered by one or more sales of equity interests in Covanta or its direct or indirect parent companies.

13. **Purchase Option.** At the expiration of the term of the New Service Agreement(2027), and at the end of the term of the Site Lease if extended (2042) by Covanta exercising its renewal option, or upon earlier termination of the Site Lease as result of a Covanta default thereunder, the Contracting Communities shall have the option to purchase the Facility for its fair market value. The option to purchase will contain notice provisions and exercise and valuation procedures similar to those set forth Sections 11.19 and 11.20 of the Original Service Agreement.

14. **Parent Guaranty.** Covanta Holding Corporation (“CHC”) shall provide a financial guaranty of the obligations of Covanta under the New Service Agreement. The guaranty agreement will contain provisions permitting substitution of guarantors (i) without the approval of the Contracting Communities if the substituted guarantor assumes CHC’s obligations under the guaranty and posts for the benefit of the Contracting Communities a letter of credit in the amount of the limit of liability, or (ii) with the approval of the Contracting Communities, which approval shall not be unreasonably withheld.

[Signatures appear on the next page]

Executed as of the date set forth below.

Dated: _____, 2012

COVANTA STANISLAUS, INC.

By: _____

Name: _____

Title: _____

CITY OF MODESTO

By: _____

Name: _____

Title: _____

COUNTY OF STANISLAUS

By: _____

Name: _____

Title: _____

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-23**

**RESOLUTION AUTHORIZING THE CITY OF MODESTO WATER
ENTERPRISE FUND TO POST COLLATERAL UP TO \$25 MILLION WITH JP
MORGAN CHASE BANK UNDER TERMS OF A SWAP AGREEMENT FOR
THE 2007 MODESTO IRRIGATION DISTRICT REVENUE BONDS RELATED
TO THE DOMESTIC WATER TREATMENT AND DELIVERY SYSTEM**

WHEREAS, in May 2007, the City Council, by Resolution No. 2007-275, approved the issuance of revenue bonds by the Modesto Irrigation District Financing Authority related to the financing of Phase 2 of the Domestic Water Treatment and Delivery System of the Modesto Irrigation District, and

WHEREAS, this debt issue included an interest rate swap with JPMorgan Chase Bank, and

WHEREAS, the purpose of an interest rate swap is to create a synthetic fixed interest rate that holds each party harmless as the variable interest rate moves up or down, and

WHEREAS, due to current economic conditions, interest rates are at historically low levels, therefore creating a negative swap termination value currently calculated to be approximately \$16 million that the City would be required to pay to JPMorgan if this agreement was terminated, and

WHEREAS, under the swap agreement the City can be required to post collateral to assure JPMorgan's financial interests in the event the agreement is terminated, and

WHEREAS, on June 22, 2010, the City Council, by Resolution No. 2010-278, authorized staff to post collateral up to \$18 million; however, staff recommends raising the collateral posting from \$18 to \$25 million, and

WHEREAS, the City retains ownership of collateral on deposit and earns interest at market rates, thus minimizing impacts to the Water Enterprise Fund,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City of Modesto Water Enterprise Fund to post collateral up to \$25 million with JPMorgan chase Bank under terms of a Swap Agreement for the 2007 Modesto Irrigation District Revenue Bonds related to the Domestic Water Treatment and Delivery System.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour


NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-24**

**RESOLUTION APPROVING THE APPOINTMENT OF CHRIS TYLER AS THE
2012 PLANNING COMMISSION REPRESENTATIVE TO THE CITIZENS
HOUSING & COMMUNITY DEVELOPMENT COMMITTEE**

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

WHEREAS, on November 7, 2011, the Planning Commission recommended Chris Tyler as its representative to the Citizens Housing & Community Development Committee,

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

SECTION 1. Chris Tyler is hereby reappointed as the 2012 Planning Commission representative to the Citizens Housing & Community Development Committee, with a term expiration of January 1, 2013.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-25**

RESOLUTION AUTHORIZING THE AWARD OF CONTRACT FOR THE PURCHASE OF A JOHN DEERE BACKHOE LOADER FOR THE WATER DIVISION, THROUGH THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, TO PAPE MACHINERY, FRENCH CAMP, CA, AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE A PURCHASE ORDER FOR AN ESTIMATED TOTAL COST OF \$108,477

WHEREAS, the Public Works Department, Fleet Services Division, has requested the purchase of a John Deere Backhoe Loader for use by the Water Division, and

WHEREAS, State Assembly Bill 2575 requires that urban water suppliers install water meters on all service connections by the year 2025, and

WHEREAS, the City Council has approved the addition of a second meter crew and the equipment for that crew in order to meet this deadline, and

WHEREAS, the State of California, Department of General Services, went through a competitive bid process for the purchase of John Deere construction products and issued contract #4-08-23-0022A, and

WHEREAS, the most responsive and responsible bidder that met the bid specifications was Pape Machinery, French Camp, CA, and

WHEREAS, Pape Machinery was awarded the California Multiple Award Schedules (CMAS) contract #4-08-23-0022A for John Deere construction products and is extending the CMAS discount to the City of Modesto, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2011-12, in Water Fund account #4180-59999-57970-100574, and

WHEREAS, Modesto Municipal Code (MMC) Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000.00 for material, equipment or contractual

services to be formally bid; however, there are exceptions to the rule set forth in the Modesto Municipal Code. One exception, MMC Section 8-3.204(d), is available where the Purchasing Manager, in his or her discretion, determines that a process other than the usual formal bid procedure set forth in MMC Section 8-3.203 will result in procurement for the City at the lowest possible cost commensurate with the desired quality, and

WHEREAS, acting within his discretion, the Purchasing Manager invoked that exception for this purchase due to the cost savings of staff time and the limited number of competitors,

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 a backhoe loader for the Public Works Department, Water Division, through the Fleet Services Division, to Pape Machinery, French Camp, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase order for a total estimated cost of \$108,477.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-26**

**RESOLUTION AMENDING THE CITY OF MODESTO FINANCIAL POLICIES,
SPECIFICALLY SECTION 11, REGARDING THE BUDGET ADJUSTMENT
AUTHORITY AND INCORPORATE GOVERNMENTAL ACCOUNTING
STANDARDS BOARD STATEMENT NO. 54 REQUIREMENTS INTO THE
FINANCIAL POLICIES**

WHEREAS, a review of the City of Modesto financial policies has been performed, and in order to create a more operationally efficient budget adjustment process and include Governmental Accounting Standards Board Statement No. 54 requirements, Finance staff recommends amending the City of Modesto financial policies,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the City of Modesto financial policies as shown in **Exhibit C**, which is **attached** hereto and incorporated by reference herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)
APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

City of Modesto Financial Policies

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

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

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

9. Multi-year appropriations: Appropriations for certain grants and on-going Capital Improvement Program projects that were authorized in previous years and that are not fully expended shall be deemed valid until revoked. Appropriations related to certain developer-funded expenditures may also be treated as multi-year appropriations.
10. Fund Replacement Reserves: In order to provide future resources for the replacement or repair of depreciable assets, each fund shall establish a list of depreciable assets, including useful lives and replacement costs that will determine the amount to be set-aside annually to allow the timely replacement or repair of these assets. Each program manager shall also establish a plan for funding the reserve and shall disclose the adequacy of the reserve level annually to the City Council as part of the annual budget adoption process.
11. Budget Adjustment Authority: *The authority to approve any budget adjustment in the amount of \$25,000 or less is delegated to the Director of Finance. The authority to approve any budget adjustment between \$25,000 and \$50,000 is delegated to the City Manager. Authority for any budget adjustment of \$50,000 or more is delegated to the parties shown below:* ~~The following budgetary adjustment actions are delegated to the parties shown below.~~

a. City Council

- i. Appropriation of undesignated reserves
- ii. Appropriation of new revenues
 1. Does not include Developer Payments
 2. ~~Does not include private donations or grants made to the Fund Development Program of the Parks, Recreation, & Neighborhoods Department for specified purposes of less than \$25,000~~

- iii. Budgeting inter-fund transfers
 - 1. Does not include adjustments to budgeted transfers where the intent is to subsidize an enterprise operation as shown in item (x) under the City Manager's budget adjustment authority shown on page 3
- iv. Creation of inter-fund loans
- v. Creation of, or increase in, any multi-year appropriation except for the allocation of interest
- vi. Addition of permanent staff positions
- vii. Appropriation of payments for new indebtedness including operating leases
- viii. All other budgetary actions not delegated to another official

City Manager

- i. Transfer appropriations between departments within a fund
- ii. Changing any capital equipment appropriation
- ~~iii. Changing appropriations for temporary agency labor~~
- iv. Changing any CIP line item appropriation *Move to Director of Finance*
- ~~v. Transfer appropriations to or from salary line items~~
- vi. Appropriate reserves for litigation on a case-by-case basis
- vii. Revoke multi-year appropriations *Move to Director of Finance*
- viii. Adjust operating program appropriation levels at his/her discretion to maintain the required 8% reserve level and any reserve levels for non-GF funds
- ix. Transfer appropriations from a primary capital project to create or modify the budget of a related secondary capital project without increasing the total appropriations *Move to Director of Finance*
- x. Transfer appropriations between two or more related secondary capital projects without increasing the total appropriations *Move to Director of Finance*
- xi. Close Capital Improvement Program projects *Move to Director of Finance*
- xii. Adjustments to Inter-fund transfers intended to balance enterprise fund operations where the cumulative total of any adjustment does not increase the original City Council approved appropriation by more than \$50,000
- xiii. Appropriate Developer Payments not previously budgeted
 - 1. Annexation Deposits
 - 2. Special District Formation Deposits
 - 3. Developer Deposits to be recognized as revenue
- ~~xiv. Appropriate private donations or grants made to the Fund Development Program of the Parks, Recreation, & Neighborhoods Department for specified purposes up to \$25,000~~

- b. Director of Finance
 - i. Appropriate unbudgeted grant interest
 - ii. Revise the allocation of Internal Service Fund charges between departments, provided that the total allocated amount does not increase (any such changes to the allocation shall not result in an increase or decrease to the total amount of discretionary appropriations provided to the affected department(s))
 - iii. Make technical budget corrections to implement the intent of Council-approved actions and resolutions
 - iv. Transfer fiscal appropriations between sub-funds of a single fund (except where this changes appropriation amounts for temporary agency labor and/or capital equipment purchases over \$5,000)

- c. Department Director
 - i. Transfer appropriations ~~between non-salary line items~~ within a department, within a single fund (excludes appropriations related to capital equipment, capital improvement program ~~projects and temporary agency labor~~)
 - ii. Acting as a designee of the City Manager, the Parks, Recreation, & Neighborhoods Director shall be authorized to appropriate private donations or grants made to the Fund Development Program of the Parks, Recreation, & Neighborhoods Department for specified purposes up to \$25,000.00

12. Fund Balance Information Requirements: The requirements of GASB Statement No. 54 are intended to enhance the usefulness, including the understandability, of fund balance information, in the financial statements. The City will spend the most restricted dollars before less restricted, given equal eligibility, in the following order:

Non-Spendable – if funds become spendable (inventories, prepaid amounts)
 Restricted (grants, bond proceeds)
 Committed (capital acquisitions, pending projects)
 Assigned (purchase orders, encumbrances)
 Unassigned (residual fund balance after deducting the other fund balance categories)

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-27**

RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE PURCHASE OF THREE (3) PICK-UP TRUCKS FOR THE PUBLIC WORKS DEPARTMENT, WATER DIVISION, THROUGH THE FLEET SERVICES DIVISION, TO THEODORE ROBINS FORD, COSTA MESA, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR A TOTAL ESTIMATED COST OF \$79,205

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, throughout FY 11/12 through various competitive processes, with the Purchasing Division coming back to Council for award authorization. The three (3) pick-up trucks were included in the FY 11/12 new vehicles and heavy equipment list authorized by the City Manager, and

WHEREAS, two of the pick-up trucks are replacement trucks for the Water Division, these trucks have been subjected to a thorough evaluation and have met or exceeded the replacement criteria before being placed on the replacement list, and

WHEREAS, the purchase of one new pick-up truck will support a new meter installation crew, which Council approved in the FY 2011/12 budget, and

WHEREAS, the additional metering crew is needed in order to meet State Assembly Bill 2575 which requires that urban water suppliers install water meters on all service connections by the year 2025, and

WHEREAS, the Purchasing Division issued RFB No. 1112-14 for the purchase of three (3) pick-up trucks to sixteen (16) prospective bidders, posted the bid on the City's website and formally advertised as required by law. Three (3) of the sixteen (16) prospective bidders are located within Stanislaus County, one of which is a local vendor, and

WHEREAS, RFB's were formally opened in the City Clerk's office. Of the sixteen (16) prospective bidders, four (4) companies chose to respond, three (3) bidders are located in Stanislaus County, one of which is a local vendor. All four (4) companies provided responsive and responsible bids, and

WHEREAS, the five percent (5%) differential for Local Vendor Preference was not a factor in determination for award, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid for the purchase of three (3) pick-up trucks to Theodore Robins Ford, Costa Mesa, CA, for a total estimated cost of \$79,205, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2011-12 in the following appropriation unit 5410-53241-57003, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. The award of bid for the purchase of three (3) pick-up trucks to Theodore Robins Ford, Costa Mesa, CA, for the Department of Public Works, Fleet Services 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 for the purchase of three (3) pick-up trucks for the Public Works Department, Water Division, through the Fleet Services Division, to Theodore Robins Ford, Costa Mesa, CA.

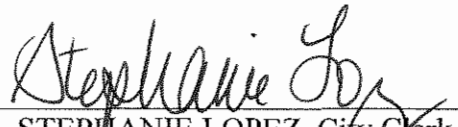
BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is authorized to issue a purchase order for a total estimated cost of \$79,205.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-28**

RESOLUTION APPROVING AGREEMENTS BETWEEN THE CITY OF MODESTO AND KAISER PERMANENTE, ANTHEM BLUE CROSS, UNITED HEALTHCARE, OPTUM HEALTH AND STANISLAUS FOUNDATION; CONTINUING DENTAL AND VISION COVERAGE THROUGH THE CITY'S SELF-INSURED PROGRAMS; AUTHORIZING THE EMPLOYEE BENEFITS MANAGER TO SERVE AS THE COORDINATOR FOR THE VARIOUS PLANS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL NECESSARY AGREEMENTS

WHEREAS, the City of Modesto offers its employees, their dependents and eligible retirees group health insurance coverage, and

WHEREAS, the Employee Benefits Advisory Committee (EBAC) consisting of three representatives from each bargaining unit reviewed and made recommendations to City management regarding health insurance coverage for plan year January 1 through December 31, 2012, and

WHEREAS, the City broker was instructed to market the City's health and dental program to existing carriers as well as any other carriers active in the region, and

WHEREAS, the City received declinations from all medical carriers except for existing carriers Anthem Blue Cross and Kaiser Permanente, and

WHEREAS, the City received an overall rate increase of 24% from Anthem Blue Cross and an overall rate increase of 2.6% from Kaiser Permanente for health coverage, and

WHEREAS, the City's post-65 retiree health plans provided by United Healthcare Senior Supplemental and Kaiser Permanente Senior Advantage received minimal rate increases, and

WHEREAS, OptumHealth rates for the employee assistance program will remain the same, and

WHEREAS, the City received several proposals for dental administration and decided to replace Delta Dental with Stanislaus Foundation, and

WHEREAS, the City's self-insured vision and dental rates were decreased slightly for the plan year 2012,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves agreements between the City of Modesto and Kaiser Permanente, Anthem Blue Cross, United Healthcare, OptumHealth, and Stanislaus Foundation.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby approves the continuation of dental and vision coverage through the City's self-insured programs.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Employee Benefits Manager, or her designee, is hereby authorized to serve as the coordinator for the various plans.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to execute all necessary agreements.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 2012 by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-29**

**RESOLUTION APPROVING AN AMENDMENT TO ARTICLE VII OF THE
BYLAWS OF THE MODESTO CITY-COUNTY AIRPORT ADVISORY
COMMITTEE CALLING FOR REGULAR MONTHLY MEETINGS**

WHEREAS, in 1972 the City established the Airport Advisory Committee (AAC) to provide public input and assistance to the City Manager on all policy matters affecting the use, growth and development of the City-County Airport (Airport), and

WHEREAS, on August 9, 2011, the City Council, by Resolution No. 2011-355, approved revised AAC Bylaws incorporating changes to clarify the composition, function and authority of this all-volunteer committee, and

WHEREAS, the revised Bylaws state that regular meetings of the AAC shall be held once per quarter, and

WHEREAS, on October 20, 2011, the AAC unanimously agreed that meeting only four times per year would create a delay in moving issues forward in a timely manner and restrict availability of a forum for matters of importance to the Airport and its users, and

WHEREAS, the City of Modesto operates the Airport for the benefit of all businesses, industries, visitors and residents in and around the City of Modesto, Stanislaus County, and surrounding areas, and

WHEREAS, the Modesto City Council and Stanislaus County Board of Supervisors seek to ensure that the Airport is maintained and developed in such a manner that it will continue to be a high-quality aviation facility for its users and a good neighbor in the community, recognizing that both the users and community may change as the surrounding area continues to grow and develop,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to Article VII of the Bylaws of the Modesto City-County Airport Advisory Committee calling for regular monthly meetings of the Committee.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmember: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-30**

**RESOLUTION APPROVING EXTENSION OF PROMOTIONAL AIRPORT
HANGAR RENTAL RATES FOR CALENDAR YEAR 2012 IN ORDER TO
INCREASE OCCUPANCY AT THE MODESTO CITY/COUNTY AIRPORT**

WHEREAS, Section 7-3.401 of the Modesto Municipal Code authorizes the Council, by Resolution, to establish rental charges and fees for activities and services at the Modesto City-County Airport/Harry Sham Field, and

WHEREAS, the economic downturn has impacted local aircraft ownership, which has contributed to a high hangar vacancy rate, and

WHEREAS, the airport has 15 vacant T-hangars that are not leased and there is currently no active waiting list, and

WHEREAS, if all vacant T-hangars were leased there would be an increase of approximately \$2,950 per month, less any discounts, and

WHEREAS, in an attempt to attract new aircraft from outside the Modesto area, Council approved offering new tenants a promotional discount equivalent to three months of free rent for a new 12-month T-hangar lease during calendar year 2011, and

WHEREAS, this promotional rate was extended only to aircraft and tenants that had not been based at Modesto Airport during the past 12 months, and

WHEREAS, during calendar year 2011 seven new tenants signed 12-month leases for T-hangars, and

WHEREAS, new aircraft at Modesto Airport also increased local revenues through new taxes paid on planes based in Stanislaus County, increased fuel sales and local aircraft repairs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the extension of promotional airport hangar rates for calendar year 2012 in order to increase occupancy at the Modesto City/County Airport.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carrier and the resolution adopted by the following vote:

AYES: Councilmember: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-31**

RESOLUTION APPROVING CALTRANS INVOICES TOTALING \$119,250 WHICH EXCEEDS THE SR132 UTILITY AGREEMENT WITH CALTRANS FOR WATER AND SEWER BY \$85,950, AND AUTHORIZING THE DIRECTOR OF FINANCE, OR HER DESIGNEE, TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION

WHEREAS, Caltrans has completed roadway improvement construction at the following location: Modesto SR132 Rehab: L Street to San Juan Drive – grind and overlay roadway rehabilitation, and

WHEREAS, the project has City water and sewer utility covers that have been reset to the elevation of the new asphalt pavement, and

WHEREAS, the low-bidding contractor reset the utility covers for Caltrans, who acted as the lead agency, and the City of Modesto has been billed for reimbursement, and

WHEREAS, in order to specify the terms of reimbursement from the City, a Utility Agreement for the project between the City and Caltrans was executed prior to construction, and

WHEREAS, the SR 132 Utility Agreement No. 10-3721.11 with Caltrans was approved by City Council on September 23, 2008, by Resolution No. 2008-553, and

WHEREAS, this agreement indicates terms of reimbursement for adjustment of water valve and sewer manhole covers to the elevation of the new asphalt pavement, and

WHEREAS, the total estimated cost of the reimbursement from the City to Caltrans indicated in the Agreement is \$33,300, and

WHEREAS, however, the actual invoiced cost for this Agreement is \$119,250, and

WHEREAS, the initial number of utility covers to be adjusted to grade and the projected adjustment costs shown in the utility agreement for SR132 were based on preliminary engineer's estimates prepared by Caltrans, and

WHEREAS, however, final payments are based on the actual number of utility covers adjusted at the unit prices bid by the contractor, and

WHEREAS, during construction, 18 more water valve covers and 5 more manhole covers were discovered in the area of work that required adjustment, and

WHEREAS, in addition, just prior to Caltrans' highway project, a new water main was installed in 9th Street and a substandard City water main was replaced in Yosemite Boulevard, and

WHEREAS, this added 141 new water valve covers above the initial estimate indicated in the Agreement, and

WHEREAS, City staff has field verified all quantities and the billing amount is correct, and

WHEREAS, City staff recommends approving Caltrans invoices totaling \$119,250 which exceeds the SR132 Utility Agreement with Caltrans for water and sewer by \$85,950,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Caltrans invoices totaling \$119,250 which exceeds the SR132 Utility Agreement with Caltrans for water and sewer by \$85,950.


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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-32**

RESOLUTION APPROVING CALTRANS INVOICE OF \$82,007.41 WHICH EXCEEDS SR108 UTILITY AGREEMENT WITH CALTRANS FOR WATER BY \$64,087, AND AUTHORIZING THE DIRECTOR OF FINANCE, OR HER DESIGNEE, TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION

WHEREAS, Caltrans has completed roadway improvement construction at the following location: Modesto SR108 Rehab: 9th Street to Corralwood Road -- grind and overlay roadway rehabilitation, and

WHEREAS, the project has City water utility covers that have been reset to the elevation of the new asphalt pavement, and

WHEREAS, the low-bidding contractor reset the utility covers for Caltrans, who acted as the lead agency, and the City of Modesto has been billed for reimbursement, and

WHEREAS, in order to specify the terms of reimbursement from the City, a Utility Agreement for the project between the City and Caltrans was executed prior to construction, and

WHEREAS, the SR 108 Utility Agreement No. 10-3772.51 with Caltrans was approved by City Council on September 23, 2008, by Resolution No. 2008-554, and

WHEREAS, this agreement indicates terms of reimbursement for adjustment of water valve covers to the elevation of the new asphalt pavement, and

WHEREAS, the total estimated cost of the reimbursement from the City to Caltrans indicated in the Agreement is \$17,920, and

WHEREAS, however, the actual invoiced cost for this Agreement is \$82,007.41, and

WHEREAS, the initial number of water valve covers to be adjusted to grade and the projected adjustment cost shown in the utility agreement for SR108 were based on preliminary engineer's estimates prepared by Caltrans, and

WHEREAS, however, final payment is based on the actual number of valve covers adjusted at the unit price bid by the contractor, and

WHEREAS, during construction, 50 more valve covers were discovered in the area of work that required adjustment, and

WHEREAS, in addition, just prior to Caltrans' highway project, City forces made several connections to water mains in McHenry Avenue and extended piping to beyond Caltrans' limits of construction for future extensions and/or water system upgrades, and

WHEREAS, this added 50 new water valve covers to the initial estimate indicated in the Agreement, and

WHEREAS, City staff has field verified this total and the billing amount is correct, and

WHEREAS, City staff recommends approving Caltrans invoice of \$82,007.41 which exceeds SR108 Utility Agreement with Caltrans for water by \$64,087,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Caltrans invoice of \$82,007.41 which exceeds SR108 Utility Agreement with Caltrans for water by \$64,087.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-33**

RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE HICKMAN TEST WELL PROJECT, ACCEPTING THE BID, AND APPROVING A CONTRACT WITH DAN'S WATER WELL & PUMP SERVICE INC. OF LIVERMORE, CALIFORNIA IN THE AMOUNT OF \$150,096, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Hickman Test Well project, and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Hickman Test Well project were opened at 11:00 a.m. on November 8, 2011, and later tabulated by the Director of Utility Planning and Projects for the consideration of the Council, and

WHEREAS, the Director of Utility Planning and Projects has recommended that the bid of \$150,096 received from Dan's Water Well & Pump Service Inc., of Livermore, California be accepted as the lowest responsible and responsive bid and the contract be awarded to Dan's Water Well & Pump Service Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Hickman Test Well project, accepts the bid of Dan's Water Well & Pump Service Inc., of Livermore, California in the amount of \$150,096, and approves the contract.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-34**

RESOLUTION APPROVING AN AGREEMENT WITH BROWN AND CALDWELL FOR CONSTRUCTION OVERSIGHT AND ANALYSIS SERVICES FOR THE HICKMAN TEST WELL PROJECT IN AN AMOUNT NOT TO EXCEED \$35,777 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS \$3,578 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF \$39,355, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, in the mid 1990's, the City of Modesto acquired the former Del Este Water System which included the communities of Hickman, Grayson, Del Rio, City of Waterford, and a portion of the City of Turlock, and

WHEREAS, the City now manages, operates, and maintains these five outlying water service areas, and

WHEREAS, as a component of the City of Modesto's Water Engineer Report, the City hired West Yost Associates to provide an individual hydraulic assessment of each of these systems in order to evaluate the ability of existing facilities to meet the current and buildout demands, and

WHEREAS, the existing Hickman water distribution system was evaluated under the demand scenarios of Maximum Day, Peak Hour, and Maximum Day plus Fire Flow, and

WHEREAS, one of the recommended Capital Improvement Projects to correct existing deficiencies in the Hickman system includes the construction of a new 600 gallons per minute (gpm) production well, and

WHEREAS, prior to constructing a complete production well, the City staff recommends drilling a test well to determine a viable water source, and

WHEREAS, the Hickman Test Well project will determine whether this particular site is a suitable location for the Hickman production well, and

WHEREAS, the ultimate improvements (not a part of this project or contract) will include the construction of a 600 gpm production well and onsite pump station, and

WHEREAS, due to the geological and hydrological analysis involved with determining a viable underground water source for safe drinking water, City Staff will rely on the technical expertise of Brown and Caldwell's hydrogeologist to provide insight during construction, as well as interpretation of testing and analysis results, and

WHEREAS, in past practice, City staff relied on the expertise of the well drilling contractor to develop a reliable production well, and

WHEREAS, however, due to increasing costs for wellhead treatment for contaminated wells, it is vital that the City evaluate new wells and their surrounding hydrogeologic conditions before additional funds are spent to install an above ground pump station, and

WHEREAS, Brown and Caldwell was selected from a prequalified list ("shortlist") of hydrogeologist firms consisting of Brown and Caldwell, URS and West Yost Associates that was approved by City Council, on April 7, 2009, by Resolution No. 2009-149, and

WHEREAS, Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural & Engineering Services for Capital Projects, indicates that Requests for Proposals (RFP's) should be sent to all firms on the shortlist for individual projects, depending on whether the project is considered to be "Major" or "Minor" (fees above or below \$50,000, respectively), and

WHEREAS, the Council resolution indicated that the shortlist is to be used on a “rotating, as-needed basis”, however, the other two firms on the shortlist are actively involved in other projects providing hydrogeologist services for the City, and

WHEREAS, since the other two firms were unavailable for this project, it was determined to obtain a proposal from Brown and Caldwell, and

WHEREAS, therefore, City staff recommends approving an agreement with Brown and Caldwell for construction oversight and analysis services for the Hickman Test Well project, and

WHEREAS, using outside professional services will enable this project to be completed in a timely manner,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Brown and Caldwell for construction oversight and analysis services for the Hickman Test Well project in an amount not to exceed \$35,777 for the identified scope of services, plus \$3,578 for additional services (if needed), for a maximum total amount of \$39,355.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-35**

RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE DEL RIO REPLACEMENT TEST WELL PROJECT, ACCEPTING THE BID, AND APPROVING A CONTRACT WITH DAN'S WATER WELL & PUMP SERVICE, INC. OF LIVERMORE, CALIFORNIA IN THE AMOUNT OF \$136,935, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Del Rio Replacement Test Well project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Del Rio Replacement Test Well project were opened at 11:00 a.m. on December 20, 2011, and later tabulated by the Director of Utility Planning & Projects for the consideration of the Council, and

WHEREAS, the Director of Utility Planning & Projects has recommended that the bid of \$136,935, received from Dan's Water Well & Pump Service, Inc. of Livermore, California, be accepted as the lowest responsive and responsible bid and the contract be awarded to Dan's Water Well & Pump Service, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Del Rio Replacement Test Well project, accepts the bid of Dan's Water Well & Pump Service, Inc. of Livermore, California, in the amount of \$136,935, and awards Dan's Water Well & Pump Service, Inc. the contract for the Del Rio Replacement Test Well project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-36**

RESOLUTION APPROVING AN AGREEMENT WITH WEST YOST ASSOCIATES, INC. FOR CONSTRUCTION OVERSIGHT AND ANALYSIS SERVICES FOR THE DEL RIO REPLACEMENT TEST WELL PROJECT IN AN AMOUNT NOT TO EXCEED \$25,982 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS \$2,598 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF \$28,580, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, in the mid 1990's, the City of Modesto acquired the former Del Este Water System, which included the communities of Del Rio, Grayson, Hickman, City of Waterford, and a portion of the City of Turlock, and

WHEREAS, the City now manages, operates, and maintains these five outlying water service areas, and

WHEREAS, as a component of the City of Modesto's Water System Engineer's Report, hydraulic assessments of each of these systems were performed in order to evaluate the ability of existing facilities to meet the current and build-out demands, and

WHEREAS, the Engineer's Report recommends the construction of a 1,000 gallon per minute (gpm) production well to replace Well 271 in Del Rio, and

WHEREAS, prior to constructing a complete production well pump station, City staff recommends drilling a test well to determine a viable water source, and

WHEREAS, bids were opened for the Del Rio Replacement Test Well project on December 20, 2011, and Dan's Water Well & Pump Service, Inc. of Livermore, California, was the apparent low bidder, and

WHEREAS, due to the geological and hydrological analysis involved with determining a viable underground water source for safe drinking water, City Staff will

rely on the technical expertise of West Yost's hydrogeologist to provide insight during construction, as well as interpretation of testing and analysis results, and

WHEREAS, in past practice, City staff relied on the expertise of the well drilling contractor to develop a reliable production well, and

WHEREAS, however, due to increasing costs for wellhead treatment for contaminated wells, it is vital that the City evaluate new wells and their surrounding hydrogeologic conditions including water quantity and quality before additional funds are spent to purchase a well site property and install an above ground pump station, and

WHEREAS, West Yost Associates was selected from a prequalified list ("shortlist") of hydrogeologist firms consisting of Brown and Caldwell, URS and West Yost Associates that was approved by City Council, on April 7, 2009, by Resolution No. 2009-149, and

WHEREAS, Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural & Engineering Services for Capital Projects, indicates that Requests for Proposals (RFP's) should be sent to all firms on the shortlist for individual projects, depending on whether the project is considered to be "Major" or "Minor" (fees above or below \$50,000, respectively), and

WHEREAS, the Council resolution indicated that the shortlist is to be used on a "rotating, as-needed basis", however, the other two firms on the shortlist are actively involved in other projects providing hydrogeologist services for the City, and

WHEREAS, West Yost Associates has performed well on other projects for the City and the negotiated fee was reasonable, and

WHEREAS, therefore, City staff recommends approving an agreement with West Yost for construction oversight and analysis services for the Del Rio Replacement Test Well project, and

WHEREAS, using outside professional services will enable this project to be completed in a timely manner,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with West Yost Associates, Inc. for construction oversight and analysis services for the Del Rio Replacement Test Well project in an amount not to exceed \$25,982 for the identified scope of services, plus \$2,598 for additional services (if needed), for a maximum total amount of \$28,580.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-37**

RESOLUTION FINDING THAT THE FOLLOWING SUBSEQUENT PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 2007072023): AMENDING SECTION 27-3-9 OF THE ZONING MAP OF THE CITY OF MODESTO TO REZONE FROM THE LOW DENSITY RESIDENTIAL ZONE, R-1, TO THE MEDIUM DENSITY RESIDENTIAL ZONE, R-2, PROPERTY LOCATED AT 1721 YOSEMITE BOULEVARD, BETWEEN ROSINA AVENUE AND N. CONEJO AVENUE (HOGAN INVESTMENTS, L.P.)

WHEREAS, on October 14, 2008, the City Council of the City of Modesto certified the Final Master Environmental Impact Report (“Master EIR”) (SCH No. 2007072023) for the Modesto Urban Area General Plan, and

WHEREAS, Hogan Investments, L.P. has proposed that the zoning designation for the property located at 1721 Yosemite Boulevard, between Rosina Avenue and N. Conejo Avenue, be amended to rezone from the Low Density Residential Zone, R-1, to the Medium Density Zone, R-2, and

WHEREAS, pursuant to Section 21157.1 of the Public Resources Code, the City of Modesto’s Community & Economic Development Department prepared an Environmental Assessment Initial Study EA/C&ED 2011-36 (“Initial Study”) which analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report, and

WHEREAS, in accordance with CEQA guidelines beginning on January 4, 2012, the City caused to be published a 20-day notice of the City’s intent to make a finding that the subsequent project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on January 24, 2012, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed amendment to the Zoning Map to rezone from Low Density Residential Zone, R-1 to Medium Density Residential Zone, R-2, property located at 1721 Yosemite Boulevard, between Rosina Avenue and Conejo Avenue, a copy of which Initial Study is **attached** hereto as **Exhibit "A"**, and incorporated herein by reference, and based on substantial evidence in the Initial Study makes the following findings:

1. An Initial Study was prepared by the City of Modesto that analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report.
2. The subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158 of the Public Resources Code, that was not identified in the Master EIR.
3. No new or additional mitigation measures or alternatives are required.
4. The subsequent project is within the scope of the project covered by the Master EIR.
5. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

Initial Study

EA/C&ED 2011-36

2012-37

City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study Environmental Checklist C&ED No. 2011-36

For the proposed:

**Rezone from Low-Density Residential (R-1) Zone
to Medium-Density Residential (R-2) Zone
to Facilitate Development Potential of the
Vacant Northern Portion of Property located at
1721 Yosemite Avenue
(Between Rosina Avenue and N. Conejo Avenue)
APN: 116-004-040**

**Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division**

October 18, 2011

(Intentional Blank Page)

City of Modesto

Master EIR Initial Study Environmental Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master Environmental Impact Report ("Master EIR" or "MEIR"). This Initial Study Environmental Checklist ("Initial Study") is used in determining whether the Rezone from Low Density Residential (R-1) Zone to Medium-Density Residential (R-2) Zone is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 2007072023) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformance.

A subsequent project is "within the scope" of the Master EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and
2. no new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. [Public Resources Code Section 21158(d)]

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (CEQA Guidelines Section 15384)

II. PROJECT DESCRIPTION

- A. Title: Rezone from Low-Density Residential (R-1) Zone to Medium-Density Residential (R-2) Zone
- B. Address or Location: 1721 Yosemite Blvd (between Rosina Ave and N. Conejo Ave)
APN: 116-004-040
- C. Applicant: Hogan Investments, L. P.; 1512 Rockhaven Dr; Modesto, CA 95356
- D. City Contact Person: Katharine Martin

Project Manager: Katharine Martin
Department: C&ED Planning Division
Phone Number: 209-577-5465
E-mail address: kamartin@modestogov.com

- E. Current General Plan Designation(s): R "Residential"
- F. Current Zoning Classification(s): R-1 "Low-Density Residential"
- G. Surrounding Land Uses:
North: R-1 Zone, Single-Family Residential uses

South: R-2 Med-Density Residential Zone, Vacant Land; C-2 General Commercial Zone with Three Vacant Commercial Buildings Previously Used as an Automotive Dealership
East: R-2 Med-Density Residential Zone, Church
West: R-2 Medium-Density Residential Zone, single-family Residential uses; R-1 Low Density Residential, single-family residential uses

H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

The applicant proposes to rezone the northerly 0.57-acre portion of an existing 1.41-acre lot zoned for Low-Density Residential (R-1) uses to the Medium-Density Residential (R-2) Zone in order to match existing zoning adjacent to the area.

The site is a single lot of 100 feet width and 615 feet depth, with the southerly 100 feet on the Yosemite Blvd frontage and the northerly 100 feet on the Miller Avenue frontage. Three separate zoning designations exist on the property: the southerly 268 feet of the lot is zoned C-2 for General Commercial Uses and the northerly 247 feet is zoned R-1 for Low-Density Residential uses. A 100 x 100-foot center portion is zoned for Medium-Density Residential (R-2) uses. Under the current zoning, the northerly 247 feet of the property is limited to Low Density Residential Zone uses.

The portion of the lot proposed for rezoning is vacant and in order to facilitate reuse opportunities that would be consistent with the R-2 Zone designation to the south and west, the applicant proposes to rezone the property from R-1 Low-Density Residential to the R-2 Medium-Density Residential Zone. This would allow for higher-density residential uses than what is currently allowed in the site's existing zone designation, including duplexes or apartments. No development is proposed with this application; however, residential development of one to four units is permitted in the R-2 Zone, and development of five or more units would be subject to Development Plan Review by the Director of the Community and Economic Development Department as provided by Article 30 of the City of Modesto Municipal Code. Any future development would be assessed for consistency to applicable City Zoning Ordinances, Design Guidelines and City Standards.

I. Other Public Agencies Whose Approval is Required: None

III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. **Within the Scope** - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. All of the following statements are found to be true:

- A. The subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158 of the Public Resources Code, that was not identified in the Master EIR.
- B. No new or additional mitigation measures or alternatives are required.
- C. The subsequent project is within the scope of the project covered by the Master EIR.
- D. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

2. **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following statements are all found to be true:

- A. The subsequent project is within the scope of the project covered by the Master EIR.
- B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.
- C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

3. **Focused EIR Required**- On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. All of the following statements are found to be true:

- A. The subsequent project is within the scope of the project covered by the Master EIR.
- B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.
- C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

Original signed copy on file with CEDD

Project Manager

Title

Date

4. Within the Scope Analysis of this Document:

The Master EIR allows projects to be found within the scope of the MEIR if certain criteria are met. If the following statements are found to be true for all 21 impact categories included in this Initial Study, then the proposed project is addressed by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

		YES	NO
(1)	The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(2)	City policies which reduce, avoid, or mitigate environmental effects will continue to be in effect and, therefore, would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template. Project impacts would be mitigated to a less-than-significant level using MEIR mitigations only.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(3)	Federal, State, regional, and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(4)	No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(5)	The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(6)	Development within the project will comply with all appropriate mitigation measures contained and enumerated in the 2008 General Plan Master EIR.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed Sections 1 through 21 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any "no" response must be explained.

		YES	NO
(1)	Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(2)	This project is described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(a)	No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(b)	No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(c)	Policies remain in effect which require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, discloses whether the proposed project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is "within the scope" of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR. Adoption of the findings specified in Section III.1, above after completion of the Initial Study fulfills the City's obligation in that situation.

All environmental effects cited reflect 2025 conditions resulting from the Urban Area General Plan, as identified in the Master EIR.

The environmental impact analysis in the Master EIR for the Urban Area General Plan is organized in twenty-one subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of reference, the sections are numbered in the same order as the analyses in Chapter V.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable traffic and circulation impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Increased automobile traffic will result in roadway segments (see MEIR on Table 1-7, pages V-1-32 to V-1-34) operating at LOS D, Modesto's significance threshold for automobile traffic, or lower (LOS E or F).

Effect: The substantial increase in traffic relative to the existing load and capacity of the street system will cause, either individually or cumulatively, the violation of automobile service standards established by StanCOG's Congestion Management Plan for designated roads and highways.

Effect: A substantial increase in automobile vehicle miles traveled and automobile vehicle hours of travel and a decrease in average automobile vehicle speed (see MEIR Table 1-6, page V-1-31).

Cumulative Impacts

Effect: Potential for growth inducement or acceleration of development resulting from highway and local road projects.

Effect: Substantial increase in traffic in relation to the existing traffic load and capacity of the street system, including a violation, either individually or cumulatively, of an automobile LOS standard established by the Congestion Management Plan for designated roads and highways.

Effect: Increased demand for capacity-enhancing alterations to existing roads or automobile traffic reduction.

Other impact categories affected by Traffic and Circulation are addressed throughout this Initial Study (see also Section 2, Degradation of Air Quality; Section 3, Generation of Noise; Section 7 Loss of Sensitive Wildlife and Plant Habitat; Section 8, Disturbance of Archaeological/Historic Sites; Section 14 Increased Demand for Fire Services; Section 18, Energy; Section 19, Visual Resources; Section 20, Land Use and Planning, and Section 21, Climate Change).

b. Master EIR and/or New Mitigation Measures Applied to the Project

Traffic and Circulation mitigation measures pertinent to this project are found on MEIR pages V-1-9 through V-1-28. All mitigation measures appropriate to the project, including any new measures, will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The application is a proposal to rezone a portion of the subject property from the R-1 Zone to the R-2 Zone. The appropriate mitigation to be applied to any future development of the site includes: TC-42 and TC-47 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-1.B of the Master EIR provides analysis of Traffic and Circulation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
1. TRAFFIC AND CIRCULATION				
1) The proposed project exceeds traffic generation assumptions in the Master EIR for the site by 100 trips or more and City Engineering and Transportation staff has determined that the project would have additional potentially significant project-specific effects that are not avoided or reduced by the Master EIR's mitigation measures.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would cause additional roadway segments in the General Plan area to exceed LOS D and/or cause additional violations of standards in the Congestion Management Plan, and/or cause an increase in automobile vehicle miles or vehicle hours of travel or a decrease in automobile travel speed, as compared to the impacts disclosed in the Master EIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project would cause emergency response times to exceed acceptable standards established by the Fire Department, as compared to impacts disclosed in the Master EIR (see Section 14, Increased Demand for Fire Services).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5) The proposed project would result in less parking than required by the Municipal Code or as determined by staff.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6) The proposed project would conflict with adopted policies, plans, or programs that support alternative transportation, including, but not limited to the Regional Transportation Plan, the Sustainable Communities Strategy, the Bicycle Action Plan, and so on.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7) The proposed project would result in an increase	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
in automobile vehicle miles traveled on a per capita basis, in excess of that considered in the Urban Area General Plan MEIR.				

Discussion:

- (1-7) The proposed project to rezone from R-1 Low-Density Residential to R-2 Medium-Density Residential is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of R "Residential", which assumed traffic generation consistent with the type and intensity of uses that would be permitted by this rezoning. The site is vacant; however, future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards for site access to and from adjacent streets, internal circulation and parking.

2. DEGRADATION OF AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable air quality impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Expected automobile traffic will result in increased operational emissions of reactive organic gases (ROG) and oxides of nitrogen (NO_x) (see MEIR Table 2-8, page V-2-27).

Effect: Expected automobile traffic will result in increased emissions of particulate matter 10 microns or less (PM₁₀) and 2.5 microns or less in diameter (PM_{2.5}) (see MEIR Table 2-8, page V-2-27).

Effect: Expected automobile traffic will result in increased carbon monoxide (CO) levels in the project area (see MEIR Table 2-7, page V-2-26, and Table 2-8, page V-2-27).

Cumulative Impacts

The Master EIR indicates the same impacts identified as direct impacts above will contribute to regional impacts on air quality for the criteria pollutants ROG, NO_x, PM₁₀, and PM_{2.5}.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Air quality mitigation measure(s) pertinent to the proposed project are found on pages V-2-13 through V-2-24 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The application is a proposal to rezone a portion of the subject property from the R-1 Zone to the R-2 Zone. The appropriate mitigation to be applied to any future development of the site includes: AQ-17 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-2.B of the Master EIR is the analysis of air quality impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
2. DEGRADATION OF AIR QUALITY				
1) The proposed project exceeds the project-level emissions thresholds established for CO, ROG, NO _x , PM ₁₀ , and PM _{2.5} by the San Joaquin Valley Air Pollution Control District (SJVAPCD) and is not consistent with the development assumptions for the project site, as established in the Urban Area General Plan and Master EIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project does not incorporate the best management practices established by the SJVAPCD for CO, ROG, NO _x , PM ₁₀ , and PM _{2.5} .	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project does not comply with the air quality policies in the Modesto Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project would expose sensitive receptors to pollutant concentrations in excess of those expected to occur as a result of implementation of the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5) The proposed project would create objectionable odors affecting a substantial number of people.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) - The proposed project to rezone from R-1 Low-Density Residential to R-2 Medium-Density Residential is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of R "Residential", which assumed traffic volumes and emissions consistent with the type and intensity of uses that would be permitted by this rezoning.

- (2) Any future development at the site will be required to adhere to applicable City Zoning Ordinances, Standards, and applicable best management practices during the construction process.
- (3) The proposed project to rezone from R-1 Low-Density Residential to R-2 Medium-Density Residential is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of R "Residential". The Residential land use designation allows for uses as permitted within the R-2 Zone.
- (4-5) Any future development at the site will be required to adhere to applicable City Zoning Ordinances, Standards, and applicable best management practices during the construction process.

3. GENERATION OF NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable noise impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Future automobile traffic noise levels and roadway construction and maintenance activities resulting from development of the Urban Area General Plan will exceed the City's noise thresholds at various locations, but particularly in areas adjacent to heavily traveled roadways (see MEIR Table 3-3, page V-3-10, and Figure VII-2 and Table 3-6, pages V-3-18 and V-3-19).

Effect: Expected noise from airport operations and airport construction projects may expose up to 468 dwellings and three churches to noise levels of 65 dB CNEL and up to eight dwellings to noise levels of 70 dB CNEL.

Effect: Expose noise-sensitive land uses to noise from the construction of bicycle and transit projects.

Effect: Expose noise-sensitive land uses to noise from freight and passenger rail operations.

Cumulative Impacts

Effect: Traffic from development in the City of Modesto would, when combined with traffic from new development in the County and other cities, contribute to a cumulative increase in roadside noise levels on major roads and highways throughout Stanislaus County.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-11 through V-3-15 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section V, Mitigation Applied to Project.

Discussion:

The application is a proposal to rezone the subject property from R-1 Low-Density Residential to the R-2 Medium-Density Residential Zone. No development is proposed with the application. The appropriate mitigation to be applied to any future development of the site includes: N-4 and N-7 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-3.B of the MEIR discloses noise impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of the proposed project’s effects are based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3. GENERATION OF NOISE				
1) The proposed project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project will not comply with the noise policies of, or otherwise be inconsistent with, the Modesto Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project will result in an increase in ambient noise levels in the project vicinity above those disclosed in the Master EIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels disclosed in the Master EIR implementation of the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The application is a proposal to rezone the subject property from R-1 Low-Density Residential to the R-2 Medium-Density Residential Zone to facilitate future development of the site. No development is proposed with the application. Any future development would be required to adhere to the City’s noise ordinance.
- (2-4) The proposed project to rezone the subject property from R-1 Low-Density Residential to the R-2 Medium-Density Residential Zone is consistent with the Urban Area General Plan and the site’s General Plan Land Use designation of R “Residential”. No development is proposed with the application; however, any increase in ambient noise levels would be construction-related

and temporary. Any future development would be required to adhere to the City's noise ordinance.

4. EFFECTS ON AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on agricultural lands expected after application of mitigations/policies:

Direct Impacts

Effect: Between 1995 and 2025, development of the Urban Area General Plan may convert up to approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area to urban uses.

Effect: Approximately 1,200 acres of urban development along a 28.5-mile boundary 350 feet wide between urban and agricultural uses could be affected by continued agricultural operations, including noise, dust, and chemical overspray or drift.

Cumulative Impacts

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County, accounting for the conversion of as much as approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area from 1995 to 2025.

b. Master EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural land mitigation measures pertinent to the proposed project are found on pages V-4-6 to and V-4-8 of the Master EIR. All mitigation measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

No new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-4.B of the Master EIR discloses the impacts resulting from the implementation of the Urban Area General Plan on agricultural lands. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
4. EFFECTS ON AGRICULTURAL LANDS				
1) The proposed project is inconsistent with the Urban Area General Plan's policies relating to agricultural land.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project will either directly or indirectly result in the development of land outside the 2008 Urban Area General Plan's planning area boundary.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project will conflict with existing zoning for agricultural use, or there is an existing Williamson Act contract on the project site.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project will involve other changes in the existing environment not anticipated in the Master EIR which, due to their location or nature, could result in conversion of farmland to non-agricultural use.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1-2) The proposed project to rezone from R-1 Low-Density Residential to R-2 Medium-Density Residential is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of C "Residential". The site is surrounded by urban uses and would not result in development of land outside of the City's General Plan boundary.
- (3-4) The project site is not zoned for agricultural use. There is no existing Williamson Act contract on the property. The site is surrounded by urban uses and would not cause the conversion of additional farmland to a non-agricultural use.

5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on long-term water supplies expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts have been disclosed in the Master EIR.

Cumulative Impacts

Effect: Operational yields of the Modesto and Turlock subbasins, both of which underlie the City of Modesto, are unknown, although the City is participating in a study with the United States Geological Survey in order to quantify the operational yields of both subbasins. Groundwater withdrawals from

both basins by the City, when combined with other users' withdrawals, may result in overdrafting both subbasins.

Effect: Despite available options, during drought years, significant water shortages are forecast for the San Joaquin River basin, which includes both the Modesto and Turlock subbasins, by 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Water supply mitigation measures pertinent to the proposed project are found on pages V-5-6 through V-5-12 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The application is a proposal to rezone the subject property from R-1 Low-Density Residential to the R-2 Medium-Density Residential Zone. No development is proposed with the application; however, the appropriate mitigation to be applied to any future development of the site includes: WS-11 and WS-13 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-5.B of the Master EIR discloses impacts on long-term water supplies resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES				
1) The proposed project is inconsistent with water supply policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) Water demand for the proposed project will exceed estimates for similar projects or for development on the project site anticipated in the Urban Area General Plan or sufficient water supplies are not otherwise available to serve the project from existing entitlements and resources.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would deplete groundwater supplies to a greater degree than anticipated in the Urban Area General Plan or would interfere with	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
groundwater recharge.				

Discussion:

(1-3) The proposed project to rezone from R-1 Low-Density Residential Zone to the R-2 Medium-Density Residential Zone is consistent with the Urban Area General Plan and the site’s General Plan Land Use designation of R “Residential”, which assumed water demand to be consistent with the type and intensity of development that would be permitted by this rezoning. The Residential land use designation allows for uses as permitted within the R-2 Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

6. INCREASED DEMAND FOR SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on sanitary sewer services after application of mitigations/policies:

Direct Impacts

Effect: Development resulting from implementation of the Urban Area General Plan will require substantial new sewage treatment and disposal capacity, treatment plant improvements, sewer mains and collection lines, and pump stations. The Wastewater Master Plan anticipates the need for these facilities and its EIR evaluates the impact of developing those facilities. Potential impacts include degradation of water quality through erosion and chemical releases; localized flooding; construction noise; exposure of construction workers and the public to hazardous materials; and on the habitat of the elderberry longhorn beetle, burrowing owl, and Swainson’s hawk, as well as certain other regulated habitats. All of these impacts are mitigated to a less-than-significant level.

Additional impacts that are not mitigated to a less-than-significant level include loss of farmland cause by construction of the Phase IA tertiary treatment facility at the Jennings Road Secondary Treatment Facility, an increase in pollutant loads from increased wastewater flows to the San Joaquin River, and an increase in noise and criteria air pollutants due to construction activities, including traffic.

Cumulative Impacts

Effect: No additional cumulative impacts were identified in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Sewer service mitigation measures pertinent to the proposed project are found on pages V-6-3 through V-6-8 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The application is a proposal to rezone the subject property from R-1 Low-Density Residential to the R-2 Medium-Density Residential Zone. No development is proposed with the application; however, the appropriate mitigation to be applied to any future development of the site includes: SS-8 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-6.B of the Master EIR discloses impacts on the Increased Demand for Sanitary Sewer Service resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
6. INCREASED DEMAND FOR SANITARY SEWER SERVICES				
1) The proposed project is inconsistent with water supply policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project will generate sewage flows greater than those anticipated in the Urban Area General Plan for the project site.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

(1-3) The proposed project to rezone from R-1 Low-Density Residential Zone to the R-2 Medium-Density Residential Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of R "Residential", which assumed wastewater generation to be consistent with the type and intensity of development that would be permitted by this rezoning. The Residential land use designation allows for uses as permitted within the R-2 Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on sensitive wildlife and plant habitat expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant impacts on sensitive wildlife and plan habitat are expected to occur with the application of the policies contained in the Urban Area General Plan.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will contribute to the cumulative impact of habitat loss in the San Joaquin Valley. Requiring density development than has occurred in the past or that is expected in the future would minimize the City’s contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Wildlife and plant habitat mitigation measures pertinent to the proposed project are found on pages V-7-17 through V-7-24 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes (insert reference nos. for appropriate mitigation, if any measures are required, if none required, indicate "none") from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-7.B of the Master EIR discloses impacts on the Loss of Sensitive Wildlife and Plant Habitat resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
1) The project is inconsistent with the policies pertaining to the loss of sensitive wildlife and plant habitat contained in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on a candidate, sensitive, or special status species in excess of the impact disclosed in the Master EIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption, or other means, in excess of the impact disclosed in the Master EIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project would substantially interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6) The proposed project would conflict with provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed project to rezone from R-1 Low-Density Residential Zone to the R-2 Medium-Density Residential Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of R "Residential". The Residential land use designation allows for uses as permitted within the R-2 Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.
- (2-4) The project site is located within the Baseline Developed Area of the City and is therefore completely surrounded by developed urban area. It is not a biologically sensitive site as defined by Figure V-7-1 of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.
- (5-6) The proposal to rezone the property is not in conflict with any local policies or ordinances protecting biological resources, nor is in conflict with any adopted habitat conservation plan.

8. DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on archaeological/historical sites expected after application of mitigations/policies:

Direct Impacts

Effect: Modification resulting in a substantial adverse change in the significance of a historic resource or the demolition of a listed or eligible historic resource.

Effect: The modification or demolition of a structure more than 50 years in age may be significant.

Effect: Discovery of archaeological resources in areas outside of the riparian corridors, as a result of construction activities.

Effect: Construction in an area of high archaeological sensitivity.

Cumulative Impacts

Effect: No additional cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Archaeological or historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-16 through V-8-20 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-8.B of the MEIR discloses impacts on archaeological/historical resources resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
8. DISTURBANCE OF ARCHAEOLOGICAL/				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
HISTORICAL SITES				
1) The proposed project is inconsistent with the archaeological/historical resource policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would demolish a building eligible for listing as a historic resource or remove a landmark from the Modesto inventory.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would modify or demolish a structure more than 50 years in age.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed project to rezone from R-1 Low-Density Residential Zone to the R-2 Medium-Density Residential Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of R "Residential". The Residential land use designation allows for uses as permitted within the R-2 Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.
- (2-4) The area of the proposed rezone is vacant. The site is not eligible for listing as a historic resource, nor is categorized as an existing historic landmark.
- (5) The proposal to rezone the property would not be in conflict with any policy or ordinance protecting biological resources.

9. INCREASED DEMAND FOR STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on storm drainage expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious surface area and associated increases in storm water runoff. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. This cumulative impact is considered significant and unavoidable.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Storm Drainage mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-9. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The application is a proposal to rezone the subject property from R-1 Low-Density Residential to the R-2 Medium-Density Residential Zone. No development is proposed with the application; however, the appropriate mitigation to be applied to any future development of the site includes: SD-7 and SD-9 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-9.B of the MEIR discloses impacts on the demand for storm drainage resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
9. INCREASED DEMAND FOR STORM DRAINAGE				
1) The proposed project is inconsistent with the storm drainage policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite, as compared to impacts anticipated to result from	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
the Urban Area General Plan or create substantial unanticipated sources of polluted runoff.				
3) The proposed project does not utilize Low Impact Development strategies to reduce runoff from the site and increase infiltration, resulting in no net increase in runoff before and after development.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1-3) The proposed project to rezone from R-1 Low-Density Residential Zone to the R-2 Medium-Density Residential Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of R "Residential", which assumed stormwater runoff to be consistent with the type and intensity of development that would be permitted by this rezoning. The Residential land use designation allows for uses as permitted within the R-2 Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on flooding and water quality expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Flooding and Water Quality mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-10-6 through V-10-9 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The application is a proposal to rezone the subject property from R-1 Low-Density Residential to the R-2 Medium-Density Residential Zone. No development is proposed with the application; however, the appropriate mitigation to be applied to any future development of the site includes: FWQ-13 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-10.B of the Master EIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
10. FLOODING AND WATER QUALITY				
1) The proposed project is inconsistent with the flooding and water quality policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would place more housing within a 100-year flood hazard zone than assumed in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project would place structure within a 100-year flood hazard area so that they would impede or redirect floodwater or would substantially alter the existing on-site drainage pattern or a watercourse, in such a way as to cause flooding on- or offsite.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5) The proposed project does not comply with Modesto's Guidance Manual for New Development Storm Water Quality Control Measures.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6) The proposed project would violate water quality standards or waste discharge requirements.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7) The proposed project would substantially alter the existing drainage pattern of the site or area or a watercourse in a manner that would result in substantial erosion or siltation on- or offsite in excess of the assumptions of the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
8) The proposed project would create or contribute runoff, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff, not expected as part of Urban Area General Plan implementation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1-2) The proposed project to rezone from R-1 Low-Density Residential Zone to the R-2 Medium-Density Residential Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of R "Residential". The Residential land use designation allows for uses as permitted within the R-2 Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.
- (3-4) The proposed project is to rezone the property from R-1 Low-Density Residential Zone to the R-2 Medium-Density Residential Zone. The site is outside of the 100-year flood zone as defined by the FEMA 2008 Flood Insurance Rate Maps (FIRM).
- (5-8) Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

11. INCREASED DEMAND FOR PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on parks and open space expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Parks and open space mitigation measures pertinent to the proposed project are found on pages V-11-3 through V-11-9 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

There are no mitigation measures applicable to the project.

c. Project-Specific Effects

Section V-11.B of the MEIR discloses impacts of the Urban Area General Plan on parks and open space. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
11. INCREASED DEMAND FOR PARKS AND OPEN SPACE				
1) The proposed project is inconsistent with the parks and open space policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would eliminate parks or open space.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would cause an increase in the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility in question would occur or be accelerated or the proposed project would include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1-3) The proposed project to rezone from R-1 Low-Density Residential Zone to the R-2 Medium-Density Residential Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of R "Residential". The Residential land use designation allows for uses as permitted within the R-2 Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

12. INCREASED DEMAND FOR SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on school facilities expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR. By statute, the impact of new students is considered to be mitigated below a level of significance by payment of school impact fees and the exercise of any or all of the financing options set out in Government Code Section 65997.

Cumulative Impacts

Effect: Similar to direct impacts of implementation of the Urban Area General Plan, no residual significant direct impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. As long these polcies are applied to all subsequent projects, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995).

The following schools mitigation measures on pages V-12-5 through V-12-7 of the Master EIR are pertinent to the proposed project. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures are listed in Section V, Mitigation Applied to Project.

Discussion:

There are no mitigation measures applicable to the project.

c. Project-Specific Effects

Section V-12.B of the Master EIR discloses impacts resulting from implementation of the Urban Area General Plan associated with increased demand for schools. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
12. INCREASED DEMAND FOR SCHOOLS				
1) The proposed project is inconsistent with the policies relating to schools in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which state that compliance results in less-than-significant impacts on schools.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

(1-2) The proposed project to rezone from R-1 Low-Density Residential Zone to the R-2 Medium-Density Residential Zone is consistent with the Urban Area General Plan and the site’s General Plan Land Use designation of R “Residential”. The Residential land use designation allows for uses as permitted within the R-2 Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

13. INCREASED DEMAND FOR POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on police services expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Police services mitigation measures pertinent to the proposed project are found on pages V-13-2 through V-13-5 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes (insert reference nos. for appropriate mitigation, if any measures are required, if none required, indicate "none") from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-13.B of the Master EIR discloses impacts on police services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
13. INCREASED DEMAND FOR POLICE SERVICES				
1) The proposed project is inconsistent with policies relating to police services in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.				

Discussion:

- (1-2) The proposed project to rezone from R-1 Low-Density Residential Zone to the R-2 Medium-Density Residential Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of R "Residential". The Residential land use designation allows for uses as permitted within the R-2 Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

14. INCREASED DEMAND FOR FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on fire services expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-4 through V-14-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-14.B of the Master EIR discloses impacts on fire services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
14. INCREASED DEMAND FOR FIRE SERVICES				
1) The proposed project is inconsistent with the fire service policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project, based upon substantial evidence, would cause the erosion or elimination of fire protection services in adjoining fire protection districts.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1-3) The proposed project to rezone from R-1 Low-Density Residential Zone to the R-2 Medium-Density Residential Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of R "Residential". The Residential land use designation allows for uses as permitted within the R-2 Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

15. GENERATION OF SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on solid waste expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Solid waste mitigation measures pertinent to the proposed project are found on pages V-15-4 through V-15-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-15.B of the Master EIR discloses solid waste impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
15. GENERATION OF SOLID WASTE				
1) The project is inconsistent with the solid waste policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The County is unable to expand its solid waste disposal capacity, as expected, causing all new development to result in cumulative impacts on the County's disposal capacity.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

(1-2) The proposed project to rezone from R-1 Low-Density Residential Zone to the R-2 Medium-Density Residential Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of R "Residential", which assumed solid waste generation to be consistent with the type and intensity of development that would be permitted by this rezoning. The Residential land use designation allows for uses as permitted within the R-2 Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

16. GENERATION OF HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts regarding hazardous materials expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Hazardous materials mitigation measures pertinent to the proposed project are found on pages V-16-8 through V-16-13 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-16.B of the Master EIR discloses impacts on hazardous materials resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
16. GENERATION OF HAZARDOUS MATERIALS				
1) The project is inconsistent with the hazardous materials policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project would be constructed on a contaminated site not known to the State of California as of March 2008.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed project to rezone from R-1 Low-Density Residential Zone to the R-2 Medium-Density Residential Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of R "Residential". The Residential land use designation allows for uses as permitted within the R-2 Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.
- (2) The area proposed for rezoning is vacant. Three buildings previously used as an automotive dealership exist to the south, and the site overall is surrounded by urban uses. The La Loma Junior High School exists within one-quarter mile of the project site. However, the proposed rezone would allow for residential uses only. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.
- (3) The project is not located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.
- (4) The project site is not known to contain any contaminants.

17. GEOLOGY, SOILS, AND MINERAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts related to geology, soils, and mineral resources expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Geology, soils, and mineral resource mitigation measures pertinent to the proposed project are found on pages V-17-9 and V-17-10 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of the proposed project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-17.B of the Master EIR discloses geology, soils, and mineral resource impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
17. GEOLOGY, SOILS, AND MINERAL RESOURCES				
1) The project is inconsistent with policies relating to geology, soils, and mineral resources contained in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would expose people or structures to potential substantial adverse effects including the risk of loss, injury, or death involving fault rupture, strong seismic activity; location on an expansive soil; result in the loss of topsoil; location on soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater; result in the loss of known mineral resources that would be of value to the region and the state; or result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed project to rezone from R-1 Low-Density Residential Zone to the R-2 Medium-Density Residential Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of R "Residential". The Residential land use designation allows for uses as permitted within the R-2 Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.
- (2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to energy expected after application of mitigations/policies:

Direct Impacts

Effect: Continued development in the Planned Urbanizing Area would have an impact on available energy supplies. Energy consumption likely would increase substantially by 2025 as a result of implementation of the Urban Area General Plan.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on energy consumption.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following energy mitigation measures pertinent to the proposed project are found on pages V-18-2 through V-18-8 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
18. ENERGY				
1) The proposed project is inconsistent with policies relating to energy in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would result in energy consumption during construction, operation, maintenance, or removal that is more wasteful, inefficient, and unnecessary than assumed in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

(1-2) The proposed project to rezone from R-1 Low-Density Residential Zone to the R-2 Medium-Density Residential Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of R "Residential". The Residential land use designation allows for uses as permitted within the R-2 Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

19. EFFECTS ON VISUAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on visual resources expected after application of mitigations/policies:

Direct Impacts

Effect: New development in the Planned Urbanizing Area will occur in areas that are in agricultural production or are otherwise lightly developed, which could lead to the introduction of light and glare in areas that have little nighttime illumination.

Cumulative Impacts

Effect: No additional cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following visual resources mitigation measures pertinent to the proposed project are found on pages V-19-3 and V-19-4 in the Master EIR. All mitigation measures appropriate to the proposed project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
19. EFFECTS ON VISUAL RESOURCES				
1) The proposed project is inconsistent with policies relating to visual resources in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would degrade views from riverside areas and parks to a greater degree than assumed in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would degrade views of	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
riverside areas from public roadways and nearby properties to a greater degree than assumed in the Urban Area General Plan.				

Discussion:

- (1) The proposed project to rezone from R-1 Low-Density Residential Zone to the R-2 Medium-Density Residential Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of R "Residential". The Residential land use designation allows for uses as permitted within the R-2 Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.
- (2-3) The project site is not in the vicinity of parks or riverside areas. No views into parks or riverside areas would be blocked or degraded from roadways or properties adjacent to the site.

20. LAND USE AND PLANNING

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to land use and planning expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following land use and planning mitigation measures pertinent to the proposed project are found on pages V-20-6 through V-20-17 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-20.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on land use and planning. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
20. LAND USE AND PLANNING				
1) The proposed project is inconsistent with land use and planning policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project contains elements that would physically divide an established community in a way not assumed in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project conflicts with a land use plan, policy or regulation established for the purpose of avoiding or mitigating an environmental impact by an agency that has jurisdiction over the proposed project.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project conflicts with an applicable habitat conservation plan or natural community conservation plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed project to rezone from R-1 Low-Density Residential Zone to the R-2 Medium-Density Residential Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of R "Residential". The Residential land use designation allows for uses as permitted within the R-2 Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.
- (2) The site proposed for rezoning is vacant and is surrounded by urban uses. The project would not divide an established community.
- (3) The proposed rezoning does not represent a conflict with any land use plan, policy or regulation established for the purpose of avoiding or mitigating an environmental impact by an agency that has jurisdiction over the proposed project.
- (4) The proposed rezoning is not subject to any habitat conservation plan or natural community conservation plan.

21. CLIMATE CHANGE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to climate change expected after application of mitigations/policies:

Direct Impacts

Effect: Impacts resulting from implementation of the Urban Area General Plan are not substantial enough to result in a significant direct impact on climate change, as disclosed in the Master EIR.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on climate change.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following climate change mitigation measures pertinent to the proposed project are found on pages V-21-7 through V-21-10 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on climate change. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
21. CLIMATE CHANGE				
1) The proposed project is inconsistent with policies relating to climate change in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would result in average automobile trip lengths or CO ₂ emissions higher than those assumed in the Master EIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would conflict with the Sustainable Communities Strategy or Alternative	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Planning Strategy that the Air Resources Board has agreed will achieve the goals of AB 32.				

Discussion:

- (1-3) The proposed project to rezone from R-1 Low-Density Residential Zone to the R-2 Medium-Density Residential Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of R "Residential". The Residential land use designation allows for uses as permitted within the R-2 Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

V. MITIGATION MEASURES APPLIED TO THE PROPOSED PROJECT

If the Initial Study results in the determination that a Finding of Conformance can be adopted for the proposed project Section A below applies. If the Initial Study results in the determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration/EIR must be prepared for the project then Section B, below applies.

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to Public Resources Code Section 21157.1(c), in order for a Finding of Conformance to be made, all appropriate mitigation measures from the Master EIR shall be incorporated into the proposed project. Urban Area General Plan Policies/Master EIR mitigation measures shall be made part of the proposed project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan.

All applicable and appropriate mitigation measures have been applied to the project (see mitigation measures listed below).

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the significance criteria for each environmental impact category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against the significance criteria thresholds established in the Master EIR for all impact categories in this Initial Study.

A Mitigated Negative Declaration or Focused EIR shall be prepared for the project. The following additional project-specific mitigation measures listed below are necessary to reduce the identified new significant effect: None.

Traffic and Circulation:

None

Degradation of Air Quality:

None

Generation of Noise:

None

Effects on Agricultural Lands:

None

Increased Demand for Long-Term Water Supplies:

None

Increased Demand for Sanitary Sewer Services:

None

Loss of Sensitive Wildlife and Plant Habitat:

None

Disturbance of Archaeological/Historic Sites:

None

Increased Demand for Storm Drainage:

None

Flooding and Water Quality:

None

Increased Demand for Parks and Open Space:

None

Increased Demand for Schools:

None

Increased Demand for Police Services:

None

Increased Demand for Fire Services:

None

Generation of Solid Waste:

None

Generation of Hazardous Materials:

None

Geology, Soils, and Mineral Resources:

None

Energy:

None

Effects on Visual Resources:

None

Land Use and Planning:

None

Climate Change:

None

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-38**

A RESOLUTION APPROVING THE EXPENDITURE PLAN FOR THE ADDITIONAL FUNDING FROM THE FISCAL YEAR 2010/2011 STATE SUPPLEMENTAL LAW ENFORCEMENT GRANT IN THE AMOUNT OF \$94,678, FROM THE STATE SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND FOR POLICE EQUIPMENT AND TECHNOLOGY; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY PROGRAM DOCUMENTS

WHEREAS, on September 28, 2010, the City Council, by Resolution No. 2010-421, accepted the State Supplemental Law Enforcement Grant in the amount of at least \$100,000 from the State Supplemental Law Enforcement Services Fund for police overtime, and

WHEREAS, the Supplemental Law Enforcement Services Fund (SLESF) monies cannot be transferred to, or intermingled with, the monies in any other fund except that monies may be transferred from the SLESF to the City's General Fund to the extent necessary to facilitate the appropriation and expenditure of funds, and

WHEREAS, SLESF monies cannot be used to supplant existing budgeted funds, and

WHEREAS, the allocation to the City of Modesto for FY 2010/2011 was increased to \$194,678, and

WHEREAS, the Modesto Police Department would like approval to spend the remaining \$94,678 for police equipment and technology, and

WHEREAS, the City Council is required to hold a public hearing to consider and approve the SLESF Expenditure Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that after holding a public hearing, it hereby approves the expenditure plan for the

additional funding from the Fiscal Year 2010/2011 State Supplemental Law Enforcement Grant in the amount of \$94,678 from the Sate Supplemental Law Enforcement Services Fund for police equipment and technology.

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

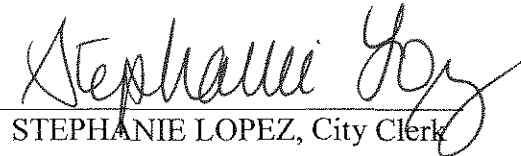
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-39**

**RESOLUTION AMENDING THE FISCAL YEAR 2010/2011 MULTI-YEAR
OPERATING BUDGET TO APPROPRIATE REVENUES AND EXPENDITURES
OF \$94,678 FOR THE CITY OF MODESTO'S ALLOCATION FROM THE
STATE SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND; AND
AUTHORIZING THE DIRECTOR OF FINANCE, OR HER DESIGNEE, TO
IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, on September 28, 2010, the City Council, by Resolution No. 2010-421, accepted the State Supplemental Law Enforcement Grant in the amount of at least \$100,000 from the State Supplemental Law Enforcement Services Fund for police overtime, and

WHEREAS, the Supplemental Law Enforcement Services Fund (SLESF) monies cannot be transferred to, or intermingled with, the monies in any other fund except that monies may be transferred from the SLESF to the City's General Fund to the extent necessary to facilitate the appropriation and expenditure of funds, and

WHEREAS, SLESF monies cannot be used to supplant existing budgeted funds, and

WHEREAS, the allocation to the City of Modesto for FY 2010/2011 was increased to \$194,678, and

WHEREAS, the Modesto Police Department would like approval to spend the remaining \$94,678 for police equipment and technology, and

WHEREAS, the City Council is required to hold a public hearing to consider the approve the SLESF Expenditure Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that after holding a public hearing, it hereby approves amending the FY 2010/2011 Multi-

Year Operating Budget to appropriate revenues and expenditures of \$94,678 for the City of Modesto's allocation from the State Supplemental Law Enforcement Services Fund for police equipment and technology, as shown in **Exhibit A attached** hereto.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of January, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Exhibit A

The SLESF allocation for Fiscal Year 2010/2011 will be increased:

<u>Revenues:</u>	<u>Increase/(Decrease)</u>	<u>Description</u>
To:		
MY-1340-19999-42140-100142	\$ 94,678	2010-11 Intergov-State-SLESF Revenue
 <u>Expenses:</u>		
To:		
MY-100142-Appr. Unit C	\$ 32,591	Tools, Equip, Supplies < \$5,000
MY-100142-Appr. Unit C	\$ 35,887	Info Tech Equipment > \$5,000
MY-100142-Appr. Unit C	<u>\$ 26,200</u>	Information Tech < \$5,000
	\$ 94,678	

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-40**

**A RESOLUTION ELECTING TO BECOME THE SUCCESSOR AGENCY TO
THE REDEVELOPMENT AGENCY OF THE CITY OF MODESTO PURSUANT
TO PART 1.85 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND
SAFETY CODE AND APPROVE TITLE TRANSFER OF PROPERTIES**

WHEREAS, the City Council of the City of Modesto (“City”) approved and adopted the Redevelopment Plan for the Modesto Redevelopment Project (“Redevelopment Plan”) covering certain properties within the City (the “Project Area”), and

WHEREAS, the Redevelopment Agency of the City of Modesto (“Agency”) has been engaged in activities to execute and implement the Redevelopment Plan pursuant to the provisions of the California Community Redevelopment Law (Health and Safety Code § 33000, et seq.) (“CRL”), and

WHEREAS, since adoption of the Redevelopment Plan, the Agency has undertaken redevelopment projects in the Project Area to eliminate blight, to improve public facilities and infrastructure, to renovate and construct affordable housing, and to enter into partnerships with private industries to create jobs and expand the local economy, and

WHEREAS, as part of the 2011-12 State budget bill, the California Legislature enacted, and the Governor signed, companion bills AB 1X 26 and AB 1X 27, requiring that each redevelopment agency be dissolved unless the community that created it enacts an ordinance committing it to making certain payments, and

WHEREAS, a Petition for Writ of Mandate was filed in the Supreme Court of the State of California on July 18, 2011 (*California Redevelopment Association, et al. v. Ana*

Matosantos, et al., Case No. S194861), challenging the constitutionality of AB 1X 26 and AB 1X 27 on behalf of cities, counties and redevelopment agencies and requesting a stay of enforcement, and

WHEREAS, on August 11, 2011, and modified on August 17, 2011, the Supreme Court stayed portions of AB 1X 26, and AB 1X 27 in its entirety during the pendency of the matter, and

WHEREAS, on December 29, 2011, the Supreme Court issued its final decision in the aforesaid litigation, upholding AB 1X 26, invalidating AB 1X 27, and extending all statutory deadlines under AB 1X 26, essentially dissolving all redevelopment agencies throughout the State effective February 1, 2012, and

WHEREAS, AB 1X 26 further provides that, upon their dissolution, any property taxes that would have been allocated to redevelopment agencies will no longer be deemed tax increment, and will be allocated first to successor agencies to make payments on the existing indebtedness of the dissolved redevelopment agencies, with remaining balances allocated in accordance with applicable constitutional and statutory provisions, and

WHEREAS, AB 1X 26 provides that successor agencies be designated as successor entities to the former redevelopment agencies, and provides that, with certain exceptions, all authority, rights, powers, duties and obligations previously vested with the former redevelopment agencies, under the CRL, are vested in the successor agencies, and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

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

Section 1. Recitals. The Recitals set forth above are true and correct and incorporated herein by reference.

Section 2. Election to be Successor Agency. In accordance with Health and Safety Code Section 34173, and based on the Recitals set forth above, the City Council hereby elects and determines that the City of Modesto shall become the “successor agency” to the former Redevelopment Agency of the City of Modesto. Upon dissolution of the Agency pursuant to Part 1.85 of Division 24 of the California Health and Safety Code, and except as provided under the CRL, all authority, rights, powers, duties and obligations previously vested with the former Agency, under the CRL, shall be vested in the City as the successor agency to the Agency.

Section 3. Implementation. The City Council hereby authorizes and directs the City Manager to take any action and execute any documents necessary to carry out the purposes of this Resolution, including but not limited to notifying the Stanislaus County Auditor-Controller, the Controller of the State of California, and the California Department of Finance providing notice of the adoption of this Resolution and the City’s election to be the successor agency to the Agency, in accordance with AB 1X 26.

Section 4. Severability. If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution which can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The City Council hereby declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion thereof.

Section 5. Certification. The City Clerk shall certify to the adoption of this Resolution.

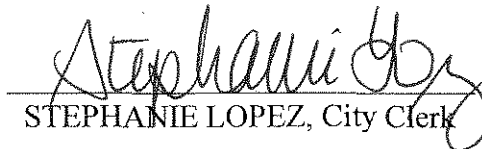
Section 6. Effective Date. This Resolution shall become effective upon its adoption.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 2012, by Councilmember Geer, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Mayor Ridenour

NAYS: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-41**

**A RESOLUTION ELECTING TO RETAIN THE HOUSING ASSETS AND
FUNCTIONS PREVIOUSLY PERFORMED BY THE REDEVELOPMENT
AGENCY OF THE CITY OF MODESTO PURSUANT TO PART 1.85 OF
DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE**

WHEREAS, the City Council of the City of Modesto (“City”) approved and adopted the Redevelopment Plan for the Modesto Redevelopment Project (“Redevelopment Plan”) covering certain properties within the City (the “Project Area”), and

WHEREAS, the Redevelopment Agency of the City of Modesto (“Agency”) has been engaged in activities to execute and implement the Redevelopment Plan pursuant to the provisions of the California Community Redevelopment Law (Health and Safety Code § 33000, et seq.) (“CRL”), and

WHEREAS, since adoption of the Redevelopment Plan, the Agency has undertaken redevelopment projects in the Project Area to eliminate blight, to improve public facilities and infrastructure, to renovate and construct affordable housing, and to enter into partnerships with private industries to create jobs and expand the local economy, and

WHEREAS, as part of the 2011-12 State budget bill, the California Legislature enacted, and the Governor signed, companion bills AB 1X 26 and AB 1X 27, requiring that each redevelopment agency be dissolved unless the community that created it enacted an ordinance committing it to make certain payments, and

WHEREAS, a Petition for Writ of Mandate was filed in the Supreme Court of the State of California on July 18, 2011 (*California Redevelopment Association, et al. v. Ana*

Matosantos, et al., Case No. S194861), challenging the constitutionality of AB 1X 26 and AB 1X 27 on behalf of cities, counties and redevelopment agencies, and

WHEREAS, on December 29, 2011, the Supreme Court issued its final decision in the aforesaid litigation, upholding AB 1X 26, invalidating AB 1X 27, and extending all statutory deadlines under AB 1X 26, essentially dissolving all redevelopment agencies throughout the State effective February 1, 2012, and

WHEREAS, Health and Safety Code Section 34176 provides that the city that authorized the creation of the redevelopment agency may elect to retain the housing assets and functions previously performed by the redevelopment agency, and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

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

Section 1. Recitals. The Recitals set forth above are true and correct and incorporated herein by reference.

Section 2. Election to Retain Housing Assets and Functions. In accordance with Health and Safety Code Section 34176, and based on the Recitals set forth above, because the City Council authorized the creation of the Redevelopment Agency of the City of Modesto, the City Council hereby elects to retain the housing assets and functions previously performed by the Redevelopment Agency of the City of Modesto. Upon dissolution of the Agency pursuant to Part 1.85 of Division 24 of the California Health and Safety Code, and except as provided under the CRL, all rights, powers, duties and obligations, excluding any amounts on deposit in the Redevelopment

Agency of the City of Modesto's Low and Moderate Income Housing Fund shall be transferred to the City of Modesto.

Section 3. Implementation. The City Council hereby authorizes and directs the City Manager to take any action and execute any documents necessary to carry out the purposes of this Resolution, including but not limited to notifying the Stanislaus County Auditor-Controller, the Controller of the State of California, and the California Department of Finance of the adoption of this Resolution and the transfer of all housing assets and functions of the former Redevelopment Agency of the City of Modesto to the City of Modesto, all in accordance with AB 1X 26.

Section 4. Severability. If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution which can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The City Council hereby declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion thereof.

Section 5. Certification. The City Clerk shall certify to the adoption of this Resolution.

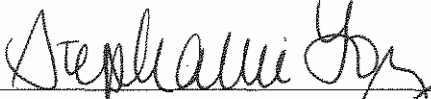
Section 6. Effective Date. This Resolution shall become effective upon its adoption.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 2012, by Councilmember Geer, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Mayor Ridenour

NAYS: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-42**

**RESOLUTION ESTABLISHING THE REDEVELOPMENT OBLIGATION
RETIREMENT FUND**

WHEREAS, the City Council of the City of Modesto (“City”) approved and adopted the Redevelopment Plan for the Modesto Redevelopment Project (“Redevelopment Plan”) covering certain properties within the City (the “Project Area”), and

WHEREAS, the Redevelopment Agency of the City of Modesto (“Agency”) has been engaged in activities to execute and implement the Redevelopment Plan pursuant to the provisions of the California Community Redevelopment Law (Health and Safety Code § 33000, et seq.) (“CRL”), and

WHEREAS, since adoption of the Redevelopment Plan, the Agency has undertaken redevelopment projects in the Project Area to eliminate blight, to improve public facilities and infrastructure, to renovate and construct affordable housing, and to enter into partnerships with private industries to create jobs and expand the local economy, and

WHEREAS, as part of the 2011-12 State budget bill, the California Legislature enacted, and the Governor signed, companion bills AB 1X 26 and AB 1X 27, requiring that each redevelopment agency be dissolved unless the community that created it enacted an ordinance committing it to make certain payments, and

WHEREAS, a Petition for Writ of Mandate was filed in the Supreme Court of the State of California on July 18, 2011 (*California Redevelopment Association, et al. v. Ana*

Matosantos, et al., Case No. S194861), challenging the constitutionality of AB 1X 26 and AB 1X 27 on behalf of cities, counties and redevelopment agencies, and

WHEREAS, on December 29, 2011, the Supreme Court issued its final decision in the aforesaid litigation, upholding AB 1X 26, invalidating AB 1X 27, and extending all statutory deadlines under AB 1X 26, essentially dissolving all redevelopment agencies throughout the State effective February 1, 2012, and

WHEREAS, AB 1X 26 provides that the City will be the “successor agency” to the Agency and responsible for the wind down of the Agency’s affairs, and

WHEREAS, the activities of the City, as successor agency, will be overseen by an oversight board, comprised primarily of representatives of other affected taxing agencies, until such time as the debts of the Agency are paid off, and

WHEREAS, all Agency liquidated assets and all property taxes will be redirected to local taxing agencies,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Redevelopment Obligation Fund is hereby adopted in order to process all transactions related to the wind down of redevelopment activity.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 2012, by Councilmember Geer, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez,
Mayor Ridenour

NAYS: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-43**

**A RESOLUTION APPROVING CITY OF MODESTO'S GENERAL PLAN AREA
BOUNDARY FOR THE AGRICULTURAL PRESERVATION PLAN 2050**

WHEREAS, the Mayors of the nine cities of Stanislaus County (Mayors Working Group) have initiated a growth management plan/countywide agricultural preservation policy referred to as the "Agricultural Preservation Plan 2050", and

WHEREAS, the Agricultural Preservation Plan 2050 is a regional approach to preserving agricultural land in Stanislaus County, and

WHEREAS, the goal of the Agricultural Preservation Plan 2050 is to create a map that can serve as a centerpiece of a ballot initiative that might be taken to the voters in the summer of 2012, and

WHEREAS, no definitive time line has been established for a ballot initiative and the details of any ballot initiative have not been drafted, and

WHEREAS, joint workshops between the City of Modesto Economic Development Committee and City of Modesto Planning Commission were held on October 12, 2011, November 14, 2011 and December 12, 2011 to discuss the Agricultural Preservation Plan 2050, and

WHEREAS, on December 12, 2011, the City of Modesto Economic Development Committee and the City of Modesto Planning Commission took action by motion (four in favor, three no; two members of the Planning Commission Absent) recommending the City Council accept the City of Modesto's General Plan boundary for the Agricultural Preservation Plan 2050 and encourage other participating Cities to justify and explain their increase in their General Plan urban growth boundaries, and

WHEREAS, the Modesto City Council finds that the current adopted General Plan boundary is sufficient to accommodate future growth to the year 2050, and

WHEREAS, the action by the Modesto City Council to approve the current City of Modesto General Plan Boundary for the Agricultural Preservation Plan 2050 is exempt from environmental review pursuant to Section 15262 of the California Environmental Quality Act, and

WHEREAS, the City Council finds that the Agricultural Preservation Plan 2050 supports goals, policies and strategies of the City of Modesto Strategic Plan and the Modesto Urban Area General Plan, and

WHEREAS, the City Council encourages other participating Cities to justify and explain their increase in their General Plan urban growth boundaries, as part of the Agricultural Preservation Plan 2050 effort,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the City of Modesto's General Plan boundary for the Agricultural Preservation Plan 2050.

The foregoing resolution was introduced at the regular meeting of the Council of the City of Modesto held on the 24th day of January, 2012, by Councilmember Muratore, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour


NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney



05/09/07 02 1097

California
Public Employees' Retirement System

AMENDMENT TO CONTRACT

Between the
Board of Administration
California Public Employees' Retirement System
and the
City Council
City of Modesto

The Board of Administration, California Public Employees' Retirement System, hereinafter referred to as Board, and the governing body of the above public agency, hereinafter referred to as Public Agency, having entered into a contract effective August 1, 1946, and witnessed July 27, 1946, and as amended effective December 1, 1950, July 1, 1956, July 1, 1959, November 1, 1959, January 1, 1960, October 1, 1962, January 1, 1969, May 1, 1973, May 1, 1974, June 24, 1975, March 28, 1978, July 4, 1978, November 1, 1980, October 20, 1981, June 29, 1982, October 15, 1985, June 24, 1986, April 14, 1987, November 22, 1991, July 25, 1997, November 7, 2000, June 19, 2001, July 2, 2002, June 26, 2007, August 1, 2008 and March 6, 2009 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 13 are hereby stricken from said contract as executed effective March 6, 2009, and hereby replaced by the following paragraphs numbered 1 through 16 inclusive:

4847 01000000 00 1098

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 entering membership in the miscellaneous classification on or prior to the effective date of this amendment to contract; age 60 for local miscellaneous members entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract; age 50 for local police members and for those local fire members entering membership in the fire classification on or prior to the effective date of this amendment to contract and age 55 for local fire members entering membership for the first time in the fire classification after the effective date of this amendment to contract.
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. Public Agency agrees to indemnify, defend and hold harmless the California Public Employees' Retirement System (CalPERS) and its trustees, agents and employees, the CalPERS Board of Administration, and the California Public Employees' Retirement Fund from any claims, demands, actions, losses, liabilities, damages, judgments, expenses and costs, including but not limited to interest, penalties and attorneys fees that may arise as a result of any of the following:
 - (a) Public Agency's election to provide retirement benefits, provisions or formulas under this Contract that are different than the retirement benefits, provisions or formulas provided under the Public Agency's prior non-CalPERS retirement program.
 - (b) Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than existing retirement benefits, provisions or formulas.

18-17 01012017 53 1300

6. 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.
7. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member entering membership in the miscellaneous classification on or prior to the effective date of this amendment to contract 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).
8. The percentage of final compensation to be provided for each year of credited current service as a local miscellaneous member entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract shall be determined in accordance with Section 21353 of said Retirement Law (2% at age 60 Full).
9. The percentage of final compensation to be provided for each year of credited prior and current service as a local police member and for those local fire members entering membership in the fire classification on or prior to the effective date of this amendment to contract shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).
10. The percentage of final compensation to be provided for each year of credited current service as a local fire member entering membership for the first time in the fire classification after the effective date of this amendment to contract shall be determined in accordance with Section 21363.1 of said Retirement Law (3% at age 55 Full) .

1617 210000 2191
1501 05 000000 2191

11. Public Agency elected and elects to be subject to the following optional provisions:
 - a. Section 21222.1 (One-Time 5% Increase - 1970). Legislation repealed said Section effective January 1, 1980.
 - b. Section 21222.2 (One-Time 5% Increase - 1971). Legislation repealed said Section effective January 1, 1980.
 - c. Section 21319 (One-Time 15% Increase for Local Miscellaneous Members Who Retired or Died Prior to July 1, 1971). Legislation repealed said Section effective January 1, 2002.
 - d. Section 21572 (Increased Level of 1959 Survivor Benefits) for local miscellaneous members only.
 - e. Section 20042 (One-Year Final Compensation) for local police members and for those local fire members and miscellaneous members entering membership on or prior to the effective date of this amendment to contract.
 - 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 for 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.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100

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.

Section 21353 (2% @ 60 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to local miscellaneous members entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract.

Section 21363.1 (3% @ 55 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to local fire members entering membership for the first time in the fire classification after the effective date of this amendment to contract.

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).

o. Section 21118 (Partial Service Retirement) for local miscellaneous members only.

12. 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
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100

13. 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.
14. 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.
15. 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.

16:17 01/03/12 57 1204

16. 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 17 day of January, 2012.

BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL
CITY OF MODESTO

BY *Karen De Frank*
KAREN DE FRANK, CHIEF
CUSTOMER ACCOUNT SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY *Jim Ridenour*
PRESIDING OFFICER
Mayor Jim Ridenour

January 3, 2012
Witness Date

Attest:
Stephanie Lopez
Clerk
Stephanie Lopez, City Clerk

[This page is attached by City to the Resolution of Intention to Terminate the Contract provided by CalPERS]

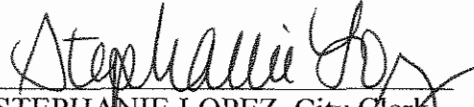
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-45**

**RESOLUTION ACCEPTING THE STRATEGIC GROWTH COUNCIL'S
PROPOSITION 84 SR108 CORRIDOR STUDY GRANT, IN THE AMOUNT OF
\$59,264, ON BEHALF OF THE COMMUNITY & ECONOMIC DEVELOPMENT
DEPARTMENT; AND AUTHORIZING THE CITY MANAGER, OR HIS
DESIGNEE, TO EXECUTE ANY NECESSARY GRANT CONTRACTS AND
RELATED DOCUMENTS**

WHEREAS, the people of the State of California in 2006 approved Proposition 84, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act, which also authorized the Legislature to appropriate \$90 million for planning grants and incentives to reduce energy consumption, conserve water, improve air and water quality, and provide other community benefits, and

WHEREAS, the California Strategic Growth Council has the authority to award grants of financial assistance for the development and implementation of plans that reduce greenhouse gas emissions and achieve other specified public objectives, and

WHEREAS, the City of Modesto is participating in a Proposition 84 grant application prepared and administered by the City of Riverbank to assist in preparing a corridor study for SR108, which will allow Riverbank, Modesto and Oakdale to have greater influence over future development patterns along the SR108 corridor that are consistent with both the San Joaquin Valley Blueprint and the greenhouse gas reduction goals of AB 32 and SB 375, and

WHEREAS, on August 10, 2010, the City Council, by Resolution No. 2010-375, approved the City's joint applications with other cities in Stanislaus County, the County of Stanislaus, and the Stanislaus Council of Governments for Proposition 84 grant funding with a in-lieu match of staff time, and

WHEREAS, the City of Riverbank submitted a grant application to the Strategic Growth Council for a Proposition 84 SR108 Corridor Study Grant as authorized by City Council, and

WHEREAS, the Strategic Growth Council reviewed the grant application and awarded the project a Proposition 84 Planning Grant including \$59,264 for the City of Modesto's portion of the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the \$59,264 Proposition 84 SR108 Corridor Study Grant from the Strategic Growth Council, and authorizes the \$25,852 matching funds of in-lieu staff time.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute any grant contracts and related documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of February, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:


SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-46**

**RESOLUTION AMENDING THE FISCAL YEAR 2011-2012 MULTI-YEAR
OPERATING GRANT FUND BUDGET TO ESTABLISH A NEW MULTI-YEAR
BUDGET FOR THE STRATEGIC GROWTH COUNCIL'S PROPOSITION 84
SR108 CORRIDOR STUDY GRANT AND TO APPROPRIATE \$59,264 IN
GRANT REVENUE AND EXPENSE**

WHEREAS, the people of the State of California in 2006 approved Proposition 84, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act, which also authorized the Legislature to appropriate \$90 million for planning grants and incentives to reduce energy consumption, conserve water, improve air and water quality, and provide other community benefits, and

WHEREAS, the California Strategic Growth Council has the authority to award grants of financial assistance for the development and implementation of plans that reduce greenhouse gas emissions and achieve other specified public objectives, and

WHEREAS, the City of Modesto is participating in a Proposition 84 grant application prepared and administered by the City of Riverbank to assist in preparing a corridor study for SR108, which will allow Riverbank, Modesto and Oakdale to have greater influence over future development patterns along the SR108 corridor that are consistent with both the San Joaquin Valley Blueprint and the greenhouse gas reduction goals of AB 32 and SB 375, and

WHEREAS, on August 10, 2010, the City Council, by Resolution No. 2010-375, approved the City's joint applications with other cities in Stanislaus County, the County of Stanislaus, and the Stanislaus Council of Governments for Proposition 84 grant funding with a in-lieu match of staff time, and

WHEREAS, the City of Riverbank submitted a grant application to the Strategic Growth Council for a Proposition 84 SR108 Corridor Study Grant as authorized by City Council, and

WHEREAS, the Strategic Growth Council reviewed the grant application and awarded the project a Proposition 84 Planning Grant including \$59,264 for the City of Modesto's portion of the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes amending the Fiscal Year 2011-2012 Multi-Year Operating Grand Fund budget as necessary to accept the Proposition 84 Planning Grant including \$59,264 for the City of Modesto.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of February, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-47**

**RESOLUTION APPROVING AN AMENDED LETTER OF UNDERSTANDING
BETWEEN THE CITY OF MODESTO AND MODESTO CITY FIRE
FIGHTERS' ASSOCIATION TO MODIFY THE LEVEL OF CONSTANT
STAFFING NECESSARY TO ACHIEVE IMMEDIATE OVERTIME SAVINGS**

WHEREAS, on June 28, 2011, the City Council, by Resolution No. 2011-257, approved a Letter of Understanding (LOU) with the Modesto City Fire Fighters' Association (MCFFA), that reduced the constant staffing number from thirty-six (36) suppression personnel on duty each shift to thirty-four (34), and

WHEREAS, this change was one of cost reduction strategies proposed and accepted as part of the FY 11/12 budget, and

WHEREAS, the Modesto Regional Fire Authority (MRFA) management has met and conferred with MCFFA to discuss various options to achieve needed cost reductions through July 1, 2012, and

WHEREAS, the amended LOU provides a further reduced level of constant staffing from thirty-four (34) suppression personnel on duty each shift to thirty-three (33), and

WHEREAS, this change will enable the Fire Chief to make the operational changes necessary to ensure cost reductions are realized in the current fiscal year, and

WHEREAS, this amendment allows MRFA management to continue the meet and confer process on the impact of the change in constant staffing levels as cost reductions for future fiscal years,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an amended Letter of Understanding between the City of Modesto

and Modesto City Fire Fighters' Association to modify the level of constant staffing necessary to achieve immediate overtime savings.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of February, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-48**

RESOLUTION AFFIRMING THE CITY'S CO-SPONSORSHIP OF "EARTH DAY IN THE PARK FESTIVAL, 2012" AT GRACEADA PARK, AND ALLOWING THE SALE OF MERCHANDISE IN THE PARK DURING THE EVENT

WHEREAS, in 1970, Earth Day was established to make the public aware of programs successful in protecting the environment and conserving natural resources, and

WHEREAS, on March 24, 1993, the City Council, by Resolution No. 92-129, acknowledged "Earth Day in the Park" as an annual event, and

WHEREAS, the Citizens' Advisory Committee on Recycling (CACOR) sponsors the event, and the 23rd Annual "Earth Day in the Park" will be held on Saturday, April 21, 2012, at Graceada Park, and

WHEREAS, the event provides a forum for merchants to display and sell their 'environmentally friendly' merchandise, and for the creation of a 'festival atmosphere', while giving the public an opportunity to make purchases of positive benefit to the environment, and

WHEREAS, "Earth Day in the Park Festival, 2011" had 68 vendor booths, and approximately 8,000 attendees, and

WHEREAS, as in prior years, the Committee seeks Council approval for the sale of merchandise in the Park during the event,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby affirms its co-sponsoring of "Earth Day in the Park Festival, 2012" at Graceada Park.

BE IT FURTHER RESOLVED by the Council that it hereby approves the sale of merchandise at Graceada Park during the 'Earth Day in the Park Festival, 2012" event.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of February, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-49**

**RESOLUTION APPROVING UPDATES TO THE CITY OF MODESTO'S
SANITARY SEWER MANAGEMENT PLAN**

WHEREAS, the goal of the Sanitary Sewer Management Plan (SSMP) is to facilitate proper funding and management of sanitary sewer systems, and

WHEREAS, the SSMP includes provisions for the proper and efficient management, operation, and maintenance of sanitary sewer systems, while taking into consideration risk management and cost benefit analysis, and

WHEREAS, City staff uses the SSMP as a guiding document to help reduce and prevent SSOs, as well as mitigate any SSOs that do occur, and

WHEREAS, in 2006, the State Water Resources Control Board (Regional Board) implemented regulations governing the operations and maintenance of wastewater collection systems, and

WHEREAS, in 2009 the SSMP was completed and certified, and

WHEREAS, City staff has made significant updates to the SSMP,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves updates to the City of Modesto's Sanitary Sewer Management Plan.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of February, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

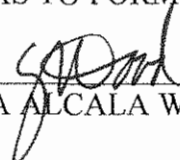
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2011-50**

RESOLUTION ACCEPTING THE WORK BY REPUBLIC INTELLIGENT TRANSPORTATION SERVICES, INC., FOR THE “ARRA LED STREETLIGHT UPGRADE” PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER UPON RECEIPT OF APPROVED WARRANTY BOND, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING \$366,850

WHEREAS, a report has been filed by the Interim Director of Utility Planning and Projects that the ARRA LED Streetlight Upgrade project has been completed by Republic Intelligent Transportation Services, Inc., in accordance with the contract agreement dated March 22, 2011,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the ARRA LED Streetlight Upgrade project is hereby accepted as complete from said contractor Republic Intelligent Transportation Services, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder upon receipt of approved Warranty Bond, and that payment of amounts totaling \$366,850 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 7th day of February, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-51**

**RESOLUTION ACCEPTING THE WORK BY NOR-CAL CONCRETE, INC.,
FOR THE HUD CURB RAMP IMPROVEMENT PROJECT AS COMPLETE,
AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION
WITH THE STANISLAUS COUNTY RECORDER, AND AUTHORIZING
PAYMENT OF AMOUNTS TOTALING \$213,835.50**

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the HUD Curb Ramp Improvement project has been completed by Nor-Cal Concrete, Inc., in accordance with the contract agreement dated May 3, 2011,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the HUD Curb Ramp Improvement project is hereby accepted as complete from said contractor Nor-Cal Concrete, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder and that payment of amounts totaling \$213,835.50 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 7th day of February, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez,
Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-52**

RESOLUTION APPROVING AN AMENDMENT TO THE DEPARTMENT OF HOUSING & URBAN DEVELOPMENT ANNUAL ACTION PLAN FOR FISCAL YEAR 2011-12, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE RELATED DOCUMENTS

WHEREAS, the City of Modesto receives several Federal grants from the United States Department of Housing and Urban Development (HUD) and allocates those funds to various eligible activities, and

WHEREAS, the City Council, on May 3, 2011, by Resolution No. 2011-154, approved the Fiscal Year 2011-12 HUD Annual Action Plan (AAP), and

WHEREAS, any changes to the allocations adopted in the AAP are accomplished through an AAP amendment, and

WHEREAS, staff has proposed an amendment to the AAP as set forth in **Exhibit "A"**, **attached** hereto and incorporated herein by reference, and

WHEREAS, notice has been duly given to the community of the proposed amendment to the AAP, and to provide a 30-day comment period, which began January 4, 2012, and ends on February 7, 2012, and

WHEREAS, this first amendment will amend the Fiscal Year 2011-12 AAP to include the allocation of revolving loan and entitlement carryover funds, and

WHEREAS, the Citizens' Housing and Community Development Committee (CH&CDC) considered the proposed amendment to the HUD AAP at its January 25, 2012, meeting, and the Committee recommended that the City Council approve the amendment to the HUD AAP as proposed by staff, and

WHEREAS, a duly noticed public hearing was held by the City Council on

February 7, 2012, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010 Tenth Street, to consider approval of the proposed amendment to the Fiscal Year 2011-12 HUD AAP,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to the Fiscal Year 2011-12 HUD Annual Action Plan.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of February, 2012, by Councilmember Lopez, who moved its adoption, with motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

This amendment specifically provides CDBG carryover funding for:

- restroom ADA compliance remodeling at the Senior Citizens' Center (\$300,000)
- partial funding of report updating City's ADA Transition Plan (\$25,000)
- restroom ADA compliance remodeling at the Muni Golf Course (\$35,000)
- ADA accessibility pathway at the Elk Park (\$10,000)
- designing and remodeling the Community Center located in the Airport Neighborhood (\$85,000)
- ADA accessibility elevator at McHenry Museum (\$55,000)
- Minor Home Repair Grant Program (\$10,000)
- reduce Home Repair/Disabled Access budget (-\$50,000)

In addition, this amendment is providing an additional \$50,000 in revolving loan carryover funds for small business loans for a total budget of \$204,780 and an additional \$285,000 for the Home Repair/Disabled.

\$4,070 in ESG carryover is funding administrative oversight

\$27,851 in public service and emergency solutions grant funding will be redistributed to current FY grant recipients.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-53**

RESOLUTION AMENDING THE FY 2011-12 ANNUAL OPERATING AND CAPITAL IMPROVEMENT BUDGETS TO REFLECT THE APPROVED AMENDMENT TO THE ANNUAL ACTION PLAN FOR FISCAL YEAR 2011-12 AND THE REALLOCATION OF CARRYOVER FUNDS AS NOTED IN EXHIBIT A; AND AUTHORIZING THE DIRECTOR OF FINANCE, OR HER DESIGNEE, TO TAKE THE NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION

WHEREAS, the City of Modesto receives several Federal grants from the United States Department of Housing and Urban Development (HUD), and allocates those funds to various eligible activities, and

WHEREAS, on May 3, 2011, by Resolution No. 2011-154, the Modesto City Council approved the Fiscal Year 2011-12 HUD Annual Action Plan (AAP), and

WHEREAS, any changes to the allocations adopted in the AAP are accomplished through an AAP amendment, and

WHEREAS, this first amendment will amend the Fiscal Year 2011-12 HUD AAP to include the allocation of revolving loan and entitlement carryover funds as set forth in **Exhibit "A", attached** hereto and incorporated herein by reference, and

WHEREAS, notice has been duly given to the community of the proposed amendment to the HUD AAP, and to provide a 30-day comment period, which began January 4, 2012 and ends on February 7, 2012, and

WHEREAS, the Citizens' Housing and Community Development Committee (CH&CDC) considered the proposed amendment to the HUD AAP at its January 25, 2012, meeting, and recommended that the Council approve, and

WHEREAS, a duly noticed public hearing was held by the City Council on February 7, 2012, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010

Tenth Street, to consider approval of the proposed amendment to the Fiscal Year 2011-12 HUD Annual Action Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the FY 2011-12 Annual Operating and Capital Improvement Budgets to reflect the approved amendment to the Annual Action Plan for Fiscal Year 2011-2012, and the reallocation of carryover funds as noted in **Exhibit A**.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of February, 2012, by Councilmember Lopez, who moved its adoption, with motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

This amendment specifically provides CDBG carryover funding for:

- restroom ADA compliance remodeling at the Senior Citizens' Center (\$300,000)
- partial funding of report updating City's ADA Transition Plan (\$25,000)
- restroom ADA compliance remodeling at the Muni Golf Course (\$35,000)
- ADA accessibility pathway at the Elk Park (\$10,000)
- designing and remodeling the Community Center located in the Airport Neighborhood (\$85,000)
- ADA accessibility elevator at McHenry Museum (\$55,000)
- Minor Home Repair Grant Program (\$10,000)
- reduce Home Repair/Disabled Access budget (-\$50,000)

In addition, this amendment is providing an additional \$50,000 in revolving loan carryover funds for small business loans for a total budget of \$204,780 and an additional \$285,000 for the Home Repair/Disabled.

\$4,070 in ESG carryover is funding administrative oversight

\$27,851 in public service and emergency solutions grant funding will be redistributed to current FY grant recipients.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-54**

**RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO
CONFIRMING THE CANVASS OF THE SECOND REGULAR MUNICIPAL
ELECTION WHICH WAS HELD IN THE CITY OF MODESTO ON FEBRUARY
7, 2012, AND DECLARING THE RESULTS OF SAID ELECTION**

WHEREAS, the Charter of the City of Modesto provides that if no candidate for an elective office of Mayor for the City of Modesto receives a majority vote at a regular municipal election, a second Regular Municipal Election shall be held at which the two candidates receiving the highest number of votes at the first election shall have their names on the ballot for the election to the office, and

WHEREAS, at said Regular Municipal Election on November 8, 2011 a majority vote was not cast for Mayor of the City of Modesto, and

WHEREAS, the two candidates receiving the highest number of votes for Mayor Garrad Marsh and Brad Hawn, will have their names on the ballot for a run-off election to be held on Tuesday, February 7, 2012, and

WHEREAS, the Second Regular Municipal Election was held by mail ballot in the City of Modesto on Tuesday, February 7, 2012, to elect the Mayor for the City of Modesto, as mentioned above, and said election was held in accordance with the with law and the proceedings of this Council, and the votes thereat received and canvassed, and the returns thereof ascertained, determined and declared in all respects as required by law, and

WHEREAS, the City Clerk canvassed the returns of said Second Regular Municipal Election in accordance with law, and certified the results of the election to the

Council by a Certificate of Canvass and Statement of Votes dated February 8, 2012, a copy of which is hereto marked **EXHIBIT** "A" and made a part hereof,

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

SECTION 1. Said Canvass by the City Clerk as shown on said Certificate of Canvass and Statement of Votes and the results of the election are hereby ratified, confirmed and approved.

SECTION 2. That in accordance with Section 10264 of the Elections Code, a copy of said Certificate of Canvass and Statement of Votes, which is **attached** hereto marked as **EXHIBIT** "A" and made a part hereof, shows a complete tabulation of the following:

- (a) The whole number of votes cast in the city
- (b) The names of the persons voted for
- (c) For what office each person was voted for
- (d) The number of votes given in the city for each person

SECTION 3. That, at said Second Regular Municipal Election, held by mail ballot, the following named persons having received a majority of the votes cast for the elective offices, as designated on **Exhibit** "A", are hereby declared to be duly and regularly elected to such office; and, the City Clerk is hereby directed to issue a Certificate of Election to each of said persons, certifying her/her election to the office appearing after his/her name, and to administer to each of said persons the oath of office prescribed by the Constitution and laws of the State of California, and the Charter of the City, to wit:

GARRAD MARSH

**Mayor, for a term of four years, City
of Modesto**

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of February, 2012, by Councilmember Muratore, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez,
Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

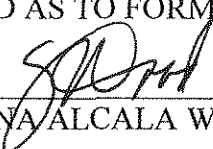
ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:


SUSANA ALCALA WOOD, City Attorney

CERTIFICATE OF CANVASS
AND
STATEMENT OF VOTE

CITY OF MODESTO REGULAR MUNICIPAL ELECTION
February 7, 2012

I, Stephanie Lopez, City Clerk of the City of Modesto, do hereby certify that I caused the Stanislaus County Clerk's Office on February 7, 2012, to publicly canvass the returns of the City of Modesto Second Regular Municipal Election held on February 7, 2012, in accordance with Modesto City Council Resolution No. 2011-123. The following are results of said election:

CANDIDATES	NUMBER OF VOTES	PERCENTAGE OF VOTE	
Mayor, City of Modesto			
Garrad Marsh	15,564	55.85%	
Brad Hawn	12,129	43.52%	
	TOTAL	TOTAL	TURNOUT
	REGISTERED VOTERS	TURNOUT	PERCENTAGE
City of Modesto	94,715	27,918	29.48%

STEPHANIE LOPEZ
City Clerk
City of Modesto

February 14, 2012

**MODESTO CITY COUNCIL
RESOLUTION NO. 2011-55**

**A RESOLUTION REAPPOINTING NORMA REED, SUSAN JOHNSTON AND
TAMMY MAISETTI TO THE DOWNTOWN IMPROVEMENT DISTRICT
ADVISORY BOARD**

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

WHEREAS, the Downtown Improvement District Board of Directors are recommending the reappointment of Norma Reed, Susan Johnston and Tammy Maisetti to a term ending January 2016 to the Downtown Improvement District Advisory Board.

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

SECTION 1. Norma Reed, Susan Johnston and Tammy Maisetti are hereby reappointed to the Downtown Improvement District Advisory Board.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of February, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-56**

**RESOLUTION APPROVING THE PROTECTED-PERMISSIVE TRAFFIC
SIGNALS REPORT FOR 2011**

WHEREAS, Traffic Engineering staff does not recommend any changes this year to the Protected-Permissive Traffic Signals, and

WHEREAS, the City now has protected-permissive signal phasing at 51 intersections, and

WHEREAS, staff recommends continuing the use of protected-permissive phasing at appropriate locations, and monitoring these installations for improvements and/or modifications based on periodic technical analysis, and

WHEREAS, all 51 protected-permissive signalized intersections have acceptable safety records this reporting cycle, and

WHEREAS, the Economic Development Committee approved this report at their January 9, 2012, meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Protected-Permissive Traffic Signals Report for 2011.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of February, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh


NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-57**

RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE PURCHASE OF TWO (2) PACKER TRUCKS FOR THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT, PRUNED REFUSE COLLECTION DIVISION, THROUGH THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, TO WESTERN TRUCK CENTER, STOCKTON, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR A TOTAL ESTIMATED COST OF \$394,537

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, throughout FY 11/12 through various competitive processes, with the Purchasing Division coming back to Council for award authorization. The two (2) packer trucks were included in the FY 11/12 new vehicles and heavy equipment list authorized by the City Manager, and

WHEREAS, packer trucks are used by the Parks, Recreation and Neighborhoods Department, Pruned Refuse Collection Division. The packer trucks have been subjected to a thorough evaluation and have met or exceeded the replacement criteria before being placed on the replacement list. The two (2) packer trucks fall under the City's compliance program, approved by the California Air Resources Board, requiring a progressive program to remove older diesel trucks from service, and

WHEREAS, the Purchasing Division issued RFB No. 1112-13 for the purchase of two (2) packer trucks to twenty-one (21) prospective bidders, posted the bid on the City's website and formally advertised as required by law. One of the twenty-one (21) prospective bidders is located within Stanislaus County, none of which is a local vendor, and

WHEREAS, RFB's were formally opened in the City Clerk's office. Of the twenty-one (21) prospective bidders, two (2) companies chose to respond to the packer

truck specifications; one prospective bidder is located in Stanislaus County. Both companies provided responsive and responsible bids, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid for the purchase of two (2) packer trucks to Western Truck Center, Stockton, CA, for an estimated cost of \$394,537, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2011-12 in the following appropriation unit 5410-53241-57003, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. The award of bid for the purchase of two (2) packer trucks to Western Truck Center, Stockton, CA, for the Parks, Recreation and Neighborhoods Department, Pruned Refuse Collection Division, through the Public Works Department, Fleet Services 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 for the purchase of two (2) packer trucks for the Parks, Recreation and Neighborhoods Department, Pruned Refuse Collection Division, through the Public Works Department, Fleet Services Division to Western Truck Center, Stockton, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is authorized to issue a purchase order for a total estimated cost of \$394,537.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of February, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-58**

RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE FURNISHING OF FERRIC CHLORIDE FOR THE PUBLIC WORKS DEPARTMENT, WASTEWATER DIVISION, TO KEMIRA WATER SOLUTIONS, INC., LAWRENCE, KA; AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE A PURCHASE AGREEMENT

WHEREAS, Ferric Chloride is used by the Public Works Department, Wastewater Division, as a settling agent at the Sutter Wastewater Facility, and

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the furnishing of Ferric Chloride, and

WHEREAS, the Purchasing Division issued RFB No. 1112-11 Ferric Chloride, to twelve (12) prospective bidders, none of which are local vendors, posted the bid on the City's website and formally advertised as required by law, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid for the furnishing of Ferric Chloride to Kemira Water Solutions, Lawrence, KS, and

WHEREAS, sufficient funds are budgeted annually in the following appropriation unit: 4210-54312-52190, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. The award of bid for the furnishing of Ferric Chloride to Kemira Water Solutions, Inc., Lawrence, KS 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 for the furnishing of Ferric Chloride for the

Public Works Department, Wastewater Division to Kemira Water Solutions, Inc.,
Lawrence, KS.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase agreement for an estimated annual cost of \$81,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of February, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-59**

RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH BIGGS CARDOSA ASSOCIATES, INC. TO PROVIDE ADDITIONAL SERVICES RELATED TO THE CONSTRUCTION ADMINISTRATION AND DESIGN FOR THE VIRGINIA AVENUE CORRIDOR PHASE V BIKE TRAIL PROJECT, IN AN AMOUNT NOT TO EXCEED \$32,679, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO AGREEMENT

WHEREAS, the Virginia Corridor is a Rails-to-Trails conversion project on the Union Pacific Railroad right-of-way adjacent to the City's Virginia Avenue, and

WHEREAS, the City is now extending the Virginia Corridor approximately one-half mile, including crossing over Briggsmore Avenue by constructing a bicycle and pedestrian bridge, and

WHEREAS, the City Council, on December 4, 2007, by Resolution No. 2007-718, approved an Agreement with Biggs Cardosa, Inc. to prepare the final project design of this project, and

WHEREAS, the complexity of the construction of the Briggsmore Overcrossing portion of the project has impacted the construction schedule and required additional services of Consultant, and

WHEREAS, staff recommends an Amendment to Agreement with Biggs Cardosa Associates, Inc. to cover additional construction management work and additional design services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to Agreement with Biggs Cardosa Associates, Inc. for additional services related to the construction administration and design services for

the Virginia Corridor Phase V – Briggsmore Overcrossing Project in an amount not to exceed \$32,679.00.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of February, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-60**

RESOLUTION APPROVING A SUBORDINATION AGREEMENT BETWEEN THE CITY OF MODESTO AND STANISLAUS AFFORDABLE HOUSING CORPORATION FOR THE HOME LOAN PROVIDED TO THE STANISLAUS COUNTY AFFORDABLE HOUSING CORPORATION FOR THE ACQUISITION OF THE PROPERTY LOCATED AT 901 CALIFORNIA AVENUE, ALSO KNOWN AS COURTNEY MANOR; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE SUBORDINATION AGREEMENT AND ANY RELATED DOCUMENTS

WHEREAS, on February 16, 1999, the City Council, by Resolution No. 99-59, approved an allocation of HOME funds in the amount of \$283,950 for Stanislaus County Affordable Housing Corporation (STANCO) to assist with the acquisition of the property located at 901 California Avenue, also known as Courtney Manor, and

WHEREAS, the property has 18 two bedroom units which provide transitional housing to low income individuals, and

WHEREAS, eight of the units are HOME assisted, and

WHEREAS, on June 9, 2009, by Resolution No. 2009-255, the City of Modesto agreed to subordinate the HOME loan per STANCO's request to refinance the property to obtain funds for property repairs, and

WHEREAS, on January 27, 2012, STANCO submitted a letter to the City requesting to subordinate the HOME loan provided by the City for Courtney Manor, and

WHEREAS, STANCO has been awarded funding through the Federal Home Loan Bank of San Francisco (FHLBSF) for rehabilitation of Courtney Manor, and

WHEREAS, the subsidy provided from a member bank of the FHLBSF, in this case Farmers and Merchants Bank (F&M), has been underwritten as a loan, and

WHEREAS, the loan is forgiven if STANCO and F&M perform on the project and maintain the required amount of units affordable for eight (8) years beyond the improvements, and

WHEREAS, in order to complete this process, the financial lending institution requires, as a condition to provide the loan, to be and remain at all times prior and superior to other loans, and

WHEREAS, the Subordination Agreement sets forth the priority of repayment rights against the borrower and its assets,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Subordination Agreement between the City of Modesto and Stanislaus County Affordable Housing Corporation for the HOME loan provided to STANCO for the acquisition of the property located at 901 California Avenue, also known as Courtney Manor.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Subordination Agreement and any related documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of February, 2012, by Councilmember Lopez, who moved its adoption, with motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

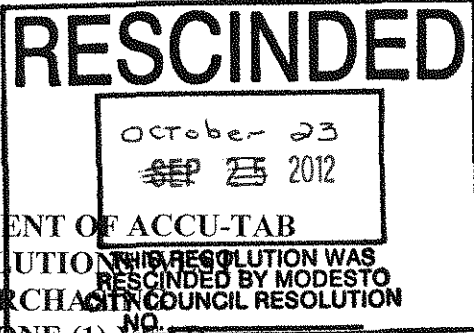
ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney



MODESTO CITY COUNCIL
RESOLUTION NO. 2012-61

RESOLUTION APPROVING SOLE SOURCE PROCUREMENT OF ACCU-TAB POWERPRO CHLORINATION SYSTEMS TO CLEAR SOLUTIONS WEST, ATWATER, CALIFORNIA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE AGREEMENT FOR ONE (1) YEAR, WITH FOUR (4) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, FOR AN ANNUAL COST NOT-TO-EXCEED \$100,000, AND A TOTAL COST OVER FIVE (5) YEARS OF \$500,000

WHEREAS, staff routinely delivers chlorine to each well site either by liquid or tablet form, and

WHEREAS, installing tablet chlorination systems in the outlying areas as well as sites with limited accessibility within the City of Modesto would eliminate the need to haul hazardous chlorine liquid trailers to each site, and

WHEREAS, substantial liability and cost can be avoided with the use of tablet systems, and

WHEREAS, staff researched six vendor products and found that the Accu-Tab Powerpro Chlorination Systems meets the City's specifications, and

WHEREAS, staff is recommending an annual purchase agreement be established to purchase Accu-Tab Powerpro Chlorination Systems which will be used for wellhead chlorination at various well sites throughout the City's water system, and

WHEREAS, Clear Solutions West, Atwater, California is the only firm in Northern California authorized by the manufacturer to market and sell Accu-Tab Powerpro Chlorination Systems,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a sole source procurement of Accu-Tab Powerpro Chlorination Systems to Clear Solutions West, Atwater, California for one (1) year, with four (4) one-

year extension options, at the sole discretion of the City, for an estimated first year cost of \$100,000, and a total cost over five (5) years of \$500,000.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue the Purchase Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of February, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-62**

RESOLUTION ACCEPTING THE WORK BY ADVANCED INDUSTRIAL SERVICES, INC., FOR THE TANK 8 INTERIOR RECOATING PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER UPON RECEIPT OF APPROVED WARRANTY BOND, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING \$155,000

WHEREAS, a report has been filed by the Interim Director of Utility Planning and Projects that the Tank 8 Interior Recoating project has been completed by Advanced Industrial Services, Inc., in accordance with the contract agreement dated July 12, 2011,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Tank 8 Interior Recoating project is hereby accepted as complete from said contractor Advanced Industrial Services, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder upon receipt of approved Warranty Bond, and that payment of amounts totaling \$155,000 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 14th day of February, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-63**

A RESOLUTION APPROVING A THIRD AMENDMENT TO THE AGREEMENT WITH DOKKEN ENGINEERING FOR PREPARATION OF THE PLANS, SPECIFICATIONS AND ESTIMATES TO INCLUDE RIGHT OF WAY ENGINEERING AND ACQUISITION SERVICES FOR STATE ROUTE 99 / PELANDALE AVENUE INTERCHANGE RECONSTRUCTION PROJECT IN AN AMOUNT NOT TO EXCEED \$338,000; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE THIRD AMENDMENT

WHEREAS, the State Route 99 / Pelandale Interchange improvement project is a Caltrans project to address the traffic congestion problem at Pelandale Avenue and Highway 99 Interchange, and

WHEREAS, on March 9, 2010, the City Council, by Resolution No. 2010-90, approved an Agreement with Dokken Engineering for preparation of Plans, Specifications and Estimates (PS&E), and

WHEREAS, City staff requested a pre-award audit from the California Department of Transportation (Caltrans) and received a waiver of pre-award audit, and

WHEREAS, on February 22, 2011, the City Council, by Resolution No. 2011-044, approved an Amendment to the Agreement with Dokken Engineering, and

WHEREAS, on September 14, 2011 the City approved, a Second Amendment to the Agreement with Dokken Engineering to incorporate a Post Award Audit Clause to the Agreement, and

WHEREAS, City staff recommends a Third Amendment to the Agreement with Dokken Engineering as the City does not have the staffing level or subject matter expertise to complete the Right-of-Way engineering and acquisition services, and

WHEREAS, Right-of-Way engineering and acquisition services are required in order to obtain Right of Way Certification Level 2 by May 2, 2012,

NOW, THEREFORE, BE RESOLVED by the Council of the City of Modesto that it hereby approves a Third Amendment to the Agreement with Dokken Engineering for preparation of the Plans, Specifications and Estimates to include Right-of-Way engineering and acquisition services for the State Route 99 / Pelandale Avenue Interchange Reconstruction Project in an amount not to exceed \$338,000.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of February, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-64**

A RESOLUTION AMENDING THE FISCAL YEAR 2011-2012 CAPITAL IMPROVEMENT PROGRAM BUDGET TO APPROPRIATE \$338,000 FROM STREET CAPITAL FACILITY FEES FUND BALANCE TO CIP PROJECT NO 100046 AND TO INCREASE THE EXPENSE BUDGET BY THE SAME AMOUNT IN ORDER TO FULLY FUND THE THIRD AMENDMENT TO THE AGREEMENT WITH DOKKEN ENGINEERING FOR PREPARATION OF THE PLANS SPECIFICATIONS AND ESTIMATES TO INCLUDE RIGHT-OF-WAY ENGINEERING AND ACQUISITION SERVICES FOR THE STATE ROUTE 99 / PELANDALE AVENUE INTERCHANGE RECONSTRUCTION PROJECT

WHEREAS, certain budgetary transactions are necessary in the amount of \$338,000, in order to amend the Plans Specification & Estimates (PS&E) contract with Dokken Engineering to include Right-of-Way engineering and acquisition services for the State Route 99/Pelandale Interchange Reconstruction Project, and

WHEREAS, the Fiscal Year 2011-2012 Capital Improvement Program budget should be amended as follows by appropriating \$338,000 from Streets Capital Facility Fees Fund balance and increasing the expense budget in:

PS&E Preparation Contract Dokken Engineering

CIP Project No. 100046 \$338,000

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2011-2012 Capital Improvement Program budget by appropriating \$338,000 from Street Capital Facility Fees Fund balance to CIP Project No. 100046 and increasing the expense budget by the same amount in order to fully fund the Third Amendment to the Agreement For State Route 99/Pelandale Avenue Interchange with Dokken Engineering for preparation of the Plans Specifications & Estimates to include Right-of-Way engineering and acquisition services for the State Route 99 / Pelandale Avenue Interchange Reconstruction Project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of February, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-65**

RESOLUTION APPROVING A SECOND AMENDMENT TO AGREEMENT WITH DOKKEN ENGINEERING, INC. FOR ADDITIONAL PERMIT SUPPORT SERVICES FOR THE CARPENTER ROAD BRIDGE SEISMIC RETROFIT PROJECT IN AN AMOUNT NOT TO EXCEED \$51,660 FOR A MAXIMUM TOTAL AMOUNT OF \$498,194.43 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE SECOND AMENDMENT TO AGREEMENT

WHEREAS, on July 7, 2009, by Resolution No. 2009-297, City Council approved an agreement for consultant services with Dokken Engineering, Inc. for design and environmental services in the amount of \$275,250.56 for the Carpenter Road Bridge Seismic Retrofit Project "Project", and

WHEREAS, on November 9, 2011, by Resolution No. 2011-429, City Council approved an Amendment to Agreement for design support during construction services and permit support services in the amount of \$171,283.87, and

WHEREAS, per the Project specifications, the City is responsible to remove bird and bat nests from the bridge and ensure that no new nests are established on the bridge until the bridge contractor has been issued a Notice to Proceed by the City, and

WHEREAS, at the request of the City, Dokken solicited bids from contractors to perform the bird and bat removal services as well as the installation of the exclusion netting to prevent and additional nesting, and,

WHEREAS, Dokken submitted a cost of \$51,660 to perform the requested services, and

WHEREAS, City staff recommends approving a second amendment to agreement with Dokken Engineering, Inc. for \$51,660 bringing the revised maximum total agreement amount to \$498,194.43.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a second amendment to agreement with Dokken Engineering, Inc. for additional permit support services for the Carpenter Road Bridge Seismic Retrofit Project, in an amount not to exceed \$51,660, for a maximum total amount of \$498,194.43.

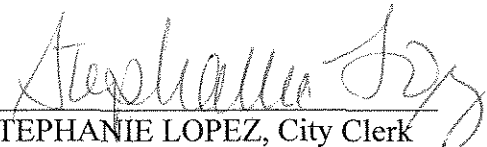
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Second Amendment to Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of February, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-66**

RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE PURCHASE OF A TRUCK WITH SERVICE BODY FOR THE PUBLIC WORKS DEPARTMENT, WATER DIVISION, THROUGH THE FLEET SERVICES DIVISION, TO DOWNTOWN FORD, SACRAMENTO, CA, AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE A PURCHASE ORDER FOR A TOTAL ESTIMATED COST OF \$138,354

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, for the water meter installation crew through various competitive processes, with the Purchasing Division coming back to Council for award authorization. The truck with service body is included in the new vehicles and heavy equipment list authorized by the City Manager, and

WHEREAS, the purchase of a new truck with service body will support a new meter installation crew, which Council approved in the FY 2011/12 budget. The additional metering crew is needed in order to meet State Assembly Bill 2575 which requires that urban water suppliers install water meters on all service connections by the year 2025, and

WHEREAS, the Purchasing Division issued RFB No. 1112-15 for the purchase of a Truck with Service Body to thirty-one (31) prospective bidders, posted the bid on the City's website and formally advertised as required by law. Five (5) of the bidders are located within Stanislaus County, one of which is a local vendor, and

WHEREAS, RFB's were formally opened in the City Clerk's office. Of the thirty-one (31) prospective bidders, three (3) companies chose to respond. The local vendor did not submit a bid. All three (3) companies provided responsive and responsible bids, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid for the purchase of a truck with service body to Downtown Ford, Sacramento, CA, for an estimated cost of \$138,354, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2011-12 in the following appropriation unit: 4180-59999-55010-100574, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. The award of bid for the purchase of a truck with service body to Downtown Ford, Sacramento, CA, for the Public Works, Water Division, through the Fleet Services 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 for the purchase of a truck with service body for the Public Works Department, Water Division, through the Fleet Services Division to Downtown Ford, Sacramento, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase order for a total estimated cost of \$138,354.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of February, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None


ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:


SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-67**

RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE AND INSTALLATION OF A MICROWAVE RADIO SYSTEM AND TOWER OBSTRUCTION LIGHT, FOR THE DEPARTMENT OF PUBLIC WORKS, WASTEWATER DIVISION, TO ADVANCED TECHNOLOGY DISTRIBUTORS, INC., CERES, CA, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE AN AGREEMENT FOR AN ESTIMATED COST OF \$66,983

WHEREAS, the need for data transfer between the primary and secondary treatment plants has exceeded the capacity available using present technology. In anticipation of a further dramatic increase in data transfer needs that will accompany the implementation of tertiary treatment at the Jennings facility, staff evaluated options for a new communication network that would meet the needs into the future. That process revealed that wireless technology was the most cost effective solution to provide the additional capacity as well as to improve reliability, and

WHEREAS, staff worked with the Information Technology Department (IT) on a site survey. The site survey and radio path study was conducted to determine the feasibility for the design of a wireless bridge. It was determined that a radio link was feasible with a high degree of reliability and a greater amount of data capacity, and

WHEREAS, this project was previously approved by Council and bid as a combined project with a Communications Tower and Microwave Radio in August 2008. No bids were received due to the complexities of the project. The project was split into two components with the Engineering Division engaged to coordinate the installation of the Communications Tower with foundation system and the Purchasing Division coordinated the purchase of the Microwave Radio Equipment and Obstruction Light.

WHEREAS, on March 22, 2011, the City Council, by Resolution No. 2011-098, approved the plans and specifications for the communications tower, accepted the bid, and approved the contract with S.R.P. Company to install the Communications Tower and foundation. The construction of the tower is complete, and

WHEREAS, the Purchasing Division issued RFB No. 1112-04 for the purchase and installation of a Microwave Radio System and a Tower Obstruction Light to thirty-two (32) prospective bidders posted the bid on the City's website and formally advertised as required by law. Four (4) of the thirty-two (32) prospective bidders are located within Stanislaus County, three (3) of which are local vendors, and

WHEREAS, RFB's were formally opened in the City Clerk's office. Of the thirty-two (32) prospective bidders, six (6) companies chose to respond, two bidders are located in Stanislaus County and one of which is a local vendor. All six (6) companies provided responsive and responsible bids, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid and contract for the purchase and installation of a Microwave Radio System and Tower Obstruction Light to Advanced Technology Distributors, Inc., Ceres, CA, for a total estimated cost of \$66,983, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2011-12 in the following appropriation unit 4210-59999-55010-100389, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. The award of bid for the purchase of a Microwave Radio System and Tower Obstruction Light to Advanced Technology Distributors, Inc., Ceres, CA, for the

Department of Public Works, Wastewater Division conforms to the Modesto Municipal Code,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase and installation of a Microwave Radio System and Tower Obstruction Light for the Department of Public Works, Wastewater Division, to Advanced Technology Distributors, Inc., Ceres, CA.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute an agreement for an estimated cost of \$66,983.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of February, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-68**

**RESOLUTION APPROVING THAT THE CITY OF MODESTO WILL
PARTICIPATE IN THE HEALTHY EATING ACTIVE LIVING (HEAL) CITIES
CAMPAIGN**

WHEREAS, in 2004, the League of California Cities adopted an Annual Conference resolution to encourage cities to embrace policies that facilitate activities to promote healthier lifestyles and communities, including healthy diet and nutrition and adoption of city design and planning principles that enable citizens of all ages and abilities to undertake exercise; and

WHEREAS, the League of California Cities has a strategic goal to promote and develop safe and healthy cities, and

WHEREAS, the Healthy Eating Active Living (HEAL) Cities Campaign is a partnership between the League of California Cities and the California Center for Public Health Advocacy, and,

WHEREAS, these agencies work with California cities to adopt policies that will improve the physical activity and healthier food opportunities for residents, and

WHEREAS, obesity takes a tremendous toll on all Californians, in medical bills, workers compensation and lost productivity, costing in excess of \$41.2 billion a year; and

WHEREAS, the City of Modesto commits to do all it can to decrease the rate of obesity in our community and is committed to implementing the necessary policies to create healthier work, school, and neighborhood environments conducive to promoting healthier eating and increased physical activity among residents; now, therefore,

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

1. The City of Modesto City Council recognizes obesity is a serious health threat to the health and well-being of adults, children, and families in Stanislaus County. The City Council supports City participation in the Healthy Eating Active Living (HEAL) Cities Campaign that includes statewide, regional and local programs that highlight opportunities to invest in our citizen's health and wellness.
2. The City of Modesto has existing policies and programs that promote active, healthy living, including:
 - Safe Routes to School Program which promotes safe pedestrian access to schools;
 - Parks & Recreation Master Plan that identifies park and recreation services policies and infrastructure needs;
 - The City-wide Non-Motorized Transportation Plan that identifies existing and planned cycling facilities;
3. The City Council directs Staff and Commissions to continue to identify opportunities to encourage healthy choices that may include recommending healthful goals and policies.
4. The City supports General Plan updates that support health and wellness choices such as:
 - walkable neighborhoods throughout the City;
 - safe access to City parks, playgrounds, and recreation amenities;
 - connectivity between redevelopment areas, residential neighborhoods,
 - improvements to the City Transit Plan
5. The City encourages healthy choices that may include:
 - expanding community access to indoor and outdoor public facilities through joint use agreements with schools and/or other partners;
 - addition of a criterion in the Capital Improvement Program ranking system to give consideration for projects that promote opportunities for physical activity;
 - promoting use of City facilities to educate and offer resources to residents on healthy living choices;

- providing healthier options of food, beverages, and snacks authorized for sale in vending machines at all City facilities;

NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Modesto that it hereby approves the City of Modesto's participation in the Healthy Eating Active Living (HEAL) Cities Campaign.

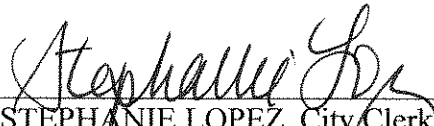
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of February, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None


ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:



SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-69**

RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE DEMOLITION WATER TOWER AT 17th & G PROJECT, ACCEPTING THE BID, AND APPROVING A CONTRACT WITH PANTANO EXCAVATING, INC. DBA PANTANO DEMOLITION, OF MANTECA, CALIFORNIA IN THE AMOUNT OF \$34,890, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Demolition Water Tower at 17th & G project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Demolition Water Tower at 17th & G project were opened at 11:00 a.m. on February 7, 2012, and later tabulated by the Director of Utility Planning & Projects for the consideration of the Council, and

WHEREAS, the Director of Utility Planning & Projects has recommended that the bid of \$34,890 received from Pantano Excavating, Inc. dba Pantano Demolition of Manteca, California, be accepted as the lowest responsible bid and the contract be awarded to Pantano Excavating, Inc. dba Pantano Demolition,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Demolition Water Tower at 17th & G project, accepts the bid of Pantano Excavating, Inc. dba Pantano Demolition of Manteca, California, in the amount of \$34,890, and awards Pantano Excavating, Inc., the contract for the Demolition Water Tower at 17th & G project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of February, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh


NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-70**

**RESOLUTION ACCEPTING THE WORK BY ROLFE CONSTRUCTION FOR
ITHE "JOHN THURMAN FIELD STORM DRAIN OUTFALL" PROJECT AS
COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF
COMPLETION WITH THE STANISLAUS COUNTY RECORDER UPON
RECEIPT OF APPROVED WARRANTY BOND, AND AUTHORIZING
PAYMENT OF AMOUNTS TOTALING \$111,112.50**

WHEREAS, a report has been filed by the Interim Director of Utility Planning and Projects that the John Thurman Field Storm Drain Outfall project has been completed by Rolfe Construction in accordance with the contract agreement dated October 25, 2011,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the John Thurman Field Storm Drain Outfall project is hereby accepted as complete from said contractor Rolfe Construction that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder upon receipt of approved Warranty Bond, and that payment of amounts totaling \$111,112.50 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 28th day of February, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-71**

RESOLUTION ACCEPTING THE WORK BY INNOVATIVE CONSTRUCTION SOLUTIONS - NORCAL FOR THE KANSAS NEEDHAM SOIL REMEDIATION PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER UPON RECEIPT OF APPROVED WARRANTY BOND, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING \$260,585.94

WHEREAS, a report has been filed by the Interim Director of Utility Planning and Projects that the Kansas-Needham Soil Remediation project has been completed by Innovative Construction Solutions - Norcal in accordance with the contract agreement dated May 24, 2011,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Kansas-Needham Soil Remediation project is hereby accepted as complete from said contractor Innovative Construction Solutions - Norcal that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder upon receipt of approved Warranty Bond, and that payment of amounts totaling \$260,585.94 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 28th day of February, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSAN ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-72**

RESOLUTION APPROVING A TEN-YEAR LEASE AGREEMENT WITH ELIZABETH J. BRITT, FOR A 16,835 SQUARE FEET (0.39 ACRES) PARCEL OF LAND (APN 078-013-033), IN THE AMOUNT OF \$1,395.56 PER YEAR, WITH A TOTAL ESTIMATED COST OF \$13,955.60, FOR THE NORTH POINTE BASIN RECONSTRUCTION PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE LEASE AGREEMENT AND ALL RELATED DOCUMENTS

WHEREAS, the City of Modesto owns and operates the North Pointe Storm Drain Basin, which serves the Pelandale Avenue commercial area near Chapman Road, and

WHEREAS, Operations and Maintenance staff have been working to resolve an erosion problem caused by an infestation of rodents that have caused extensive damage to the north basin wall, and

WHEREAS, a determination was made to provide a buffer area that can be controlled and maintained to prevent rodents from entering the basin area, and

WHEREAS, the adjacent property owner has agreed to grant the City of Modesto a lease on a portion of property to provide the required buffer area, approximately 28 feet in width, and

WHEREAS, this lease acquisition is needed to repair, maintain, and to protect the storm drain basin from further erosion, and

WHEREAS, City staff recommends approving the lease agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the a ten-year Lease Agreement with Elizabeth J. Britt, for a 16,835 square feet (0.39 acres) parcel of land (APN 078-013-033), in the amount of

\$1,395.56 per year, with a total estimated cost of \$13,955.60, for the North Pointe Basin Reconstruction Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Lease Agreement and all related documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of February, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-73**

RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE CERTIFICATE OF ACCEPTANCE FOR THE MEMORANDUM OF LEASE, FOR THE PROPERTY LOCATED AT 4506 CHAPMAN ROAD, OWNED BY ELIZABETH J. BRITT, (APN 078-013-033) TO BE LEASED BY THE CITY OF MODESTO FOR THE NORTH POINTE BASIN RECONSTRUCTION PROJECT

WHEREAS, Section 27281 of the Government Code requires a public agency to accept real property interests prior to the recordation of lease interest and adopt a resolution accepting real property, and

WHEREAS, the City of Modesto desires to acquire a lease interest in a 16,835 sq. ft. (0.39 acre) portion of a parcel of land located at 4506 Chapman Road, owned by Elizabeth J. Britt, (APN 078-013-033), to be leased by the City of Modesto for the North Pointe Basin Reconstruction Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign the Certificate of Acceptance for the Memorandum of Lease for the lease of a portion of the property located at 4506 Chapman Road, owned by Elizabeth J. Britt, (APN 078-013-033) to be leased by the City of Modesto for the North Pointe Basin Reconstruction Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of February, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-74**

RESOLUTION APPROVING AN AGREEMENT RELATED TO RELOCATION OF ELECTRIC UTILITY POLES WITH MODESTO IRRIGATION DISTRICT, IN THE AMOUNT OF \$51,800, FOR THE RELOCATION OF MODESTO IRRIGATION DISTRICT FACILITIES FOR THE “SYLVAN AND LITT INTERSECTION CONTROL AND ROAD WIDENING PROJECT” AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, plans and specifications have been prepared for the Sylvan and Litt Intersection Control and Road Widening Project (“Project”) which is located at Sylvan Avenue between Millbrook Avenue and Claus Road, and for Litt Road from Sylvan Avenue to the north end of the Grogan Park site, and

WHEREAS, the Project requires relocation of several Modesto Irrigation District (“MID”) electric utility poles by MID forces prior to construction, and

WHEREAS, prior to completing the required relocation, MID requires a deposit of \$51,800, and will, upon receipt of this deposit, move the poles in accordance with the terms of the agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement Related to the Relocation of Electric Utility Poles between the City of Modesto and Modesto Irrigation District for the relocation of electric utility poles located within the limits of the Sylvan and Litt Intersection Control and Road Widening Project in the amount of \$51,800.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-75**

RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE PURCHASE OF SIX (6) TRUCKS WITH UTILITY BODIES FOR THE PUBLIC WORKS DEPARTMENT, WATER DIVISION, THROUGH THE FLEET SERVICES DIVISION, TO THE FOLLOWING COMPANIES: ALBANY FORD, ALBANY, CA FOR FOUR (4) EXTENDED CAB TRUCKS WITH UTILITY BODIES FOR AN ESTIMATED TOTAL COST OF \$118,847, AND FRITTS FORD, RIVERSIDE, CA, FOR TWO (2) REGULAR CAB TRUCKS WITH UTILITY BODIES FOR AN ESTIMATED TOTAL COST OF \$54,550, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE PURCHASE ORDERS FOR A TOTAL ESTIMATED COST OF \$173,397

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, throughout FY 11/12 through various competitive processes, with the Purchasing Division coming back to Council for award authorization. The six (6) trucks with utility bodies were included in the FY 11/12 new vehicles and heavy equipment list authorized by the City Manager, and

WHEREAS, these trucks with utility bodies are replacement trucks for the Water Division. These trucks have been subjected to a thorough evaluation and have met or exceeded the replacement criteria before being placed on the replacement list, and

WHEREAS, the Purchasing Division issued RFB No. 1112-10 for the purchase of six (6) Three-Quarter Ton Trucks with Utility Bodies to twenty-six (26) prospective bidders posted the bid on the City's website and formally advertised as required by law. Three (3) of the bidders are located within Stanislaus County, one of which is a local vendor, and

WHEREAS, RFB's were formally opened in the City Clerk's office. Of the twenty-six (26) prospective bidders, eight (8) companies chose to respond. Two (2) of which are located in Stanislaus County, one of which is a local vendor. All eight (8)

companies provided responsive and responsible bids. The five (5) percent differential for Local Vendor Preference was not a factor in determination for award, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2011-12 in the following appropriation unit: 5410-53241-57003, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. The award of bid for the purchase of a four (4) extended cab trucks with utility bodies to Albany Ford, Albany, CA, and two (2) regular cab trucks with utility bodies to Fritts Ford, Riverside, CA, for the Public Works, Water Division, through the Fleet Services 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 for the purchase of six (6) trucks with utility bodies for the Public Works Department, Water Division, through the Fleet Services Division, to the following companies: Albany Ford, Albany, CA, for four (4) extended cab trucks with utility bodies for an estimated total cost of \$118,847, and Fritts Ford, Riverside, CA, for two (2) regular cab trucks with utility bodies for an estimated total cost of \$54,550.

BE IT FURTHER RESOLVED that the Purchasing Manager or his designee to issue purchase orders for a total estimated cost of \$173,397.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-76**

**RESOLUTION AMENDING THE POSITION CLASSIFICATION PLAN FOR
THE CITY OF MODESTO TO AMEND THE CLASSIFICATION OF FLEET
MANAGER**

WHEREAS, a Position Classification Plan for the City of Modesto was adopted by Modesto City Council Resolution No. 2008-681 pursuant to Rule 2.2 of the Personnel Rules and Regulations of the City of Modesto, and

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

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

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

SECTION I. CLASSIFICATION AMENDED. The Position Classification Plan of the City of Modesto is hereby amended to revise the Fleet Manager classification. The Fleet Manager job specification is being revised to more accurately reflect how the class is being utilized within the Public Works Department. The revised Fleet Manager class specification, as shown in **attached Exhibit "A,"** which is made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after March 6, 2012.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 6th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
No. 2507

FLEET MANAGER

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

DEFINITION

Plans, organizes, and manages the operations for Fleet Management Services and Parking Services including budget development and administration, revenue forecasting, procurement, utilization, repair, operations, cost allocation, fueling, maintenance, and disposition of all City vehicles, heavy and specialized equipment; coordinates services and activities with other divisions, departments, private sector businesses, and the public; and provides highly complex staff assistance to management.

SUPERVISION RECEIVED AND EXERCISED

Receives administrative direction from the Director or designee.

Exercises direct and indirect supervision over assigned supervisory, technical, operations and maintenance, and administrative support staff responsible for the day-to-day activities.

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

Essential Functions:

Develop and implement divisional goals, objectives, policies and procedures.

Plan, organize and direct Fleet Management Services Division and Parking Services Division activities including the maintenance, tracking and purchase of fee collection equipment and City vehicles and equipment.

Direct, oversee and participate in the development of divisional work plans; assign work activities, projects and programs; monitor work flow; review and evaluate work products, methods and procedures.

Prepare the internal fund and enterprise fund budgets; assist in budget implementation; participate in forecasting additional funds need for staffing, equipment, materials and supplies; administer the approved budgets.

Develop and implement plans to meet environmental goals, including introduction and

EXHIBIT A

evaluation of alternative fueled vehicles.

Initiate new and innovative maintenance programs to improve service to internal and external customers.

Essential Duties:

Recommend the appointment of personnel; provide or coordinate staff training; conduct performance evaluations; implement discipline procedures as required; maintain discipline and high standards necessary for efficient and professional operation.

Ensure compliance with federal, state, and local regulations for the American with Disabilities Act (ADA) requirements; and storage, handling, and usage of hazardous materials and hazardous waste.

Ensure efficient equipment use, including training for equipment operators.

Analyze and monitor vehicle expenditures for all City departments making recommendations regarding the use and purchase of new vehicles.

Develop and administer a vehicle abuse control program and a vehicle collision prevention program; analyze and monitor equipment lifecycle costs; establish equipment replacement criteria.

Develop proposals for, and recommends improvements to, fleet maintenance facilities and parking service operations.

Develop equipment specifications in cooperation with equipment users.

Develop, oversee and direct equipment motor pool operations; analyze, develop and implement appropriate equipment charge rates.

Build and maintain positive working relationships with co-workers, other City employees, local businesses, and the general public using principles of good customer service.

Represent the divisions and department to outside agencies and organizations; participate in necessary.

Research and prepare technical and administrative reports; prepare written correspondence.

EXHIBIT A

Marginal Functions:

Perform other duties as assigned.

MINIMUM QUALIFICATIONS

Knowledge of:

Principles and practices of fleet and automotive repair shop management for automotive, heavy equipment and buses.

Fleet procurement, charge back systems, utilization and operational management.

Principles and practices of parking lot operations, fee collection, ticketing, traffic control, safety, and the operation, repair, and maintenance of parking control equipment

Current trends and technological developments pertaining to procurement, including technical equipment specifications, utilization, operation, budget, cost allocation, use of alternative fuels, and fueling maintenance.

Business practices applicable including systems analysis, computer utilization, financial record keeping, and management.

Pertinent local, state and federal rules, regulations and laws.

Modern office procedures and computer equipment.

Principles and practices of organizational analysis and management.

Principles and practices of public sector budgeting procedures and techniques; internal service fund structure; enterprise fund structure; long term forecasting; and cost analysis.

Contract development and service negotiations.

Principles and practices of leadership, motivation, team building, conflict resolution, and organizational dynamics

Principles and practices of supervision, training, and personnel management.

EXHIBIT A

Ability to:

Organize and direct the Fleet Services Division and the Parking Services Division operations.

Implement vehicle replacement policies and develop and manage a preventative maintenance program.

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

Gain cooperation through discussion and persuasion.

Interpret and apply City and department policies, procedures, rules, and regulations. Prepare and administer Internal Services Fund and Enterprise Fund budgets.

Plan, schedule, train, direct, and evaluate the work of multi-shift, multi-locate staff. Communicate clearly and concisely, both orally and in writing.

Establish and maintain effective working relationships with governmental agencies, City departments, local businesses, the general public, and others contacted during the course of work.

Experience and Training Guidelines:

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

Experience:

Five years of increasingly responsible experience in administering a fleet management operation that involved the purchase, replacement, maintenance, and disposition of heavy trucks, equipment, and passenger vehicles; including two years of supervisory responsibility.

Training:

Equivalent to a Bachelor's degree from an accredited college with major coursework in public administration, business administration, or a directly related field is desirable.

EXHIBIT A

License or Certificate:

Possession of, or the ability to obtain, an appropriate and valid California driver's license.

PHYSICAL AND MENTAL REQUIREMENTS

Mobility: frequent use of keyboard; frequent sitting for long periods of time; occasional bending or squatting. **Lifting:** frequently up to 10 pounds; occasionally up to 50 pounds. **Vision:** constant use of overall vision; frequent reading and close-up work; occasional color and depth vision. **Dexterity:** frequent repetitive motion; frequent writing; frequent grasping, holding, and reaching. **Hearing/Talking:** frequent hearing and talking, in person and on the phone. **Emotional/Psychological:** frequent decision-making and concentration; frequent public and/or coworker contact; occasional working alone. **Environmental:** frequent exposure to noise.

WORKING CONDITIONS

Work is performed in a typical temperature controlled office environment subject to typical office noise and environment. Some positions may be assigned to remote locations. Some duties involve working in a shop environment requiring eye and ear protection. Positions require occasional overtime or weekend work and the ability to travel.

<i>Class</i>	<i>Spec History</i>
Adopted	10/92
Revised	12/08, 2/12
BU	Mgt/Conf NS

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-77**

**RESOLUTION AMENDING EXHIBIT “A” OF RESOLUTION NO. 2008-683 TO
REVISE THE CLASS RANGE TABLE FOR REPRESENTED MANAGEMENT
AND CONFIDENTIAL NON-SWORN CLASSES TO CHANGE THE SALARY
RANGE FOR FLEET MANAGER FROM SALARY RANGE 441 TO SALARY
RANGE 444**

WHEREAS, the City Council desires to amend Exhibit “A” of Resolution No. 2008-683, which approved the Class Range Table for Represented Management and Confidential Non-Sworn Classes,

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

SECTION I. AMENDMENT TO RESOLUTION NO. 2008-683. Exhibit "A" entitled, "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes," attached to Resolution No. 2008-683, is hereby amended as shown on the amended **Exhibit “A”** entitled “City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective March 6, 2012,” which is **attached** hereto and made a part hereof as though set forth in full herein. Said **Exhibit “A”** changes the salary range for Fleet Manager from salary range 441 to salary range 444.

SECTION II. EFFECTIVE DATE. This resolution shall become effective on and after March 6, 2012.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 6th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
 CLASS RANGE TABLE
 REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES
 Effective March 6, 2012

RANGE	TITLE
407	Administrative Office Assistant II (Confidential)
411	Administrative Office Assistant III (Confidential)
412	Police Clerk II (Confidential)
414	Legal Secretary I
415	Administrative Services Technician I (Confidential) Senior Administrative Office Assistant (Confidential)
416	Account Technician (Confidential)
418	Legal Secretary II Systems Technician I
419	Administrative Services Technician II (Confidential) Workers' Compensation Claims Assistant
420	Deputy City Clerk Employee Benefits Coordinator Executive Assistant Senior Legal Secretary
422	Office Supervisor Systems Technician II Workers' Compensation Claims Examiner I
423	Custodian Supervisor Parking Services Supervisor
424	Buyer
425	Parking Adjudication Program Coordinator Police Facilities Coordinator Public Information Analyst
426	Assistant Planner Central Stores Supervisor Financial Analyst I

RANGE TITLE

427	Senior Systems Technician Administrative Analyst I Animal Control Supervisor Human Resources Analyst I Police Civilian Supervisor Technology Solutions Analyst I Workers' Compensation Claims Examiner II
428	Assistant City Clerk
430	Associate Planner Financial Analyst II Senior Buyer Software Analyst I Systems Engineer I
431	Administrative Analyst II Events Coordinator Human Resources Analyst II Risk and Loss Control Coordinator Senior Workers' Compensation Claims Examiner Technology Solutions Analyst II
432	Compost Facility Supervisor Junior Engineer Neighborhood Preservation Supervisor Operations Supervisor Parks Project Coordinator Recreation Supervisor Senior Crime and Intelligence Analyst Wastewater Collection Systems Supervisor Water Quality Control Plant Maintenance Supervisor
433	Water Resources Analyst
434	Customer Services Supervisor Financial Analyst III Recycling Program Coordinator Senior Community Development Program Specialist Software Analyst II Systems Engineer II

RANGE TITLE

- 435 Assistant Transportation Planner
 Business Analyst
 Cultural Services Program Manager
 Emergency Medical Services Coordinator
 Facility Supervisor
 Management Analyst
 Organizational Development Coordinator
 Transit Analyst
 Weed and Seed Program Coordinator
- 436 Assistant Engineer
 Deputy Fire Marshal
 Electrical Supervisor
 Environmental and Water Quality Laboratory Supervisor
 Environmental Services Supervisor
 Housing Rehabilitation Supervisor
 Senior Planner
- 437 Senior Human Resources Analyst
- 438 Associate Land Surveyor
 Integrated Waste Specialist
 Property Agent
 Public Safety Business Services Analyst
 Senior Financial Analyst
 Senior Software Analyst
 Senior Systems Engineer
 Water Distribution and Production Supervisor
- 439 Administrative Services Officer
 Associate Transportation Planner
 Senior Business Analyst
- 440 Associate Engineer
 Environmental Regulatory Compliance Administrator
 Recreation Program Manager
 Water Quality Control Operations Supervisor

RANGE TITLE

- 441 Building Maintenance Manager
 Events Supervisor
 Housing and Urban Development Manager
 Infrastructure Financing Program Administrator
 Parks Operations Manager
 Parks Planning and Development Manager
 Streets Manager
 Urban Forestry Manager
 Wastewater Collections Manager

- 442 Budget and Financial Analysis Manager
 Construction Inspection Supervisor
 Customer Services Manager
 Principal Accountant
 Principal Software Analyst
 Principal Systems Engineer
 Purchasing Manager

- 443 Associate Civil/Traffic Engineer
 Senior Transportation Planner

- 444 Airport Manager
 Building Inspection Program Coordinator
 Building Inspection Supervisor
 Fleet Manager
 Principal Planner
 Solid Waste Program Manager
 Transit Manager

- 446 Assistant Chief Building Official
 Information Technology Manager
 Water Quality Control Plant Manager

- 447 Traffic Operations Engineer
 Water Systems Manager

RANGE TITLE

450 Business Development Manager
 Chief Building Official
 Planning Manager
 Senior Civil Engineer

452 City Engineer
 Traffic Engineer

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-78**

**RESOLUTION APPROVING A FIVE (5) YEAR LEASE AGREEMENT
BETWEEN THE CITY OF MODESTO AND METROPCS FOR A CELLULAR
TOWER SITE TO BE LOCATED ON A PORTION OF ROBERTSON ROAD
PARK WITH THREE (3), FIVE (5)-YEAR OPTIONS TO EXTEND THE LEASE,
AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO
EXECUTE THE LEASE AGREEMENT**

WHEREAS, MetroPCS desires to lease a cellular tower site located on a portion of Robertson Road Park for a period of five (5) years with three (3), five (5)-year options to extend the leases, for the installation of cellular telephone equipment, and

WHEREAS, the City of Modesto is willing to lease a portion of Robertson Road Park to MetroPCS for the said use for the sum of \$1,800 per month with an annual rental increase of 3% after the first anniversary of the commencement of the lease, and

WHEREAS, MetroPCS will install a stealth cellular monopole at Robertson Road Park and place cellular equipment on the ground in the vicinity of the pole, and

WHEREAS, MetroPCS agrees to adhere to the following:

1. Prior to issuance of a building permit, the applicant shall coordinate the design and installation work of the chain link fence with City of Modesto's Parks, Recreation and Neighborhoods Department for review and approval.
2. All landscaping fences and walls shall be maintained and the premises shall be kept free of weeds, trash and other debris.
3. The Capital Facilities Fees payable at the time of the issuance of a building permit for construction shall be based on the rate in effect at the time of issuance of the building permit.

4. The Applicant shall record a Notice of Conditions in the Stanislaus County Recorders Office on a form available in the Community and Economic Development Department.

5. The property owner and developer shall, at their expense defend, and hold harmless the City of Modesto, its agents, officers, and employees from and against any and all claims, actions, damages, losses or expenses of every type and description including, but not limited to payment of attorney's fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include but is not limited to any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Modesto shall promptly notify the developer of any claim, action, or proceeding shall cooperate full in the defense.

6. Construction activities shall follow guidelines listed in the California Storm Water Quality Association (CASQA) Best Management Practice Handbook for Construction to prevent any drag out of soil or sediments onto the public roadway or into the City storm drain system.

7. All improvement plans pursuant to construction shall be prepared, stamped and signed by a California licensed civil engineer and in accordance with the City of Modesto standards.

8. Prior to placement of any stationary lead-acid battery systems or on-site generators, a permit shall be obtained from the City of Modesto Regional Fire Department.

9. All outdoor lighting shall be shielded from adjacent residential properties as required by the City Engineer or designee and shall be at a height and of a type that is least intrusive to the adjacent neighborhood as determined by the City Engineer or designee and the City of Modesto's Parks, Recreation and Neighborhoods Department Director or designees.

10. No operations conducted on the premises shall cause an unreasonable amount of noise, odor, dust, mud, smoke, vibration or electrical interference detectable on the premises. All machinery or equipment shall be soundproofed as required by the Parks, Recreation and Neighborhoods Director. The Noise Ordinance prohibits the loud and raucous discharge into the air or the operation of any tools or equipment before 7:00 am or after 9:00 pm daily (except Saturday and Sunday and State and Federal holidays, when the prohibited time shall be before 9:00 am and after 9:00 pm.).

11. Prior to final inspection with the Building and Development Services Division, the applicant shall install signage approved by the Parks, Recreation and Neighborhoods Director or designee to be located on the entrance gate to the cellular communications facility indicating the cell tower provider and the hours permitted for operations and maintenance of the cellular communications for facility, which shall be limited to the hours of operation for the Robertson Road Park and in accordance with the City of Modesto Municipal Code Noise Ordinance Section 4-9.101.

12. Prior to the issuance of a building permit the applicant shall provide the Parks, Recreation and Neighborhoods Department Director or designee with the name, address and telephone number of applicant's contact person designated to receive notices, complaints, documents and other correspondence related to ownership, operation and

maintenance of the cell tower facilities. Applicant and its successors in interest shall notify the Parks, Recreation and Neighborhoods Department Director of any changes to the contact information within ten (10) working days after such a change is made.

NOW THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Five (5)- Year lease agreement between the City of Modesto and MetroPCS for a cellular site to be located on a portion of Robertson Road Park, with three (3), Five (5)-year options to extend the lease.

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

The foregoing resolution was introduced at a regular meeting of the council of the City of Modesto on the 6th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ACALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-79**

**RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE
JET-VAC DUMP SITE REHABILITATION PROJECT, ACCEPTING THE BID,
AND APPROVING A CONTRACT WITH ROLFE CONSTRUCTION OF
ATWATER, CALIFORNIA IN THE AMOUNT OF \$198,475, AND
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE
THE CONTRACT**

WHEREAS, plans and specifications have been prepared for the Jet-Vac Dump Site Rehabilitation Project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Jet-Vac Dump Site Rehabilitation Project were opened at 11:00 a.m. on January 24, 2012, and later tabulated by the Director of Utility Planning & Projects for the consideration of the Council, and

WHEREAS, the Director of Utility Planning & Projects has recommended that the bid of \$198,475 received from Rolfe Construction of Atwater, California, be accepted as the lowest responsible bid and the contract be awarded to Rolfe Construction,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Jet-Vac Dump Site Rehabilitation Project, accepts the bid of Rolfe Construction of Atwater, California, in the amount of \$198,475, and awards Rolfe Construction the contract for the Jet-Vac Dump Site Rehabilitation Project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-80**

RESOLUTION AUTHORIZING THE SOLE SOURCE PROCUREMENT FOR A SERVICE AGREEMENT OF THE AUTOMATED PARKING ATTENDANT SOFTWARE AND HOST COMPUTER COMPONENTS FOR THE PUBLIC WORKS DEPARTMENT, PARKING SERVICES DIVISION, TO AMANO MCGANN, INC., MINNEAPOLIS, MN, FOR A FIVE (5) YEAR AGREEMENT AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE AN AGREEMENT FOR AN ESTIMATED ANNUAL COST OF \$15,600

WHEREAS, the Parking Services Division manages the automated parking revenue collection systems for the City's three (3) parking garages. The current software and hardware provided by Amano McGann will not meet the Payment Card Industry (PCI) compliance requirements that are being implemented July 1, 2012, and

WHEREAS, the current Amano McGann system must be upgraded to comply with the new PCI requirements, and

WHEREAS, the service agreement with Amano McGann will provide the software, hardware and technical support to meet the PCI requirements for the next five (5) years, and

WHEREAS, sufficient funds are budgeted annually in the following appropriation unit: 4000-53250-53300, and

WHEREAS, Modesto Municipal Code (MMC) Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services, to be formally bid. However, one exception to the formal bid process, MMC Section 8-3.204(b), states, whereas the purchasing agencies' requirements can be met solely by a single article or process. The furnishing of a service agreement from Amano

McGann for the Department of Public Works, Parking Services Division, conforms to code, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the sole source procurement for a service agreement for the Automated Parking Attendant software and host computer components for the Public Works Department, Parking Services Division, to Amano McGann, Inc., Minneapolis, MN, for a five (5) year agreement.

BE IT FURTHER RESOLVED that the City Manager, or his designee, to execute an agreement for an estimated annual cost of \$15,600.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-81**

RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE WATER SYSTEM ENGINEER'S REPORT PROGRAM ENVIRONMENTAL IMPACT REPORT (PEIR) (SCH#2008092095): PROPOSED TANK AND WELL IN THE HICKMAN AREA

WHEREAS, on September 14, 2010, the City Council, by Resolution No. 2010-408 certified the Final Environmental Impact Report ("EIR") for the City of Modesto 2010 Water System Engineer's Report (SCH No. 2008092095, EA/PW2008-18), and

WHEREAS, the City of Modesto intends to construct a water storage tank, booster pump, and domestic water well, which will provide additional storage volume and pressure for the existing water system serving the Hickman community as identified in an appendix to the adopted 2010 Water System Engineer's Report, and

WHEREAS, the Utility Planning and Projects Department has prepared an Initial Study, Environmental Assessment No. EA/UP&P 2011-09 for proposed Tank and Well in the Hickman Area, and

WHEREAS, pursuant to Section 15162 (a) of the CEQA Guidelines, the City of Modesto finds that no new effects could occur or no new mitigation measures would be required, therefore the activity is within the scope of the project covered by the Program EIR and no new environmental document or Public Resources Code Section 21083 findings are required, and

WHEREAS, in accordance with CEQA guidelines on November 24, 2011, the City caused to be published a 30-day notice of the City's intent to make a finding that the proposed project conforms with the Program EIR, and

WHEREAS, said matter was considered by the City Council at a regular meeting on March 6, 2012, at 5:30 p.m., in the Tenth Street Place Chambers, 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it has reviewed and considered the Initial Study prepared for the proposed Project, a copy of which it **attached** hereto as **Exhibit "A"** and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

- A. The type of Project under consideration is described in the Program EIR (PEIR).
- B. All applicable policies, regulations, and mitigation measures identified in the PEIR have been applied to the project.
- C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the PEIR. It has been determined that the project is within the scope of the PEIR (SCH No. 2008092095), which analyzed the potential impacts of build out of the 2010 Water System Engineer's Report.
- D. Pursuant to Public Resources Code 21094 and Government Code Section 15162 and based on the Initial Study, the City of Modesto finds and determines:
 - 1) No substantial changes are proposed in the project which will require major revisions of the Program EIR due to new or substantially more severe significant environmental effects;
 - 2) No substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the Program EIR as a result of new or substantially more severe significant environmental effects; or
 - 3) No new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Program EIR was certified as complete shows any of the following:

- a. The project will have one or more significant effects not discussed in the Program EIR;
 - b. Significant effects previously examined will be substantially more severe than shown in the Program EIR;
 - c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the projects, but the project proponent declines to adopt the mitigation measure or alternative; or
 - d. Mitigation measures or alternatives which are considerably different from those analyzed in the Program EIR would substantially reduce one or more significant effects on the environment, but the project proponent declines to adopt the mitigation measure or alternative.
- E. The Initial Study, Environmental Assessment No. EA/UP&P 2011-09, provides the substantial evidence to support findings A through D, above.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Interim Director of Utility Planning and Projects is hereby authorized and directed to file a notice of determination within five (5) business days with the Stanislaus County Clerk, pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Exhibit "A"

**INITIAL STUDY
EA/UP&P 2011-09**

City of Modesto

**Finding of Conformance to
Water System Engineer's Report Program EIR**

**Initial Study Environmental Checklist
No. EA/UP&P 2011-09**

**For the proposed:
Hickman Tank and Well**

**Prepared by:
City of Modesto
Utility Planning and Projects Department**

October 2011

(Intentional Blank Page)

City of Modesto

Program EIR Initial Study Environmental Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Water System Engineer's Report Program Environmental Impact Report ("Program EIR" or "PEIR"). This Initial Study Environmental Checklist ("Initial Study") is used in determining whether the Hickman Tank and Well is "within the scope" of the project analyzed in the Water System Engineer's Report Program EIR (SCH# 2008092095) (Public Resources Code Sections 21003, 21093, and 21094 and Government Code Sections 15152 and 15168). When the Initial Study supports this conclusion, the City will issue a finding of conformance.

A subsequent project is "within the scope" of the Program EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Program EIR; and
2. no new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Program EIR. [Public Resources Code Section 21094]

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (CEQA Guidelines Section 15384)

II. PROJECT DESCRIPTION

- A. Title: **Hickman Tank and Well**
- B. Address or Location: **APN 019-042-064, southeast of the intersection of Hickman Road and Kim Street**
- C. Applicant: **City of Modesto, Utility Planning and Projects Department
1010 10th Street, 4th Floor
Modesto, CA 95354**
- D. City Contact Person: **Rob Christensen**
- Project Manager: Rob Christensen
Department: Utility Planning and Projects
Phone Number: 209.571-5869
E-mail address: rchristensen@modestogov.com
- E. Current General Plan Designation(s): **LDR, Low-Density Residential (County)**
- F. Current Zoning Classification(s): **R-1, Single-Family Residential District (County)**

G. Existing Conditions: The essentially flat 1.37-acre site is vacant at this time.

H. Surrounding Land Uses:

- North: single-family residences
- South: single-family residences
- East: single-family residences
- West: commercial agriculture

I. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Program EIR (Attach additional maps/support materials as needed for complete record):

The City of Modesto intends to construct a water storage tank, booster pump, and domestic water well, which will provide additional storage volume and pressure for the existing water system serving the Hickman community. Currently, the existing water system does not meet certain design pressure and volume storage requirements, and the proposed tank and well will help the system meet these requirements and is sized to meet the needs of Hickman when it is completed as planned by Stanislaus County, but not to allow additional development beyond that planned. Hickman will continue to be an independent water service area, described as Alternative 1 in the Water System Engineer's Report Program EIR.

The total project facilities will consist of an above ground water storage tank, water well and motor, a booster pump station, and other appurtenances including a stand-by generator and motor control center. Site improvements will include a small parking and access area, fencing or walls, a retention basin, low-level night lighting for security and maintenance needs, and low-maintenance landscaping. Landscaping will include trees to help screen the tank from adjacent properties and from Hickman Road. As proposed, the water tank would store a minimum of 400,000 gallons of water. The size of the tank will be a maximum 25 feet above grade, and between 70 feet and 90 feet in diameter. The specific dimensions of the tank will be determined during final design, and will be based on site layout constraints, aesthetic qualities, and cost. The footprint area of the tank will vary with the diameter, and will be between 3,800 and 6,400 square feet.

The site will be enclosed within a security wall or fence, which will be constructed either of an 8- to 12-foot-high masonry block wall, or wrought iron fence topped with no-climb points. The specific type of wall or fence will be determined during the final design, and will be based on site layout constraints, aesthetic qualities, and cost. Vehicular access and parking areas within the site will be paved either with Portland cement concrete or asphaltic concrete. Other portions of the site will be covered either with low-maintenance landscaping or gravel.

Additionally, a transmission main from the tank will be constructed to connect to the distribution system in Hickman Road. Ultimately, about 9,400 feet of distribution line will be laid throughout Hickman, most likely in phases.

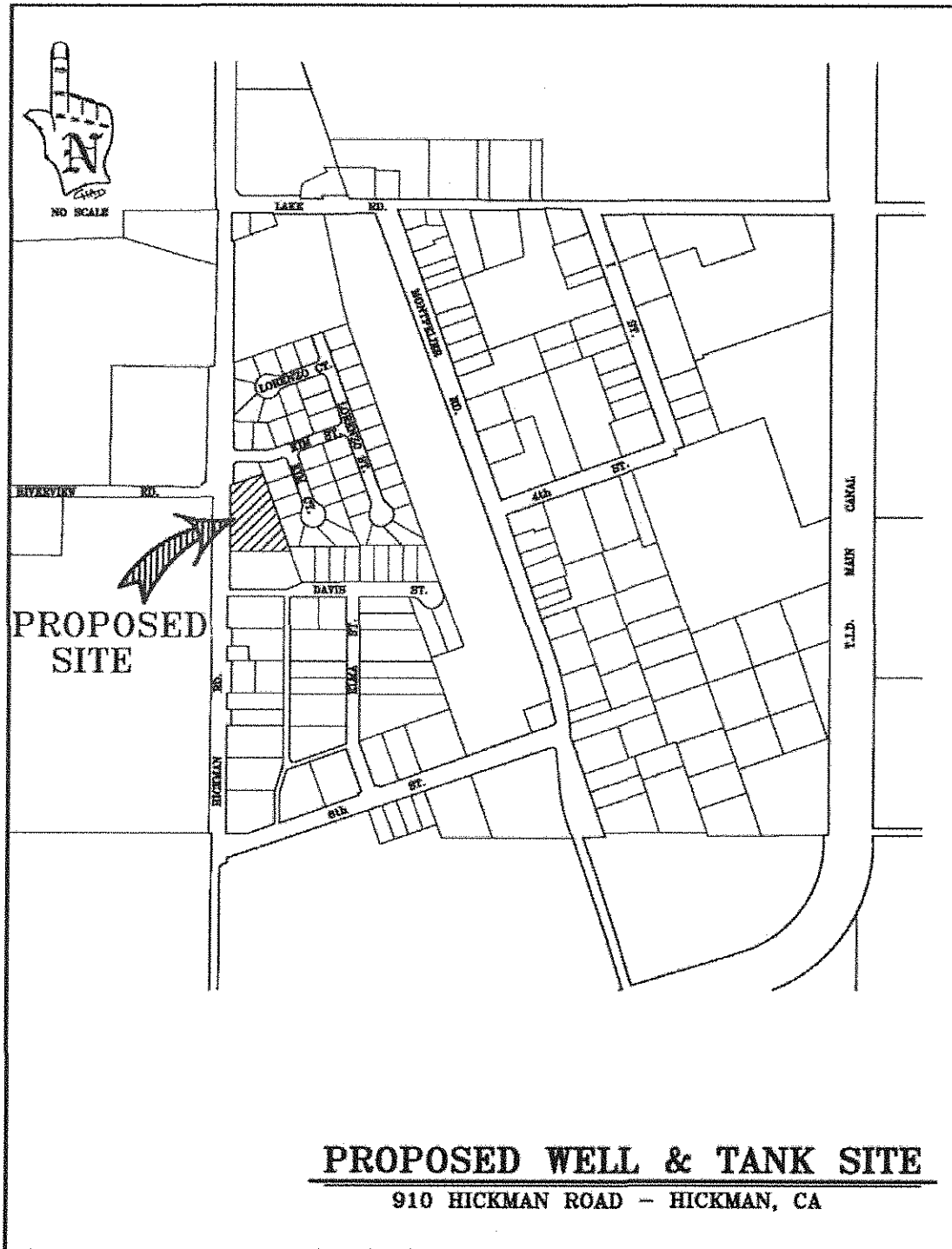
A water well will be drilled to below the Corcoran Clay layer, which lies about 150 to 250 feet below the surface. It is necessary to drill to that depth because the clay layer protects groundwater from pollutants migrating downward from the surface. Municipal wells are held to higher water quality standards than are private wells.

Figure 1 shows the project site and vicinity.

Figure 2 shows the conceptual site plan.

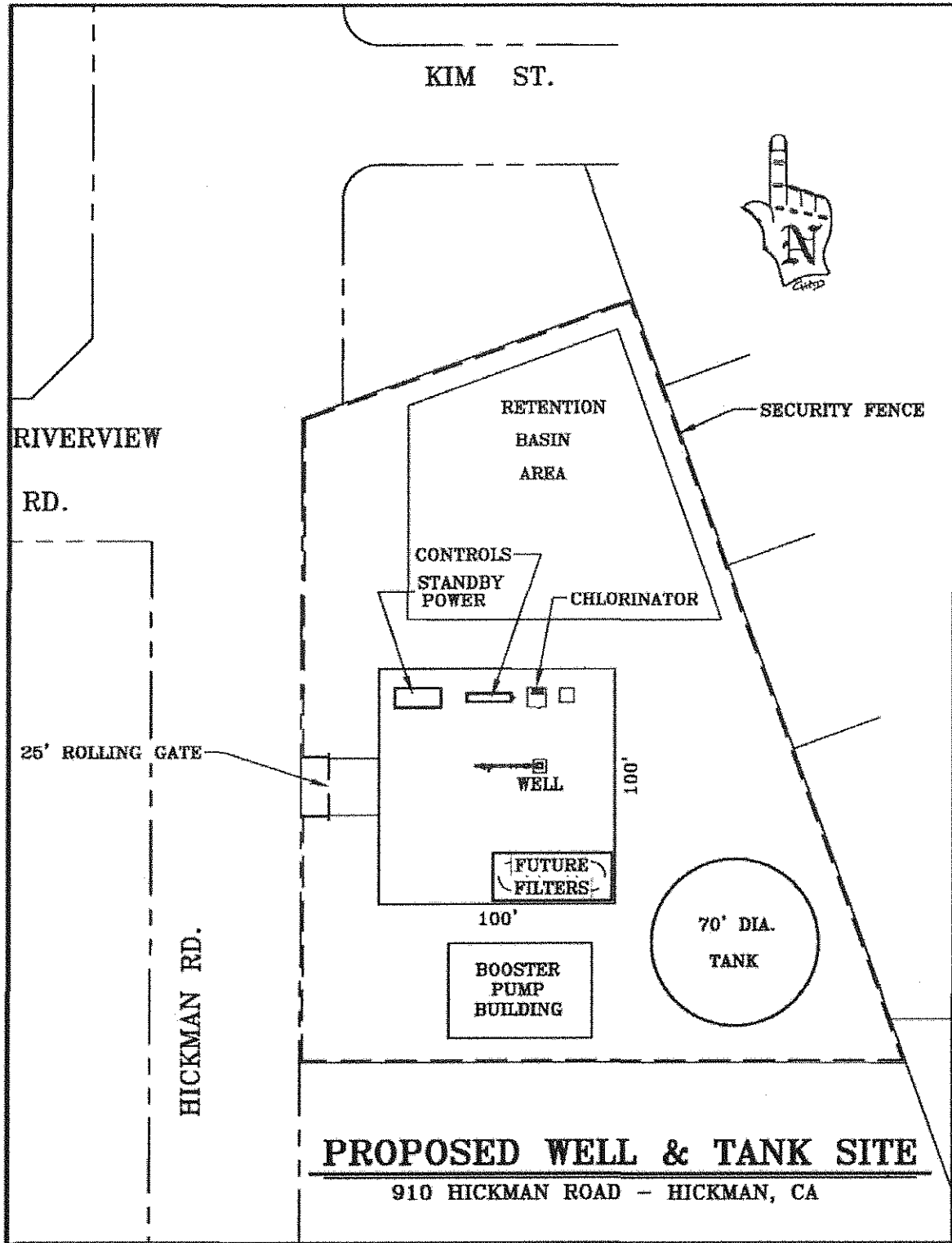
Figure 3 shows the Hickman community boundary

Figure 1 Project Site and Vicinity



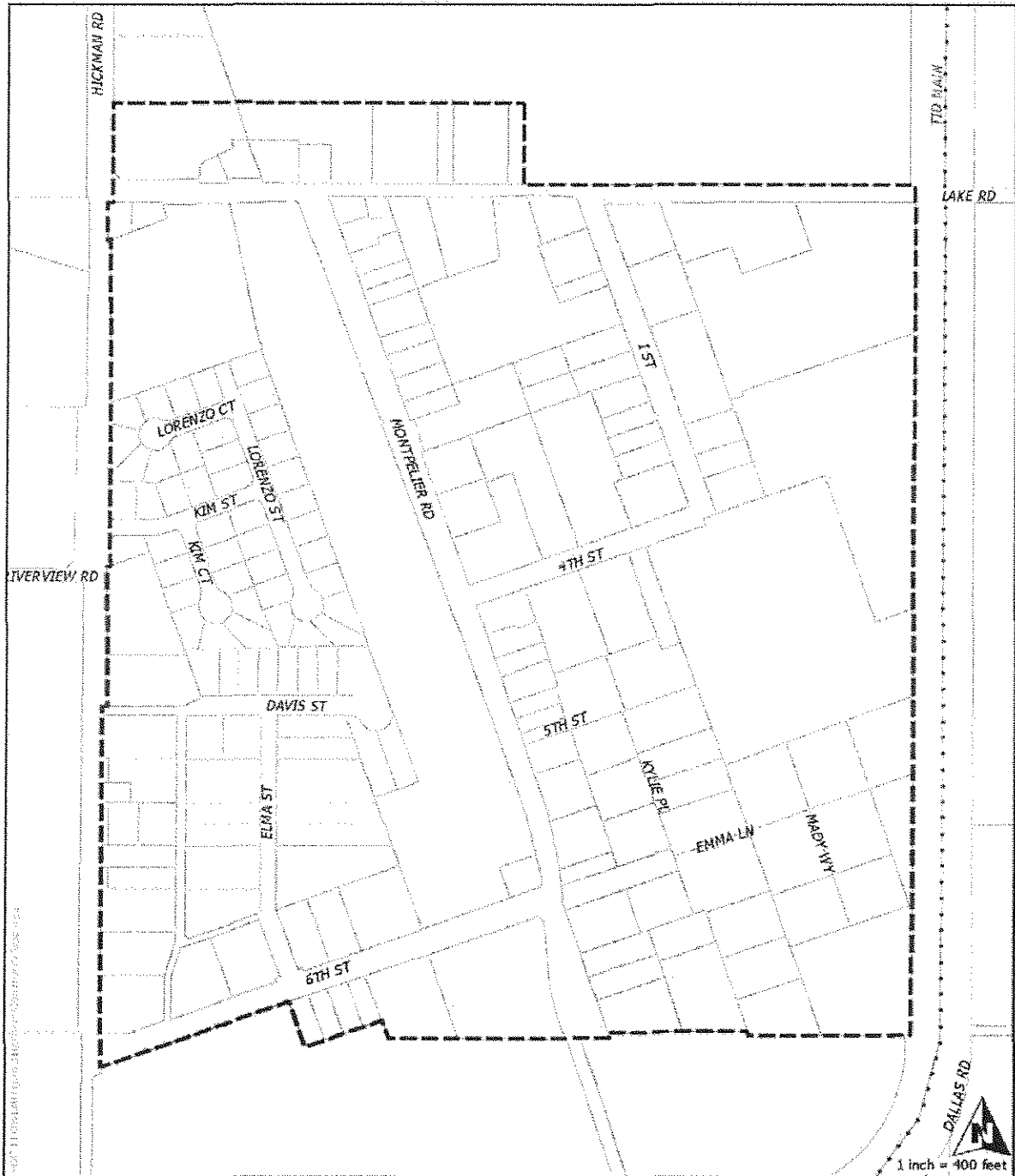
Project Site and Vicinity

Figure 2 Conceptual Site Plan



Conceptual Site Plan

Figure 3 Hickman Community



Hickman Community Map

J. Other Public Agencies Whose Approval is Required:

Every municipal water well must receive the following approvals:

Stanislaus County Health Department—permit to drill the well

Regional Water Quality Control Board—receives and approves County permit

State Department of Public Health--issues a permit to use the water after all water testing and distribution procedures have been completed

III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. X **Within the Scope** - The City of Modesto finds that pursuant to Government Code Section 15162, no new effects could occur or no new mitigation measures would be required, therefore the activity is within the scope of the project covered by the Program EIR and no new environmental document or Public Resources Code Section 21083 findings are required. All of the following statements are found to be true:

- A. The proposed project is of a type described in Chapter II of the Program EIR.
- B. All applicable policies, regulations, and mitigation measures identified in the Program EIR have been applied to the project or otherwise made conditions of approval of the project.
- C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the Program EIR and it has been determined that the project was described as being within the scope of the Program EIR.
- D. Pursuant to Public Resources Code 21094 and Government Code Section 15162 and based on the Initial Study, the City of Modesto finds and determines:
 - 1) No substantial changes are proposed in the project which will require major revisions of the Program EIR due to new or substantially more severe significant environmental effects;
 - 2) No substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the Program EIR as a result of new or substantially more severe significant environmental effects; or
 - 3) No new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Program EIR was certified as complete shows any of the following:
 - a. The project will have one or more significant effects not discussed in the Program EIR;
 - b. Significant effects previously examined will be substantially more severe than shown in the Program EIR;
 - c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the projects, but the project proponent declines to adopt the mitigation measure or alternative; or
 - d. Mitigation measures or alternatives which are considerably different from those analyzed in the Program EIR would substantially reduce one or more significant effects on the environment, but the project proponent declines to adopt the mitigation measure or alternative.

2. **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Program EIR. A mitigated negative declaration will be prepared for the project. The following statements are all found to be true:

- A. The proposed project is of a type described in Chapter II of the Program EIR.
- B. All applicable policies, regulations, and mitigation measures identified in the Program EIR have been applied to the project or otherwise made conditions of approval of the project.
- C. No subsequent Mitigated Negative Declaration or EIR shall be prepared unless the lead agency determines one or more of the following, pursuant to Government Code Section 15162(a):
 - 1) Substantial changes are proposed in the project which will require major revisions of the Program EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.
 - 2) Substantial changes have or will occur with respect to the circumstances since the Program EIR was adopted which will require major revisions in the Program EIR due to new significant environmental effects or a substantial increase in the severity of previously identified significant environmental effects.
 - 3) New information of substantial importance which was not known and could not have been known with the exercise of reasonable diligence at the time the Program EIR was certified as complete (a) shows new significant environmental effects or (b) shows that environmental effects previously examined will be substantially more severe or (c) shows that mitigation measures or alternatives found not to be feasible are indeed feasible or (d) shows that mitigation measures considerably different than those in the Program EIR, but not adopted, would substantially reduce project impacts.
- D. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Program EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

3. **Focused EIR Required** On the basis of the above determinations, the project is not within the scope of the Program EIR. A Focused EIR will be prepared for the project. All of the following statements are found to be true:

- A. The proposed project is of a type described in Chapter II of the Program EIR.
- B. All applicable policies, regulations, and mitigation measures identified in the Program EIR have been applied to the project or otherwise made conditions of approval of the project.
- C. No subsequent Mitigated Negative Declaration or EIR shall be prepared unless the lead agency determines one or more of the following, pursuant to Government Code Section 15162(a):
 - 1) Substantial changes are proposed in the project which will require major revisions of the Program EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

- 2) Substantial changes have or will occur with respect to the circumstances since the Program EIR was adopted which will require major revisions in the Program EIR due to new significant environmental effects or a substantial increase in the severity of previously identified significant environmental effects.
 - 3) New information of substantial importance which was not known and could not have been known with the exercise of reasonable diligence at the time the Program EIR was certified as complete (a) shows new significant environmental effects or (b) shows that environmental effects previously examined will be substantially more severe or (c) shows that mitigation measures or alternatives found not to be feasible are indeed feasible or (d) shows that mitigation measures considerably different than those in the Program EIR, but not adopted, would substantially reduce project impacts.
- D. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Program EIR. New or additional mitigation measures or alternatives are required as a result.

Robert J. Christensen

Project Manager

Sr. Civil Engineer

Title

12/11/11

Date

4. Within the Scope Analysis of this Document:

The Program EIR allows projects to be found within the scope of the PEIR if certain criteria are met. If the following statements are found to be true for all 15 impact categories identified during the Program EIR scoping process, then the proposed project is addressed by the PEIR analysis and is within the scope of the Program EIR. Any "No" response must be discussed.

	YES	NO
(1) The lead agency for subsequent projects is the City of Modesto or a responsible agency identified in the Program EIR.	X	<input type="checkbox"/>
(2) City policies which reduce, avoid, or mitigate environmental effects will continue to be in effect and, therefore, would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template. Project impacts would be mitigated to a less-than-significant level using Program EIR mitigations only.	X	<input type="checkbox"/>
(3) Federal, State, regional, and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Program EIR).	X	<input type="checkbox"/>
(4) No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	X	<input type="checkbox"/>
(5) The development will occur within the boundaries of the City's contiguous and outlying water service areas, as established in the Water System Engineer's Report.	X	<input type="checkbox"/>
(6) Development within the project will comply with all appropriate mitigation measures contained and enumerated in the 2010 Water System Engineer's Report Program EIR.	X	<input type="checkbox"/>

Discussion:

All responses are "yes," therefore, there is no need to discuss the responses above.

IV. ENVIRONMENTAL ANALYSIS

In accordance with Section 15168 of the Government Code, this Initial Study discloses whether the proposed project described in Section II above may cause any project-specific significant effect on the environment that was not examined in the Final Program EIR for the Water System Engineer's Report and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is "within the scope" of the Program EIR.

Pursuant to Government Code Section 15168, no new environmental document is necessary for projects that are determined to be within the scope of the Program EIR. Adoption of the findings specified in Section III.1, above after completion of the Initial Study fulfills the City's obligation if the project is within the scope of the Program EIR.

The Water System Engineer's Report identifies a Capital Improvement Program that will deliver safe and reliable water and effectively meet water demands under existing and future developed conditions. The Program EIR assumes that the City's Sphere of Influence will be completely developed by 2038. Outlying service areas: Del Rio is expected to grow to the north, east, and southwest; Grayson is almost completely developed; Hickman is almost completely developed; Turlock service area is completely developed; Waterford service area is expected to be completely developed in five years.

The environmental impact analysis in the Program EIR for the Water System Engineer's Report is organized in fifteen subject areas. The following analysis is based on the impact analyses contained in Chapter 3 of the Program EIR. For ease of reference, the sections are numbered in the same order as the analyses in Chapter 3.

1. AESTHETICS

a. Significant Effects Identified in the Program EIR

The Program EIR discloses the following significant aesthetic impacts and their associated mitigation measures. Refer to pages 3.1-9 to 3.1-11 in the PEIR for details.

Direct Impacts

Impact AES-3: Temporary degradation of visual character or quality during construction activities (Less than Significant with Mitigation)

Mitigation Measure AES-1: Locate staging areas away from public areas

Mitigation Measure AES-2: Screen staging and construction areas

Impact AES-4: Permanent degradation of visual character or quality from proposed facilities (Less than Significant with Mitigation)

Mitigation Measure AES-3: Design fencing, storage tanks, and booster pump station and groundwater well buildings to be consistent with the surrounding setting

Impact AES-5: Permanent degradation of visual character or quality from proposed new corporation yard (Significant and Unavoidable)

No mitigation measures identified.

Cumulative Impacts

No significant cumulative impacts were disclosed in the PEIR.

b. Program EIR and/or New Mitigation Measures Applied to the Project

Aesthetic mitigation measures pertinent to this project are found on PEIR pages 3.1-9 to 3.1-11 and above. All mitigation measures appropriate to the project, including any new measures, will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigations to be applied to this project are **AES-2 and AES-3**. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section 3.1 of the Program EIR provides an analysis of aesthetic impacts of implementation of the Water System Engineer's Report. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Program EIR.

Significance Criteria: A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
1. AESTHETICS				
1) Would the project have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) Would the project substantially damage scenic resources, including trees, rock outcroppings, and historic buildings along a scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
3) Would the project substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	X	<input type="checkbox"/>
4) Would the project create a new source of substantial light or glare that would adversely affect daytime or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
5) Would the project substantially degrade views from riverside areas and parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
6) Would the project substantially degrade views of riverside areas from public roadways and nearby properties?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

- (1-2) There are no scenic vistas from or of the project site, which lies near an established residential area. The project site does not lie along or near a scenic highway.
- (3) Development of this site with a well, tank, wall or fence, and landscaping, is consistent with the type of development described in the Program EIR and is expected to occur at various locations in the City's water service area. Mitigation Measures AES-2 and AES-3 would be implemented to reduce visual impacts. Construction activities would be screened to the extent feasible from Hickman Road. Because the site is relatively small and lies in a built area, it will not be possible to completely screen construction from view. The structures would be designed as shown conceptually on Figure 2 and screened with trees, as shown conceptually on Figure 3.
- (4) Night lighting would be used on site for security and to illuminate the site should maintenance be required after dark. When the gate opens or a motion sensor is triggered, additional lighting will be activated. All lighting would be directed on site and would be consistent with existing lighting levels in the project vicinity, as disclosed in the Program EIR. Lighting fixtures will be shielded from neighboring properties.
- (5-6) The project site is not visible from the Tuolumne River, nor will it be visible from any parks along the Tuolumne River. Neither the river nor any parks along the river are visible from the site.

2. AGRICULTURAL RESOURCES

a. Significant Effects Identified in the Program EIR

The Program EIR discloses the following significant impacts on agricultural resources and their associated mitigation measures. Refer to pages 3.2-5 to 3.2-8 and 4-9 for details.

Direct Impacts

Impact AG-1: Direct conversion of Important Farmland (Significant and Unavoidable)

Mitigation Measure AG-1: Compensate for a loss of farmland

Impact AG-3: Indirect conversion of farmland to non-agricultural uses (Significant and Unavoidable)

No mitigation measures identified.

Cumulative Impacts

Impact CUM-1: Conversion of agriculture to nonagricultural uses (Significant and Unavoidable)

b. Program EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural resource mitigation measures pertinent to the proposed project are found on pages 3.2-5 to 3.2-8 of the Program EIR. All mitigation measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project is AG-1. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section 3.2 of the Program EIR discloses the impacts resulting from the implementation of the Water System Engineer's Report. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Program EIR

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
2. EFFECTS ON AGRICULTURAL RESOURCES				
1) The proposed project would result in the conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (loss of farmland).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) The proposed project conflicts with existing zoning for agricultural use.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
3) The proposed project conflicts with a Williamson Act contract.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
4) The proposed project would indirectly result in the conversion of Farmland to a nonagricultural use.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

- (1-3) The project site is zoned for single-family residential development and is not in cultivation. Furthermore, there is no Williamson Act contract on the property. No agricultural mitigation is required.
- (4) The proposed well and tank are sized to serve the existing Hickman community and future development in the Hickman community that could occur without a general plan amendment or zone change, as shown in the Draft 2009 Stanislaus County Housing Element (pers. Comm. Bill Carlson). Therefore, no indirect conversion of agricultural land is expected and no mitigation is required.

3. AIR QUALITY

a. Significant Effects Identified in the Program EIR

The Program EIR discloses the following significant impacts on air quality and their associated mitigation measures. Refer to pages 3.3-15 to 3.3-21 and 4-9 to 4-11 in the PEIR for details.

Direct Impacts

Impact AIR-1: Conflicts with or obstruction of implementation of the applicable air quality plan (Significant and Unavoidable)

No mitigation measures identified.

Impact AIR-2: Violations of any air quality standard or substantial contribution to existing or projected air quality violation during construction of proposed improvements (Less than Significant with Mitigation)

Mitigation Measure AIR-1: Implement SJVAPCD Regulation VIII control measures for construction emissions of PM₁₀.

Mitigation Measure AIR-2: Implement enhanced control measures for construction emissions of PM₁₀.

Impact AIR-3: Violations of any air quality standard or substantial contribution to an existing or projected air quality violation during operation of proposed improvements (Less than Significant with Mitigation)

Mitigation Measure AIR-3: Implement control measures for operation emissions of PM₁₀ and for ozone precursors (ROG and NO_x)

Impact AIR-4: Result in a Cumulatively Considerable Net Increase of Any Criteria Pollutant for which the Program Region is in Nonattainment under an Applicable Federal or State Ambient Air Quality Standard (Including Releasing Emissions that Exceed Quantitative Thresholds for Ozone Precursors) (Significant and Unavoidable)

No mitigation measures identified.

Cumulative Impacts

Impact CUM-2: Construction-related emissions of PM₁₀ and ozone precursors (Significant and Unavoidable)

Impact CUM-3: Emissions of greenhouse gases (Significant and Unavoidable)

Mitigation Measure CUM-1: Greenhouse gas calculations and emissions reduction measures

Impact CUM-4: Result in a cumulatively considerable net increase of any criteria pollutant for which the program region is in nonattainment under an applicable federal or State Ambient Air Quality Standard (including releasing emissions that exceed quantitative thresholds for ozone precursors) (Significant and Unavoidable)

b. Master EIR and/or New Mitigation Measures Applied to the Project

Air quality mitigation measure(s) pertinent to the proposed project are found on pages 3.3-15 to 3.3-21 and 4-9 to 4-11 of the Program EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes AIR-1, AIR-2, AIR-3, and CUM-1 from the Program EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section 3.3 of the Program EIR is the analysis of air quality impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not analyzed in the Program EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3. DEGRADATION OF AIR QUALITY				
1) The project will conflict with or obstruct implementation of the applicable air quality plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) The project will violate any air quality standard or contribute substantially to an existing or projected air quality violation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
3) The project will result in a cumulatively considerable net increase of any criteria pollutant for which the program region is in non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
4) The project will expose sensitive receptors to substantial pollutant concentrations.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
5) The project will create objectionable odors affecting a substantial number of people.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
6) The project will fail to comply with the SJVAPCD's mitigation measures for particulate matter 10 microns or less in diameter (PM ₁₀) during construction. The SJVAPCD has determined that compliance with its Regulation VIII and the implementation of other control measures presented in its <i>Guide for Assessing and Mitigating Air Quality Impacts</i> will constitute sufficient mitigation to reduce PM ₁₀ impacts to a level considered less than significant.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
7) The project would cause emissions of air pollutants that would cause or substantially contribute to either localized or regional violations of the ambient air quality standards. Program emissions of more than 10 tons per year of oxides of nitrogen (NOx) or reactive organic gases (ROG) would substantially contribute to existing violations of ozone standards. Ten tons per year equals 54.8 pounds per day.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
8) The project would cause localized carbon monoxide (CO) concentrations that exceed the California ambient air quality standards (CAAQS) of 9 parts per million (ppm) averaged over 8 hours or 20 ppm averaged over 1 hour.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
9) The project would cause odor problems that result in more than one confirmed complaint per year, averaged over a 3-year period, or three unconfirmed complaints per year averaged over a 3-year period.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
10) The project would expose sensitive receptors or the general public to substantial levels of TACs. The SJVAPCD's threshold of significance is whether the program would exceed: (1) an increased cancer risk for the person with maximum exposure potential by 10 in 1 million, or (2) ground level concentrations of noncarcinogenic TACs resulting in a non-cancer hazard index greater than 1 for the person with maximum exposure.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

- (1-4) Construction emissions, as disclosed in the Program EIR, are expected to be significant. However, the proposed well and tank are consistent with the type of project described in the Program EIR and the resulting air quality impacts are expected to be similar to impacts described in the Program EIR. No additional impacts are expected, particularly with implementation of mitigation measures AIR-1 and AIR-2.
- (5) No objectionable odors are expected to result from construction or operation of the well and tank and associated infrastructure.
- (6) Mitigation measures to control PM₁₀ emissions during construction (AIR-1, AIR-2, and AIR-3) would reduce construction impacts to a less-than-significant level, as disclosed in the Program EIR.
- (7-10) The proposed project is entirely consistent with the type of project described and analyzed in the Program EIR. Emissions of nitrogen oxides, reactive organic gases, carbon monoxide, toxic air contaminants, and odors, which would occur almost exclusively during construction, would thus be consistent with emissions analyzed and quantified in the Program EIR. To

reduce operation emissions, mitigation measure AIR-3 will be applied. No additional impact would occur, as compared to impacts disclosed in the Program EIR.

Greenhouse gases do not comfortably fall under any of these impact categories, as emissions of CO₂, CH₄, and N₂O are not criteria pollutants, although these emissions do need to be estimated pursuant to Assembly Bill 32 and Senate Bill 375. Water transmission is one of the most difficult activities in which to reduce energy use. Using electricity to power equipment, instead of generators results in small reductions in greenhouse gas emissions because the Modesto Irrigation District produces electricity largely through combustion of fossil fuels (diesel fuel and natural gas), similar to those used in generators. Solar panels and other alternative sources of electricity are a potential future energy source, but are not efficient enough to warrant the additional expense to the City, particularly given the need for on-site energy storage. Emissions offsets could be purchased but have a number of drawbacks, such as adding significant expense to the project and the uncertainty surrounding what is being purchased. The greatest potential for reduction in energy use may actually occur through water conservation measures: if less water is being treated and transported, less energy is used for treatment and transportation. The amount of energy reduced is related to the reduction in water use.

As detailed in Attachment A, two new mitigation measures will be incorporated into this project.

GHG Measure 1: Limit idling time of off-road construction equipment to three minutes.

GHG Measure 2: Limit idling time of on-road construction vehicles to three minutes.

Each of these measures is expected to reduce source emissions up to 1%. These measures will be included as requirements in the construction service contract for the project.

4. BIOLOGICAL RESOURCES

a. Significant Effects Identified in the Program EIR

The Program EIR discloses the following significant and unavoidable impacts on biological resources and their associated mitigation measures. Refer to pages 3.4-24 to 3.4-44 and 4-11 and 4-12 for details.

Direct Impacts

Impact BIO-1: Program-related impacts on plants (less than significant with mitigation)

Mitigation Measure BIO-1: Perform focused surveys for Special-Status plant species

Mitigation Measure BIO-2: Avoid and minimize impacts on Special-Status plant species

Mitigation Measure BIO-3: Compensate for unavoidable impacts on Special-Status plant species

Impact BIO-2: Impacts on the Valley elderberry longhorn beetle (less than significant with mitigation)

Mitigation Measure BIO-4: Conduct preconstruction surveys for the Valley elderberry longhorn beetle and its elderberry host species plant

Mitigation Measure BIO-5: Agency coordination and consultation for impacts on the Valley elderberry longhorn beetle

Mitigation Measure BIO-6: Avoid Valley elderberry longhorn beetle habitat

Mitigation Measure BIO-7: Transplant elderberry plants

Impact BIO-3: Construction-related loss of occupied burrowing owl habitat (less than significant with mitigation)

Mitigation Measure BIO-8: Avoid and protect burrowing owls

Mitigation Measure BIO-9: Compensate for loss of burrowing owl habitat

Impact BIO-4: Construction-related loss of Swainson's hawk foraging habitat (less than significant with mitigation)

Mitigation Measure BIO-10: compensate for loss of Swainson's hawk foraging habitat

Impact BIO-5: Construction-related impacts on nesting Swainson's hawks (less than significant with mitigation)

Mitigation Measure BIO-11: Conduct preconstruction surveys for Swainson's hawk nests

Impact BIO-6: Construction disturbance of bald eagle, tricolored blackbird, and other migratory birds, including raptors (less than significant with mitigation)

Mitigation Measure BIO-12: Conduct preconstruction surveys for nesting birds

Mitigation Measure BIO-13: Avoid and minimize impacts on nesting raptors and other migratory birds

Impact BIO-7: Construction impacts on vernal pool branchiopods (less than significant with mitigation)

Mitigation Measure BIO-14: Avoid habitat for vernal pool branchiopods

Mitigation Measure BIO-15: Conduct protocol-level surveys for vernal pool branchiopods

Mitigation Measure BIO-16: Compensate for impacts on vernal pool branchiopods

Impact BIO-8: Construction impacts on California tiger salamander (less than significant with mitigation)

Mitigation Measure BIO-17: Avoid habitat for California tiger salamander

Mitigation Measure BIO-18: Conduct protocol-level surveys for California tiger salamander

Mitigation Measure BIO-19: Compensate for impacts on California tiger salamander

Impact BIO-9: Construction-related impacts on western pond turtles (less than significant with mitigation)

Mitigation Measure BIO-20: Conduct preconstruction surveys for and minimize impacts on western pond turtles

Impact BIO-12: Construction-related impacts on riparian brush rabbit and riparian wood rat (less than significant with mitigation)

Mitigation Measure BIO-21: Avoid habitat for riparian wood rat and riparian brush rabbit

Mitigation Measure BIO-22: Conduct surveys for riparian wood rat and riparian brush rabbit

Mitigation Measure BIO-23: Consult with the USFWS to conduct monitoring for riparian wood rat and riparian brush rabbit / environmental training for construction crews

Impact BIO-13: Construction-related impacts on fish (less than significant with mitigation)

Mitigation Measures HYD-1 and HYD-2 relating to the City's NPDES permit would reduce impacts to a less-than-significant level.

Impact BIO-14: Loss of shaded river aquatic cover and riparian habitat (less than significant with mitigation)

Mitigation Measure BIO-24: Avoid or minimize disturbance to waters, wetlands, or riparian areas

Mitigation Measure BIO-25: Mitigate for permanent disturbance to sensitive habitats
Mitigation Measure BIO-26: Confine project design and construction to minimize impacts on sensitive habitats
Mitigation Measure BIO-27: Preserve habitat values

Impact BIO-15: Impacts on sensitive natural communities (less than significant with mitigation)

Mitigation Measure BIO-28: Preserve native trees
Mitigation Measure BIO-29: Protect riparian corridors
Mitigation Measure BIO-30: Use native species for landscaping

Impact BIO-16: Effects on Waters of the United States and Waters of the State (less than significant with mitigation)

Mitigation Measures BIO-24 through BIO-26 and BIO-28 would reduce this impact to a less-than-significant level.

Impact BIO-17: Effects on wildlife corridors and native wildlife nurseries (less than significant with mitigation)

Mitigation Measures BIO-1 through BIO-30 would reduce this impact to a less-than-significant level.

Impact BIO-18: Inconsistency with local policies or ordinances protecting biological resources (less than significant with mitigation)

Mitigation Measures BIO-1 through BIO-27 would reduce this impact to a less-than-significant level.

Cumulative Impacts

Impact CUM-5: Effects on biological resources (less than significant with mitigation)

Mitigation Measures BIO-1 through BIO-30 would reduce this impact to a less-than-significant level.

b. Program EIR and/or New Mitigation Measures Applied to the Project

Biological resource mitigation measures pertinent to the proposed project are found on pages 3.4-24 through 3.4-44 V-7-24 of the Program EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes BIO-6, BIO-11, BIO-12, BIO-13, BIO-14, BIO-17, BIO-21, BIO-24, and HYD-1 from the Program EIR; of these, BIO-11, BIO-12, BIO-13, and HYD-1 require the city take specific actions prior to construction, while the remaining mitigation measures have been implemented by selecting a less-sensitive project site than was evaluated in the Program EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section 3.4 of the Program EIR discloses impacts on biological resources resulting from implementation of the Water System Engineer's Report. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Program EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless the project would:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
4. BIOLOGICAL RESOURCES				
1) Have a substantial adverse effect, either directly or through habitat modification, on any species identified as a candidate, sensitive, or special-status in local or regional plans, policies, or regulations, or by the DFG or USFWS.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the DFG or USFWS.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
3) Have a substantial adverse effect on federally-protected wetlands, as defined by CWA Section 404 (including marsh, vernal pool, and coastal wetlands) through direct removal, filling, hydrological interruption, or other means.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
4) Interfere substantially with the movement of any native resident or migratory fish or wildlife species, or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
5) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
6) Conflict with the provisions of an adopted Habitat Conservation Plan (HCP), Natural Communities Conservation Plan (NCCP), or other approved local, regional, or state Habitat Conservation Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

- (1) The Hickman tank and well are proposed on a vacant site bordered on three sides by single-family residential development. Grasslands containing various regulated species are known to occur in the Hickman area, so a preconstruction survey will be performed to determine whether regulated grassland plants (BIO-1, BIO-2, possibly BIO-3) exist on the site. Additionally, burrowing owls, nesting and migratory birds, and tiger salamanders may use the site. A preconstruction survey will be performed to determine whether mitigation measures BIO-8, BIO-9, BIO-12, BIO-13, and BIO-17 should be implemented.

The proposed site is approximately one mile south of the Tuolumne River and therefore, significant impacts on raptors (kites, hawks, and owls) are not expected to occur.

- (2-4) The project site is not occupied by riparian habitat or any known sensitive natural communities. Neither is the site occupied by vernal pools, marshes, or wetlands. The site is not known to be part of a wildlife corridor or a nursery site. The project site also lies outside the 100-year floodplain.
- (5-6) There are neither local policies protecting biological resources nor an HCP, NCCP, or other habitat conservation plan in effect in the project area.

5. CULTURAL RESOURCES

a. Significant Effects Identified in the Program EIR

The Program EIR discloses the following significant impacts on cultural resources and their associated mitigation measures. Refer to pages 3.5-12 to 3.5-17 and 4-12 in the PEIR for details.

Direct Impacts

Impact CR-2: Impacts on previously undiscovered archaeological resources (less than significant with mitigation)

Mitigation Measure CR-1: Implement plan to address discovery of unanticipated buried cultural resources

Impact CR-3: Impacts on previously undiscovered human remains (less than significant with mitigation)

Mitigation Measure CR-2: Implement plan to address the discovery of human remains

Impact CR-4: Impacts on paleontological resources (less than significant with mitigation)

Mitigation Measure CR-3: Minimize potential adverse impacts on paleontological resources

Cumulative Impacts

Impact CUM-6: Effects on Cultural Resources (Less than Significant with Mitigation)

Mitigation Measures CR-1 through CR-3 would reduce this impact to a less-than-significant level.

b. Program EIR and/or New Mitigation Measures Applied to the Project

Cultural resources mitigation measures pertinent to the project being analyzed in this Initial Study are found on page 3.5-12 to 3.5-17 of the Program EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes: CR-2, CR-2, and CR-3 from the Program EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section 3.5 of the PEIR discloses impacts on cultural resources resulting from implementation of the Water System Engineer’s Report. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Program EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5. CULTURAL RESOURCES				
1) The project would cause a substantial adverse change in the significance of a historic resource as defined in Section 15064.5 of the State CEQA Guidelines.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) The project would cause a substantial adverse change in the significance of a unique archaeological resource pursuant to Section 15064.5.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
3) The project would directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
4) The project would disturb any human remains, including those interred outside of formal cemeteries.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

(1-4) The project site has no known historic structures on it or within 100 feet and would therefore have no impact on a known historic resource. The area has been under cultivation for many years and is unlikely to yield any significant cultural or paleontological resources as a result of construction. However, should human remains, historic resources, or paleontological resources be encountered during construction, Mitigation Measures CR-1, CR-2, and CR-3 will be implemented to minimize impacts.

6. GEOLOGY, SOILS, AND MINERAL RESOURCES

a. Significant Effects Identified in the Program EIR

The Program EIR discloses the following significant impacts on cultural resources and their associated mitigation measures. Refer to pages 3.6-9 to 3.6-10 in the PEIR for details.

Direct Impacts

Impact GEO-1: Damage due to surface rupture, ground-shaking, liquefaction, expansive soils, or landsliding (less than significant with mitigation)

Mitigation Measure GEO-1: Conduct project-specific geotechnical investigation prior to construction

Impact GEO-2: Soil erosion or loss of topsoil due to program construction or operation (less than significant with mitigation)

Mitigation Measure HYD-1 would minimize the potential for erosion and sedimentation to a less-than-significant level.

Cumulative Impacts

No significant cumulative impact was disclosed in the Program EIR.

b. Program EIR and/or New Mitigation Measures Applied to the Project

Geology, soils, and mineral resource mitigation measures pertinent to the proposed project are found on pages 3.6-9 to 3.6-10 of the Program EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of the proposed project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes GEO-1 and HYD-1 from the Program EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section 3.6 of the PEIR discloses geology, soils, and mineral resource impacts resulting from implementation of the Water System Engineer's Report. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Program EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
6. GEOLOGY, SOILS, AND MINERAL RESOURCES				
1) The project would expose people, structures, or infrastructure to potential substantial adverse effects, including the risk of loss, damage, injury, or death involving surface rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area, or based on other substantial evidence of a known fault, strong seismic ground shaking, liquefaction and other related types of seismically induced ground failure, expansive soils, or landslides.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) The project would cause substantial soil erosion or loss of topsoil due to program operation or construction.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
3) The project would result in the loss of availability of a known mineral resource or mineral resource recovery site.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

- (1) To ensure that the project site is underlain with soils suitable for the proposed tank and well, Mitigation Measure GEO-1 will be implemented.
- (2) Mitigation Measure HYD-1 will be implemented to reduce erosion and sedimentation to a less-than-significant level.
- (3) As noted in the Program EIR, the proposed infrastructure would have no significant impact on the recoverability of any sand and gravel deposits in the vicinity of the project site.

7. HAZARDS AND HAZARDOUS MATERIALS

a. Significant Effects Identified in the Program EIR

The Program EIR discloses the following significant impacts related to hazards and hazardous materials and their associated mitigation measures. Refer to pages 3.7-8 to 3.7-11 in the PEIR for details.

Direct Impacts

Impact HAZ-4: Release of hazardous materials from an existing contaminated site (less than significant with mitigation)

Mitigation Measure HAZ-1: Prepare a risk assessment prior to construction activity

Mitigation Measure HAZ-2: Control contamination resulting from previously unidentified hazardous waste materials

Cumulative Impacts

No significant cumulative impact was identified in the Program EIR.

b. Program EIR and/or New Mitigation Measures Applied to the Project

Hazardous materials mitigation measures pertinent to the proposed project are found on pages 3.7-8 to 3.7-11 of the Program EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes HAZ-1 from the Program EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section 3.7 of the Program EIR discloses impacts on hazardous materials resulting from implementation of the Water System Engineer's Report. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Program EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless the project would:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
7. GENERATION OF HAZARDOUS MATERIALS				
1) Create a hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) Create a hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
3) Emit hazardous emissions or involve handling hazardous materials, substances, or waste within 0.25 mile of an existing or proposed school.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
4) Be located on a site that is listed as hazardous by the California Environmental Protection Agency, and, as a result, would create a significant hazard to the public or the environment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
5) Result in safety hazards near a public or public-use airport.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
6) Expose people or structures to risk of loss, injury, or death involving wildland fires.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
7) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

- (1-3) Most of the equipment to be installed runs on electricity, which neither creates nor uses hazardous materials on the project site. Backup generators use diesel fuel, which would be transported to the site, stored on site, and disposed of from time to time. On-site containment is required and would be implemented as part of project design. This impact is consistent with the impact disclosed in the Program EIR.
- (4) The project site is not known to the State of California to be contaminated with hazardous materials. A Phase I assessment will be prepared for the site, as required by Mitigation Measure HAZ-1. All of the recommended mitigation measures will be implemented in order to reduce, avoid, or eliminate any potentially significant impacts to a less than significant level.
- (5-6) There are no public or public-use airports near the project site. Additionally, the site is vacant. Therefore, there is no anticipated impact from wildfires.
- (7) In order to install distribution pipelines, there may be temporary lane closures in the vicinity of the site. Implementation of a traffic management plan would be included as part of the City's Standard Construction Procedures.

8. HYDROLOGY AND WATER QUALITY

a. Significant Effects Identified in the Program EIR

The Program EIR discloses the following significant impacts related to hydrology and water quality and their associated mitigation measures. Refer to pages 3.8-17 to 3.8-22 in the Program EIR for details.

Direct Impacts

Impact HYD-1: Water quality impacts from program construction (less than significant with mitigation)

Mitigation Measure HYD-1: Prepare and implement a drilling-contingency (or "frac-out") plan during microtunneling

Impact HYD-5: Flood hazards (less than significant with mitigation)

Mitigation Measure HYD-2: Conduct floodplain studies prior to program design

Cumulative Impacts

No significant cumulative impact was disclosed in the Program EIR.

b. Program EIR and/or New Mitigation Measures Applied to the Project

Hydrology and Water Quality mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages 3.8-17 to 3.8-22 of the Program EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project is HYD-1 from the Program EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section 3.8 of the Program EIR provides analysis of Hydrology and Water Quality impacts of implementation of the Water System Engineer's Report, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the Program EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless the project would:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
8. HYDROLOGY AND WATER QUALITY				
1) Violate water-quality standards or waste discharge requirements.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) Substantially alter the existing drainage pattern of the site or area or the course of a stream or river in a manner that would result in substantial erosion or siltation onsite or offsite.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
3) Create or contribute runoff water that would provide substantial additional sources of polluted runoff.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
4) Place housing within a 100-year flood hazard area or place structures within a 100-year flood hazard area that would impede or redirect flood flows.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
5) Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
6) Substantially alter the existing drainage pattern of the site or area or the course of a stream or river that would result in flooding onsite or offsite.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

- (1-3) Tuolumne River water quality would not be affected by construction of the tank and well, because the site is approximately one mile from the river. Municipal wells have higher water quality standards than do private wells and are typically drilled to greater depths than are private wells in order to avoid contaminants that permeate shallower soils. Rivers typically draw water from shallower aquifers, thus the proposed well is not expected to significantly affect the local drainage pattern or course of the Tuolumne River. Mitigation Measure HYD-1 would be implemented, further reducing the potential for impacts.
- (4) This project does not involve the construction or relocation of housing and the site does not lie within the 100-year floodplain.
- (5-6) The project site lies outside the 100-year floodplain, so risk of flood damage to the proposed infrastructure is consistent with the degree of risk assumed in the Program EIR. Furthermore, there would be no change in the risk of flooding from dam failure as compared to the risk throughout the area. Finally, the project would not substantially alter any existing drainage pattern or change a watercourse such that flood hazards are increased, and is consistent with the degree of risk analyzed in the Program EIR.

9. LAND USE AND PLANNING

a. Significant Effects Identified in the Program EIR

The Program EIR discloses the following significant impacts related to land use and planning.

Direct Impacts

No significant direct impacts were disclosed in the Program EIR, therefore no mitigation measures were identified.

Cumulative Impacts

No significant cumulative impact was disclosed in the Program EIR.

b. New Mitigation Measures Applied to the Project

All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

There are no required mitigation measures in the Program EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section 3.9 of the Program EIR discloses impacts of implementing the Water System Engineer’s Report on land use and planning. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Program EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless the project would:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
9. LAND USE AND PLANNING				
1) Physically divide an established community	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the program adopted for the purpose of avoiding or mitigating an environmental effect.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
3) Conflict with any applicable habitat conservation plan or natural community conservation plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

- (1) Construction and operation of the proposed well and tank would occur at the western edge of the Hickman community. No impact greater than impacts disclosed in the Program EIR would occur.
- (2) The well and tank are permitted in accordance with state law and thus would be consistent with existing land use plans, policies, and regulations.
- (3) There are no habitat conservation plans or natural community conservation plans in effect in Stanislaus County.

10. NOISE

a. Significant Effects Identified in the Program EIR

The Program EIR discloses the following significant impacts related to noise and their associated mitigation measures. Refer to pages 3.10-8 to 3.10-12 and 4-12 in the PEIR for details.

Direct Impacts

Impact NOISE-1: Exposure of Residences to Noise from Grading and Construction Activities (Significant and Unavoidable)

Mitigation Measure NOISE-1: Employ Noise-Reducing Construction Practices

Mitigation Measure NOISE-2: Limit Nighttime Construction Noise

Impact NOISE-2: Exposure of Residences to Noise from the Operation of Engines at Proposed Improvements Such as Wells and Pump Stations (Less than Significant with Mitigation)

Mitigation Measure NOISE-3: Employ Noise-Reducing Methods During Operations

Cumulative Impacts

Impact CUM-7: Program-Related Noise Emissions (Less than Significant with Mitigation)

Mitigation Measures NOISE-1 through NOISE-3 would reduce this impact to a less-than-significant level.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages 3.10-8 to 3.10-12 of the Program EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes NOISE-1, NOISE-2, and NOISE-3 from the Program EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section 3.10 of the PEIR discloses noise impacts resulting from implementation of the Water System Engineer’s Report. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not analyzed in the Program EIR.

Significance Criteria: Determination of the proposed project’s effects is based on the following thresholds. Project-specific effects will be less than significant unless the project would:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
10. NOISE				
1) Expose persons to or generate noise levels in excess of standards established in a local general plan or noise ordinance or applicable standards of other agencies.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) Expose persons to or generate excessive groundborne vibration or groundborne noise levels.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
3) Result in a substantial permanent increase in ambient noise levels in the program vicinity above levels existing without the proposed program.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
4) Result in a substantial temporary or periodic increase in ambient noise levels in the program vicinity above levels existing without the program.	<input type="checkbox"/>	<input type="checkbox"/>	X	<input type="checkbox"/>
5) Be located within an airport land use plan area, or, where such a plan has not been adopted, within 2 miles of a public airport or public-use airport and expose people residing or working in the program area to excessive noise levels.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
6) Be located in the vicinity of a private airstrip and expose people residing or working in the program area to excessive noise levels.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

(1-4) Noise from the project would primarily result from construction activities, a temporary impact. Construction noise would be substantial and is likely to exceed noise thresholds at times, however, this impact was disclosed in the Program EIR and the proposed project is expected to result in similar noise impacts. Mitigation Measures NOISE-1 and NOISE-2 would be implemented to reduce the impact of construction noise on nearby residences. Noise during from operation of the well and tank would result from the pumps, which could be significant, as described in the Program EIR. The on-site diesel generator will also be in use on those occasions when there is an electric power interruption, creating substantial temporary noise impacts, also disclosed in the Program EIR. Mitigation Measure NOISE-3 would be implemented to reduce operational noise impacts to a less-than-significant level.

(5-6) There is no airport or airstrip within 2 miles of the project site.

11. POPULATION AND HOUSING

a. Significant Effects Identified in the Program EIR

The Program EIR discloses the following significant impacts related to population and housing. Refer to pages 3.11-7 to 3.11-11 in the PEIR for details.

Direct Impacts

Impact POP-2: Potential to Induce Substantial Population Growth (Significant and Unavoidable)
No mitigation measures were identified for this impact.

Cumulative Impacts

No significant cumulative impact was identified in the PEIR.

b. New Mitigation Measures Applied to the Project

All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

The Program EIR did not identify mitigation measures to reduce impacts on population and housing. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section 3.11 of the Program EIR discloses impacts of implementing the Water System Engineer's Report on population and housing. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Program EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless the project would:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
11. POPULATION AND HOUSING				
1) Induce substantial population growth in an area, either directly (e.g., by proposing new homes and businesses) or indirectly (e.g., through the extension of roads or other infrastructure).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) Displace a substantial number of existing housing units, necessitating the construction of	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
replacement housing elsewhere.				
3) Displace a substantial number of people, necessitating the construction of replacement housing elsewhere.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

- (1) Addition of the proposed well and tank in the Hickman area is intended to improve the reliability of Hickman's water supply to meet the "maximum day" plus fire flow demands that can occur with the level of development allowed under the existing zoning and general plan designations. The well and tank are not of sufficient size to permit growth beyond that expected in the Hickman community. This impact was disclosed in the Program EIR and no mitigation was proposed to reduce the impact; the impact of this specific project is consistent with the impact disclosed in the Program EIR.
- (2-3) No people or housing would be displaced as a result of construction or operation of the proposed well and tank. The proposed project site is currently vacant.

12. PUBLIC SERVICES

a. Significant Effects Identified in the Program EIR

The Program EIR discloses the following significant impacts related to public services. Refer to page 3.12-9 in the PEIR for details.

Direct Impacts

No significant impacts were identified in the Program EIR, therefore there are no mitigation measures.

Cumulative Impacts

No significant cumulative impact was disclosed in the Program EIR.

b. New Mitigation Measures Applied to the Project

All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

The Program EIR did not identify an impact and thus did not identify mitigation measures. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section 3.12 of the Program EIR discloses impacts of implementing the Water System Engineer’s Report on public services. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Program EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless the project would:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
12. PUBLIC SERVICES				
1) Result in substantial adverse physical impacts associated with the provision of new or physically-altered governmental facilities or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for fire protection, police protection, schools, parks, or other public facilities.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

- (1) The Program EIR did not identify any significant impacts resulting from the proposed program. The proposed well and tank are very similar to those projects described in the Program EIR, thus impacts would be similar to those disclosed in the Program EIR. No significant impact is anticipated.

13. RECREATION

a. Significant Effects Identified in the Program EIR

The Program EIR discloses the following significant impacts related to recreation. Refer to page 3.13-9 in the PEIR for details.

Direct Impacts

No significant impacts were identified in the Program EIR, therefore there are no mitigation measures.

Cumulative Impacts

No significant cumulative impact was disclosed in the PEIR.

b. New Mitigation Measures Applied to the Project

All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

The Program EIR did not identify an impact and thus did not identify mitigation measures. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section 3.13 of the Program EIR discloses impacts of implementing the Water System Engineer's Report on recreation. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Program EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless the project would:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
13. RECREATION				
1) Cause any changes in the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical impact on the environment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

(1-2) Construction and operation of the proposed well and tank are not expected to have any impact on the use or quality of parks. Furthermore, this project would create no demand for new or expanded parks or other recreational facilities.

14. TRAFFIC/TRANSPORTATION

a. Significant Effects Identified in the Program EIR

The Program EIR discloses the following significant impacts related to traffic/transportation and their associated mitigation measures. Refer to pages 3.14-17 to 3.14-19 and page 4-12 in the PEIR for details.

Direct Impacts

No significant impacts were identified in the Program EIR, therefore there are no mitigation measures.

Cumulative Impacts

No significant cumulative impact was disclosed in the Program EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Traffic policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages 3.14-17 to 3.14-19 of the Program EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section V, Mitigation Applied to Project.

Discussion:

The Program EIR did not identify an impact and thus did not identify mitigation measures. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section 3.14 of the PEIR discloses traffic/transportation impacts resulting from implementation of the Water System Engineer's Report. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not analyzed in the Program EIR.

Significance Criteria: Determination of the proposed project's effects is based on the following thresholds. Project-specific effects will be less than significant unless the project would:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
14. TRAFFIC/TRANSPORTATION				
1) Cause an increase in traffic that is substantial in relation to the existing traffic load and the capacity of the street system (i.e., result in a substantial increase in the number of vehicle trips, the volume-to-capacity ratio on roads, or congestion at intersections).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) Cause, either individually or cumulatively, an exceedance of an LOS standard established by the County congestion management agency for designated roads or highways.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
3) Result in inadequate emergency access.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
4) Result in inadequate parking capacity.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
5) The proposed program would have a significant impact if it resulted in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
6) The proposed program would have a significant impact if it substantially increased hazards because of a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
7) The proposed program would have a significant impact if it conflicted with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts and bicycle racks).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

- (1-2) The Program EIR disclosed that a very small number of vehicle trips would occur during construction of individual projects and that even fewer vehicle trips would occur during operation of the well and tank. Construction trips would result from the conveyance of equipment to the site and from construction workers arriving and departing the site. Operation of the well and tank would result in occasional visits to the site primarily for maintenance purposes.
- (3) Construction activities would temporarily increase emergency response times due to lane narrowing or lane closures to allow the installation of approximately 9,400 linear feet of water transmission pipelines throughout the Hickman community. However, these impacts were disclosed in the Program EIR and no greater impacts would be expected to occur as a result of the proposed project. The City's Standard Construction Procedures would be implemented during construction; these include preparing a traffic control plan, public notification, and preconstruction meetings. Adherence to the City's Standard Construction Procedures would result in a less-than-significant impact, consistent with the Program EIR.

- (4) There would be no continuous demand for parking for maintenance staff. Any needed parking would be accommodated on site.
- (5-7) The project site is not located near any airport or airstrip and the infrastructure would have no effect on air traffic due to any of its features. This is consistent with the analysis in the Program EIR. Furthermore, the construction of the tank, well, and associated infrastructure would result in no significant changes to the affected roadways or traffic on them, after construction is complete. The project does not conflict with plans or policies for non-automobile transportation.

15. UTILITIES

a. Significant Effects Identified in the Program EIR

The Program EIR discloses the following significant impacts related to utilities. Refer to pages 3.15-12 and 3.15-13 and page 4-13 in the PEIR for details.

Direct Impacts

No significant impacts were identified in the PEIR, therefore there are no mitigation measures.

Cumulative Impacts

Impact CUM-11: Effects on Water Quality (Less than Significant with Mitigation)

Mitigation Measures HYD-1 and HYD-2 would ensure there is no contribution to identified impairments.

b. New Mitigation Measures Applied to the Project

All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

There is no need to apply mitigation measures from the Program EIR to this project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section 3.15 of the Program EIR discloses impacts of implementing the Water System Engineer's Report on utilities. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Program EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless the project would:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
15. UTILITIES				
1) Require or result in the construction of new water, storm water, or wastewater treatment facilities or in the expansion of existing facilities.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) Have insufficient water supplies available to serve the program from existing entitlements and resources.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
3) Be served by a landfill with insufficient permitted capacity to accommodate the program's solid waste disposal needs.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
4) Fail to comply with federal, state, and local statutes and regulations related to wastewater treatment or solid waste.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

- (1) The proposed new water supply infrastructure would not directly result in a substantial increase in the demand for storm water drainage or wastewater treatment facilities. Surface runoff is expected to be minimal, as noted in the discussion of hydrology and water quality. Impacts from this project are expected to be consistent with those disclosed in the Program EIR.
- (2) The purpose of this project is to address existing deficiencies and future demand in the water supply system in the Hickman area. The proposed project would help diversify water supply and improve reliability, consistent with the Program EIR.
- (3) Any solid waste resulting from construction and maintenance of the proposed well and tank would be disposed of at the Fink Road Landfill, if it cannot be recycled, as disclosed in the Program EIR. The Fink Road Landfill is expected to have adequate capacity to serve the very limited need expected to result from this project and no significant impact is anticipated.
- (4) All relevant federal, state, and local statutes and regulations will be complied with and no impact is expected to occur.

V. MITIGATION MEASURES APPLIED TO THE PROPOSED PROJECT

If the Initial Study results in the determination that a Finding of Conformance can be adopted for the proposed project, then Section A, below, applies. If the Initial Study results in the determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration/EIR must be prepared for the project then Section B, below, applies.

A. Program EIR Mitigation Measures Applied to the Project

Pursuant to Public Resources Code Section 21094, in order for a Finding of Conformance to be made, all appropriate mitigation measures from the Program EIR shall be incorporated into the proposed project. Urban Area General Plan Policies/Master EIR mitigation measures shall be made part of the proposed project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan. All applicable and appropriate mitigation measures have been applied to the project (see mitigation measures listed below).

Aesthetics:

Mitigation Measure AES-2: Screen staging and construction areas

Mitigation Measure AES-3: Design fencing, storage tanks, and booster pump station and groundwater well buildings to be consistent with the surrounding setting

Agricultural Resources:

None.

Air Quality:

Mitigation Measure AIR-1: Implement SJVAPCD Regulation VIII control measures for construction emissions of PM₁₀.

Mitigation Measure AIR-2: Implement enhanced control measures for construction emissions of PM₁₀.

Mitigation Measure AIR-3: Implement control measures for operation emissions of PM₁₀ and for ozone precursors (ROG and NO_x)

Mitigation Measure CUM-1: Greenhouse gas calculations and emissions reduction measures
See Attachment A for calculations and emissions reduction measures.

Biological Resources:

Mitigation Measure BIO-1: Perform focused surveys for Special-Status plant species

Mitigation Measure BIO-2: Avoid and minimize impacts on Special-Status plant species

Mitigation Measure BIO-3: Compensate for unavoidable impacts on Special-Status plant species

Mitigation Measure BIO-8: Avoid and protect burrowing owls

Mitigation Measure BIO-9: Compensate for loss of burrowing owl habitat

Mitigation Measure BIO-12: Conduct preconstruction surveys for nesting birds

Mitigation Measure BIO-13: Avoid and minimize impacts on nesting raptors and other migratory birds

Mitigation Measure BIO-17: Avoid habitat for California tiger salamander

Cultural Resources:

Mitigation Measure CR-1: Implement plan to address discovery of unanticipated buried cultural resources

Mitigation Measure CR-2: Implement plan to address the discovery of human remains

Mitigation Measure CR-3: Minimize potential adverse impacts on paleontological resources

Geology, Soils, and Mineral Resources:

Mitigation Measure GEO-1: Conduct project-specific geotechnical investigation prior to construction

Mitigation Measure HYD-1: Prepare and implement a drilling-contingency (or "frac-out") plan during microtunneling

Hazards and Hazardous Materials:

Mitigation Measure HAZ-1: Prepare a risk assessment prior to construction activity

Hydrology and Water Quality:

Mitigation Measure HYD-1: Prepare and implement a drilling-contingency (or "frac-out") plan during microtunneling

A Phase I hazardous materials study has not yet been prepared for this site, but will be prepared prior to purchase of the property. All mitigation measures identified in the Phase I study will be applied to the project if the City of Modesto elects to utilize the proposed project site.

Land Use and Planning:

None.

Noise:

Mitigation Measure NOISE-1: Employ Noise-Reducing Construction Practices

Mitigation Measure NOISE-2: Limit Nighttime Construction Noise

Mitigation Measure NOISE-3: Employ Noise-Reducing Methods During Operations

Population and Housing:

None.

Public Services:

None.

Recreation:

None.

Traffic/Transportation:

None.

Utilities:

None.

B. New or Additional Mitigation Measures or Alternatives Required

The Water System Engineer's Report Program EIR was certified on September 14, 2010, with City Council Resolution 2010-408, which included a series of findings and statements of overriding consideration addressing project impacts, mitigation measures, and alternatives. Among the significant unavoidable impacts disclosed in the Program EIR was the project's cumulative impact on greenhouse gas emissions.

A mitigation measure from the Program EIR and identified in this Finding of Conformance, CUM-1, required that emission calculations be made and any additional feasible measures to reduce greenhouse gas emissions be considered as part of subsequent environmental documents. This has been done and the additional measures below have been identified as feasible. However, the project's impact will be significant and unavoidable even when the mitigation measures are implemented. Therefore, City Council Resolution 2010-408 continues to be applicable to the project and no further environmental review is necessary.

Air Quality:

GHG Measure 1: Limit idling time of off-road construction equipment to three minutes.

GHG Measure 2: Limit idling time of on-road construction equipment to three minutes.

These mitigations are expected to reduce construction emissions up to 1 percent each. These measures will be included as requirements in the construction service contract for the project.

City of Modesto
Interoffice Memorandum

To: Rob Christensen, Utilities Planning and Projects
From: Cindy van Empel, Planning Division
Date: November 9, 2011
Subject: EA/UP&P No. 2011-09 (Attachment A to EA/UP&P 2011-09)

This memorandum summarizes the estimated carbon dioxide emissions from construction and operation of the proposed Hickman well and tank, as described in the Water Systems Engineer's Report Program EIR (Program EIR) and in EA/UP&P 2011-09.

This memorandum was prepared for the purpose of addressing Mitigation Measure CUM-1 in the Program EIR, certified by the Modesto city Council on September 15, 2010. In summary, CUM-1 requires that greenhouse gas emissions be estimated and feasible emission reduction measures be applied to each project within the scope of the Program EIR. However, City Council adopted Resolution 2010-408, which includes findings and statements of overriding considerations for the expected significant impact on greenhouse gas emissions.

A report from ICF International dated April 2011, titled, "Greenhouse Gas Emissions and Reduction Measure Analysis for the Del Rio Well Project" (Report) was used as the starting point for estimating carbon dioxide emissions for this project, although construction emissions were estimated using the Air Resources Board's latest methodology for in-use off-road diesel-fueled construction equipment.

Construction Phase Emissions

Construction will occur during 2012 and include the following phases (Christensen pers. comm.):

- Site Clearing and Grubbing: 4 days
- Site Grading: 10 days
- Site Utilities: 10 days
- Tank and Mechanical Systems: 50 days
- Paving/Site Work: 4 days
- Waterline Extension: 8 days

During the site clearing and grubbing and water line extension phases, heavy-duty diesel trucks would be required to haul excavated soil and material. It was assumed that a total of 93 trips would be made during the site clearing and grubbing phase and 30 trips would be made during the water line extension phase (Christensen pers. comm.). Carbon dioxide emissions associated with these truck trips were estimated using URBEMIS. Trip distances were assumed to be 20 miles, based on URBEMIS defaults, and six employees for each phase were assumed, using separate vehicles and each making two trips, one inbound and one outbound over the 86 days of construction.



Phase	Source	Construction Emissions in Tons			
		CO ₂	CH ₄	NO _x	CO ₂ e
Clearing and Grubbing	Construction Equipment	3.67	0.00	0.00	3.67
	Personal Vehicles	0.49	0.00	0.02	0.51
Grading	Construction Equipment	14.79	0.00	0.00	14.79
	Personal Vehicles	1.23	0.00	0.07	1.30
Site Utilities	Construction Equipment	17.37	0.00	0.00	17.37
	Personal Vehicles	1.23	0.00	0.07	1.30
Tank and Mechanical	Construction Equipment	60.88	0.00	0.00	60.88
	Personal Vehicles	6.15	0.00	0.32	6.47
Paving/Site Work	Construction Equipment	1.50	0.00	0.00	1.50
	Personal Vehicles	0.49	0.00	0.02	0.51
Waterline Extensions	Construction Equipment	9.38	0.00	0.00	9.38
	Personal Vehicles	0.98	0.00	0.05	1.03
Total Construction Emissions		118.16	0.00	0.55	118.71

Operating Emissions

Operating emissions were estimated using Modesto Irrigation District’s emission factors adjusted for State-mandated Renewable Portfolio Standards for electrical utilities and assuming new rules governing emissions from stationary sources will be implemented. This is a realistic representation of emissions over the 50-year life of the project.

Direct Emissions

Facility inspections will occur three times per week; a total of 156 trips per year were assumed (Christensen pers. comm.). Emissions associated with inspections were modeled using the URBEMIS 2007 model. The site will have one 760 horsepower backup diesel generator. The generator will be used no more than six hours per year (Christensen pers. comm.). Carbon dioxide emissions were modeled using URBEMIS 2007, while methane and nitrous oxide (N₂O) emissions were determined by scaling the construction carbon dioxide emissions.

Indirect Emissions

The California Air Pollution Control Officers Association (CAPCOA) (2010) lists the following energy requirements for the San Joaquin River Basin:

- Water Treatment: 111 kilowatt-hours (kWh) per million gallons (MG)
- Water Distribution: 1,272 kWh per MG

These factors were multiplied by the amount of water produced by the project, which was 69.6 million gallons in 2008. This rate of consumption is not expected to increase appreciably; the purpose of this tank and well is to develop adequate water pressure for fire flow and to create redundancy in the system, considered necessary modifications to the existing system. Hickman can only accommodate a small number of additional houses and the water system is intended to serve those. An increase of 10 percent was assumed for the purpose of estimating potential additional energy use.

Energy use for water treatment and distribution is approximately 96,256.8 kWh annually. Eventually, energy use for water treatment and distribution in Hickman could increase to approximately 105,882.5 kWh annually.

Source	Annual Operating Emissions in Tons			
	CO ₂	CH ₄	N ₂ O	CO ₂ e
Booster Pumps	314.60	0.01	0.00	314.61
Well Pump	210.10	0.00	0.00	210.10
Treatment	2.67	0.00	0.00	2.67
Distribution	29.11	0.00	0.00	29.11
Mechanical Facility	0.00	0.00	0.00	0.00
Diesel Generator	1.10	0.00	0.00	1.10
Maintenance Trips	3.20	0.00	0.18	3.38
Total Annual Operating Emissions	560.78	0.01	0.18	560.97

Results Summary

Construction of the proposed project would generate a total of 118.71 tons of CO₂e. Operating emissions are estimated at 560.97 tons of CO₂e annually over the 50-year life of the project.

Mitigation

Appendix C of the Report identifies several potential mitigation measures, most of which are not feasible for the City of Modesto to implement, primarily due to the expense of many of the mitigation measures, although some mitigation measures are not directly related to the impact of the Hickman Well and Tank.

Measure 1: Limit idling time of off-road construction equipment to three minutes.

Measure 2: Limit idling time of on-road construction vehicles to three minutes.

Each of these measures (Report, p 11-13) is expected to reduce source emissions up to 1 percent. They will be incorporated into the project and into the construction service contracts the City will let. All contractors and staff will be expected to implement these measures, which will reduce fuel use, improve air quality, and reduce greenhouse gas emissions.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-82**

**RESOLUTION APPROVING THE PURCHASE AND SALE AGREEMENT
BETWEEN THE CITY OF MODESTO AND FRANCISCO JAVIER MARQUEZ,
JR., FOR A 1.37-ACRE (59,677 SQ. FT.) PARCEL OF LAND (APN 019-042-064),
IN THE AMOUNT OF \$86,750.00, FOR THE HICKMAN WATER TANK &
WELL PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS
DESIGNEE, TO EXECUTE THE AGREEMENT AND ALL RELATED
DOCUMENTS REQUIRED TO CLOSE ESCROW**

WHEREAS, on July 12, 1995, the City of Modesto acquired the former Del Este Water Company, and

WHEREAS, a part of the Del Este Water Company included the water service system of the Hickman Community, and

WHEREAS, a Technical Memorandum prepared by West Yost Associates on March 30, 2010, identified certain capital improvements to maintain existing water service levels and to provide additional service for anticipated new development, and

WHEREAS, staff has identified a 1.37-acre parcel for sale located at 910 Hickman Road in Hickman to place a water storage tank as a part of the capital improvements identified for the Hickman Community, and

WHEREAS, staff has completed the required environmental review for the property, and

WHEREAS, an Agreement is needed for the acquisition of the property,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Purchase and Sale Agreement between the City of Modesto and Francisco Javier Marquez, Jr., for a 1.37-acre parcel in fee, located at 910 Hickman Road (APN 019-042-064), in the amount of \$86,750 for the Hickman Water Tank and Well project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement, and all related documents required to close escrow.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-83**

RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE CERTIFICATE OF ACCEPTANCE FOR THE GRANT DEED, FOR THE ACQUISITION OF PROPERTY LOCATED AT 910 HICKMAN ROAD, OWNED BY FRANCISCO JAVIER MARQUEZ, JR., (APN 019-042-064) TO BE PURCHASED BY THE CITY OF MODESTO FOR THE HICKMAN WATER TANK & WELL PROJECT

WHEREAS, Section 27281 of the Government Code requires a public agency to accept real property prior to the recordation of a deed or adopt a resolution accepting real property, and

WHEREAS, the City of Modesto desires to acquire a 1.37-acre parcel of land located on Hickman Road, owned by Francisco Javier Marquez, Jr., (APN 019-042-064), to be purchased by the City of Modesto for the Hickman Water Tank & Well project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign the Certificate of Acceptance for the Grant Deed for the acquisition of real property located at 910 Hickman Road, owned by Francisco Javier Marquez, Jr., (APN 019-042-064) to be purchased by the City of Modesto for the Hickman Water Tank & Well project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-84**

RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE MODESTO WEST BASIN IMPROVEMENTS PROJECT, ACCEPTING THE BID, AND APPROVING A CONTRACT WITH HASKELL & HASKELL ENGINEERING & CONSTRUCTION SERVICES, INC. OF KNIGHTS FERRY, CALIFORNIA IN THE AMOUNT OF \$394,731.06, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Modesto West Basin Improvements project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Modesto West Basin Improvements project were opened at 11:00 a.m. on January 17, 2012, and later tabulated by the Director of Utility Planning & Projects for the consideration of the Council, and

WHEREAS, the Director of Utility Planning & Projects has recommended that the bid of \$394,731.06, received from Haskell & Haskell Engineering & Construction Services, Inc. of Knights Ferry, California, be accepted as the lowest responsive and responsible bid and the contract be awarded to Haskell & Haskell Engineering & Construction Services, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Modesto West Basin Improvements project, accepts the bid of Haskell & Haskell Engineering & Construction Services, Inc. of Knights Ferry, California, in the amount of \$394,731.06, and awards Haskell & Haskell Engineering & Construction Services, Inc. the contract for the Modesto West Basin Improvements project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-85**

RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE CARPENTER ROAD BRIDGE SEISMIC RETROFIT PROJECT, ACCEPTING THE BID, AND APPROVING A CONTRACT WITH FLATIRON WEST, INC. OF BENICIA, CALIFORNIA IN THE AMOUNT OF \$8,195,135, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Carpenter Road Bridge Seismic Retrofit project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Carpenter Road Bridge Seismic Retrofit project were opened at 11:00 a.m. on January 24, 2012, and later tabulated by the Director of Utility Planning & Projects for the consideration of the Council, and

WHEREAS, the Director of Utility Planning & Projects has recommended that the bid of \$8,195,135, received from Flatiron West, Inc. of Benicia, California, be accepted as the lowest responsive and responsible bid and the contract be awarded to Flatiron West, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Carpenter Road Bridge Seismic Retrofit project, accepts the bid of Flatiron West, Inc. of Benicia, California, in the amount of \$8,195,135, and awards Flatiron West, Inc. the contract for the Carpenter Road Bridge Seismic Retrofit project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of March, 2012, by Councilmember Geer, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-86**

A RESOLUTION RESCINDING ONLY THAT PORTION OF EXHIBIT A TO RESOLUTION NO. 2000-206, RELATING TO COPIES OF ANY OFFICIAL CITY DOCUMENTS (OTHER THAN MAPS OR PLATS), AND ADDING NEW CHARGES OF \$.10 PER PAGE FOR BLACK & WHITE AND \$.20 PER PAGE FOR COLOR COPIES OF ANY PUBLIC RECORDS TO EXHIBIT A TO RESOLUTION NO. 2000-206

WHEREAS, upon request, documents are made available to the public by various departments, and

WHEREAS, the charges/fees associated with the duplication of public records have not been updated since 2000, and

WHEREAS, the City Manager instructed staff to perform a detailed cost analysis to determine actual allowable costs for the duplication of public documents, and

WHEREAS, the Purchasing Division performed the detailed analysis factoring in all of the costs directly associated with running a copy machine to duplicate a public record, and

WHEREAS, the detailed analysis is set forth in **Exhibit A**, which is **attached** hereto and made a part hereof as if set forth herein, and

WHEREAS, a per copy duplication cost of \$.10 for black and white copies and \$.20 per page for color copies is hereby established, and

WHEREAS, charges/fees established by this resolution shall become effective on and after February 14, 2012,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby rescinds only that portion of Exhibit A to Resolution No. 2000-206, relating to copies of any official City documents (other than maps or plats), and adding a new

charge of \$.10 per page for black & white copies and \$.20 per page for color copies of any public records to Exhibit A to Resolution No. 2000-206.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-87**

**A RESOLUTION REAPPOINTING JOHN BERGMAN TO THE CITY OF
MODESTO BOARD OF ZONING ADJUSTMENT**

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

WHEREAS, the Economic Development Committee met on February 13, 2012, and recommended reappointment of John Bergman to the Modesto Board of Zoning Adjustment.

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

SECTION 1. John Bergman is hereby reappointed to the Board of Zoning Adjustment with a term expiration of January 1, 2016.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-88**

**RESOLUTION APPROVING THE REAPPOINTMENT OF LEE HEDGEPEETH
TO CITY OF MODESTO CITIZENS HOUSING AND COMMUNITY
DEVELOPMENT COMMITTEE FOR AN ADDITIONAL FOUR-YEAR TERM,
WITH AN EXPIRATION DATE OF JANUARY 1, 2016**

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

WHEREAS, Lee Hedgepeth was originally appointed to the City of Modesto Citizens Housing and Community Development Committee on May 6, 2008, and

WHEREAS, Lee Hedgepeth has an expressed interest in continuing to serve as a member of the City of Modesto Housing and Community Development Committee,

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

SECTION 1. Lee Hedgepeth is hereby reappointed to the City of Modesto Citizens Housing and Community Development Committee for an additional four-year term, with a term expiration of January 1, 2016.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-89**

RESOLUTION APPROVING THE REAPPOINTMENT OF GRACE LIEBERMAN AND HENRIETTA SPARKMAN TO THE CULTURE COMMISSION FOR AN ADDITIONAL FOUR-YEAR TERM, WITH EXPIRATION DATES OF JANUARY 1, 2014 AND JANUARY 1, 2016, RESPECTIVELY

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

WHEREAS, Grace Lieberman was originally appointed to the Culture Commission on February 28, 2006, and

WHEREAS, Grace Lieberman has an expressed interest in continuing to serve as a member of the Culture Commission, and

WHEREAS, Henrietta Sparkman was originally appointed to the Culture Commission on February 11, 2008, and

WHEREAS, Henrietta Sparkman has an expressed interest in continuing to serve as a member of the Culture Commission,

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

SECTION 1. Grace Lieberman is hereby reappointed to the Culture Commission for an additional four-year term, with a term expiration of January 1, 2014.

SECTION 2. Henrietta Sparkman is hereby reappointed to the Culture Commission for an additional four-year term, with a term expiration of January 1, 2016.

SECTION 3. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed members of the Culture Commission and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-90**

**RESOLUTION APPROVING THE REAPPOINTMENT OF RYNE CONDER
REPRESENTING CREEKSIDE GOLF CLUB TO THE GOLF COURSE
ADVISORY COMMITTEE FOR AN ADDITIONAL FOUR-YEAR TERM, WITH
AN EXPIRATION DATE OF JANUARY 1, 2016**

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

WHEREAS, Ryne Conder was originally appointed to the Golf Course Advisory Committee on February 26, 2008, and

WHEREAS, Ryne Conder has an expressed interest in continuing to serve as a member of the Golf Course Advisory Committee representing the Creekside Golf Club,

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

SECTION 1. Ryne Conder is hereby reappointed to the Golf Course Advisory Committee for an additional four-year term, with a term expiration of January 1, 2016.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

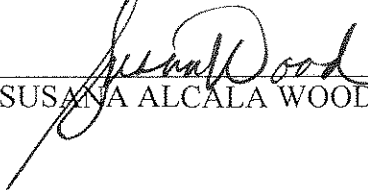
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-91**

**RESOLUTION APPROVING THE REAPPOINTMENT OF BRAD PITTS TO
CITY OF MODESTO HOUSING REHABILITATION LOAN COMMITTEE FOR
AN ADDITIONAL FOUR-YEAR TERM, WITH AN EXPIRATION DATE OF
JANUARY 1, 2016**

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

WHEREAS, Brad Pitts was originally appointed to the City of Modesto Housing Rehabilitation Loan Committee on October 13, 2009, and

WHEREAS, Brad Pitts has an expressed interest in continuing to serve as a member of the City of Modesto Housing Rehabilitation Loan Committee,

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

SECTION 1. Brad Pitts is hereby reappointed to the City of Modesto Housing Rehabilitation Loan Committee for an additional four-year term, with a term expiration of January 1, 2016.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

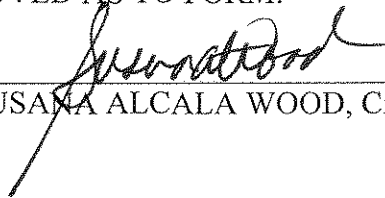
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-92**

**RESOLUTION APPROVING THE REAPPOINTMENT OF KENT FAULKNER
TO CITY OF MODESTO LANDMARK PRESERVATION COMMITTEE FOR
AN ADDITIONAL FOUR-YEAR TERM, WITH AN EXPIRATION DATE OF
JANUARY 1, 2016**

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

WHEREAS, Kent Faulkner was originally appointed to the City of Modesto Landmark Preservation Committee on August 5, 2009, and

WHEREAS, Kent Faulkner has an expressed interest in continuing to serve as a member of the City of Modesto Landmark Preservation Committee,

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

SECTION 1. Kent Faulkner is hereby reappointed to the City of Modesto Landmark Preservation Committee for an additional four-year term, with a term expiration of January 1, 2016.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

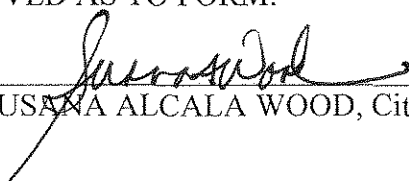
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-93**

**RESOLUTION APPROVING THE REAPPOINTMENT OF KARLHA DAVIES
TO TUOLUMNE RIVER REGIONAL PARK (TRRP) CITIZEN'S ADVISORY
COMMITTEE FOR AN ADDITIONAL TWO-YEAR TERM, WITH AN
EXPIRATION DATE OF JANUARY 1, 2014**

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

WHEREAS, Karlha Davies was originally appointed to the Tuolumne River Regional Park Citizens Advisory Committee on September 7, 2010 and

WHEREAS, Karlha Davies has an expressed interest in continuing to serve as a member of the Tuolumne River Regional Park Citizens Advisory Committee,

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

SECTION 1. Karlha Davies is hereby reappointed to the Tuolumne River Regional Park Citizens Advisory Committee for an additional two-year term, with a term expiration of January 1, 2014 .

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed member of the Tuolumne River Regional Park Citizens Advisory Committee and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

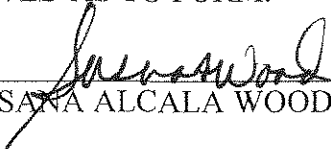
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-94**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO,
SUPPORTING ASSEMBLY BILL (AB) 2131-LOCAL GOVERNMENT
INVESTMENTS IN PROPERTY ASSESSED CLEAN ENERGY (PACE) BONDS**

WHEREAS, existing law authorizes the legislative body of a local agency that has a sinking fund or moneys in its treasury that is not required for immediate needs to invest in specific investments, including among other things, United States Treasury notes, bonds, bills, or certificates of indebtedness, and bonds issued by the agency; and

WHEREAS, AB2131 would authorize the legislative body of a city, county, or city and county to invest up to five percent (5%) of the city, county, or city and county's aggregate investment funds in Property Assessed Clean Energy (PACE) bonds or local PACE eligible projects; and

WHEREAS, for the purposes of analyzing the effects of this bill, Finance staff consulted PFM Asset Management to provide a general opinion as to any fiscal impacts from such a proposed bill to the City, and

WHEREAS, they concluded that while there is a potential for a higher yield on investment returns it is also possible that the securities will be illiquid and that this type of investment would differ from the typical objectives of a public agency portfolio that focuses on stability and liquidity; now therefore

BE IT RESOLVED that the City Council of the City of Modesto supports Assembly Bill 2132 legislation that would authorize the legislative body of a city, county, or city and county to invest up to five percent (5%) of the city, county, or city and county's aggregate investment funds in Property Assessed Clean Energy (PACE) bonds

or projects financed with PACE bonds.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-95**

A RESOLUTION RESCINDING RESOLUTION NO. 2011-483

WHEREAS, the City Council approved the Economic Development Incentive Program on December 13, 2011, by Resolution No. 2011-483, and

WHEREAS, part of that action was intended to repeal Chapter 7 of Title VIII of the Modesto Municipal Code relating to Enterprise Incentives, and

WHEREAS, it was determined after the fact that the administrative process to repeal a Municipal Code required an Ordinance, which was not done at that time,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby rescinds Resolution No. 2011-483.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-96**

A RESOLUTION ADOPTING THE ECONOMIC DEVELOPMENT INCENTIVE PROGRAM AS RECOMMENDED BY THE COMPREHENSIVE FEE TASK FORCE

WHEREAS, the City Council Finance Committee approved the formation of the Comprehensive Fee Task Force (CFTF) on November 23, 2009, and

WHEREAS, one of the primary objectives of the CFTF was to evaluate and coordinate development fees to ensure they were aligned with the development process, and

WHEREAS, the CFTF made recommendations for new development fees, policy process and procedural changes that were adopted by the City Council in Resolutions 2011-104, 2011-105 and 2011-106, and

WHEREAS, the CFTF was directed by the Finance Committee to continue their work and recommend an Economic Development Incentive Program to assist in the attraction of new business and retention of existing business and the creation of jobs in Modesto, and

WHEREAS, the CFTF considered the goals and strategies of the City of Modesto 2003 Economic Development Plan to identify categories that best measure economic value, and

WHEREAS, the Task Force agreed on the following measurement categories:

1. IMPLAN
2. Number of jobs created
3. Location
4. Infrastructure and services impact
5. Bonus points for higher paid jobs and mixed use projects

WHEREAS, the Finance Committee reviewed and recommended approval of the Task Force recommendations on September 26, 2011,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Economic Development Incentive Program using the 5 measurement categories as recommended by the Comprehensive Fee Task Force and described further in **Attachment A**.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**CITY OF MODESTO
ECONOMIC DEVELOPMENT PLAN**

**PREPARED FOR
CITY OF MODESTO**

**PREPARED BY
ESI CORPORATION**
300 West Clarendon
Suite 470
Phoenix, AZ 85013
PH: 602.265.6120
EMAIL: info@esicorp.net
www.esicorp.net

JUNE 2003

ATTACHMENT A

Acknowledgements

This report was prepared in consultation with the City of Modesto, the Economic Development and Workforce Alliance (The Alliance) and the Modesto Economic Development Committee whose representatives are noted below.

Modesto Economic Development Committee

George Boodrookas, Modesto Junior College
David Boring, Downtown Improvement District
Linda Boston, City of Modesto
George Britton, City of Modesto
Bill Conrad, City Council
Jack Crist, City of Modesto
Melissa Hardy, City of Modesto
Denny Jackman, City of Modesto
Brad Kilger, City of Modesto
Chris Mayer, Modesto Irrigation District
Delyn Meyers, The Alliance
Will O'Bryant, City of Modesto
David Olson, Taco Bell/OCAT Inc.
Gary Plummer, Chamber of Commerce
Carmen Sabatino, City of Modesto
Laurie Smith, City of Modesto
Carletta Evans Steele, State of California EDD - Stanislaus Co. Branches
Jim Swaney, Valley Air District
Lorne Truscott, Panelized Structures
Brian Velthoen, Velthoen Associates
Debra Whitmore, Stanislaus Council of Governments
Dennis Wilson, Horizon Consulting
Bill Zoslocki, Bill Zoslocki Construction

This report was funded by the California Department of Housing and Community Development, Jobs to Housing Balance Improvement Grant Program.

ATTACHMENT A

Table of Contents

ACKNOWLEDGEMENTS	i
EXECUTIVE SUMMARY	1
Key Findings	1
Recommendations	4
I. INTRODUCTION	9
Collaboration	9
Planning Process	10
Three Plans	11
II. BACKGROUND.....	13
Modesto Today	15
Industry Clusters.....	18
III. MODESTO ECONOMIC DEVELOPMENT PLAN	21
Focus Areas	22
Plan Elements.....	22

List of Charts

Chart 1 – Job to Housing Balance, Modesto, Stanislaus County, and California, 1991 to 2000	13
Chart 2 – Average Commute Time and Percentage of the Population Commuting One Hour or More One Way to Work, Stanislaus County 1990 and 2000	14
Chart 3 – Growth in Employment and Average Wages in Stanislaus County, 1991 to 2000	14
Chart 4 – Components of an Industry Cluster	19

List of Tables

Table 1 – Employment by Occupation, Modesto, Stanislaus County, and California, 2000	17
Table 2 – Employment by Industry, Stanislaus County and California, 2000	18

ATTACHMENT A

EXECUTIVE SUMMARY

Communities today can no longer rely on being the low cost alternative to achieve economic development success. Companies are no longer wooed solely by the notion of cheap land and electric rates, but are also looking for unique value. The business of economic development has become more complex with a whole new set of variables such as global competition, advanced technologies and a volatile labor market. The new paradigm that cities must embrace to be successful has changed from marketing a low cost location to seeding a high quality of life that encourages entrepreneurship and attracts or “grows” knowledge workers. The key to success is ensuring that all companies become New Economy industries by adopting the latest technology, training their workers and exporting to global markets.

Facing the challenges of competition in a global economy will be an important key to succeed in economic development in the city of Modesto and Stanislaus County. Having a highly productive workforce, convenient transportation networks, advanced telecommunications infrastructure, and a coveted quality of life are among the key factors that can make a community more desirable.

To help position Modesto in the global economy, city leaders participated in a city and countywide economic development planning process. This process resulted in the creation of a five-year economic development strategic plan to guide economic development decisions and policy in Modesto. Concurrent to the Modesto planning process was the development of a Countywide Economic Development and Marketing Plan whose sole purpose is to support and facilitate economic development in Modesto and other Stanislaus County partner communities.

In creating the Modesto and countywide plans, the ESI Strategic Planning Team conducted a variety of research and planning activities. This included a thorough review of previous studies and plans on the region, county, and cities; local and regional evaluations of site selection factors such as land, building, utilities, and workforce; analysis of industries that would be a good fit for the county; and a marketing assessment.

KEY FINDINGS

An aggressive public policy framework for economic development must be undertaken which addresses the key issues hampering economic growth in Modesto and Stanislaus County. Many of these issues must be resolved at the regional level, while some of them at the local level. The collective interests and participation of government, education, business and social service agencies will be necessary in order to achieve any measure of success.

LEADERSHIP

Stanislaus County, like many other regions, has conducted numerous studies over the years which identified a variety of issues to be addressed. Many of the issues identified are fundamental to economic growth and some speak to the area’s quality of life. In most cases, these studies and plans are still as applicable today as when they were first drafted. However, they lacked the

ATTACHMENT A

leadership, collaboration, human and financial resources, and political will necessary for implementation. Fragmentation of leadership, lack of consensus and a culture of blame and mistrust permeate the area which has hindered the advancement of countywide goals.

EDUCATION

Education and skills are the ticket to upward mobility and increased earnings. More than one-half the jobs created in the U.S. between 1984 and 2005 will require some education beyond high school.¹ In 2000, nearly 30 percent of the county's population 25 and older did not have a high school diploma, and only 14 percent had a four year college degree or higher, this compared to the state at 23 percent and 27 percent respectively. The next generation does not appear to be changing this trend of lower educational achievement. In Stanislaus County 3.7 percent of high school students dropped out in the 2000-2001 school year compared to 2.8 percent in the state, and only 25 percent of high school seniors took the SAT or ACT, the common tests needed to enter college, compared to 38 percent at the state level. The situation for Hispanic students is even more concerning as they represent one-third of the total high school students, but over half of the dropouts.

WORKFORCE

The county experienced significant job growth from 1991 to 2000, growing by 22 percent compared to the neighboring counties of Merced and San Joaquin that grew by 6 and 20 percent respectively. However, the average wage in Stanislaus County grew by only 4 percent when adjusted for inflation showing that the jobs added were not of the type to change the overall trends in the local economy. In addition, unemployment rates remained twice as high as the state, with significant seasonal fluctuations. In 2000, over 20 percent of the employed residents of Stanislaus County worked outside the county.

In comparing regions that Stanislaus County competes with it was revealed that wage rates are a major strength for the county. However, limited basic skills, drug and alcohol issues, and limited English language skills were identified as challenges that employers face. The population and workforce is growing, with all key occupations expected to increase. Skilled job availability is below average, while unskilled, semiskilled, and management availability is above average. Clerical availability is very good. The county lacks engineering or Ph.D. level programs; however California State University, Stanislaus recently started the Agriculture Studies Department to address an important educational track for the local economy. Modesto's education community has begun addressing some of the basic workforce challenges by linking business and education through programs that give students and teachers workplace experience through mentoring and internships.

¹ Arnold E. Packer, et al., *Workforce 2000: Work and Workers for the 21st Century* (Indianapolis, Ind: Hudson Institute, 1987).

ATTACHMENT A

TRANSPORTATION

Infrastructure has always played an important role in economic development. Investments in commonly shared economic resources, such as roads and bridges, allowed companies in an industrial economy to be more productive. In Stanislaus County the transportation infrastructure has not kept pace with growth. Much of the existing infrastructure is antiquated and the financial resources are not available to increase overall capacity of the existing transportation network. There is also a lack of consensus on the part of decision makers as to the construction priorities. StanCOG estimates that the minimum transportation needs in the county exceed currently available funding by \$1.6 billion. While many communities across the country today are focusing on the development of New Economy infrastructure, Stanislaus County has to play catch up and significantly increase its investment in transportation improvements.

SITES, BUILDINGS, AND INFRASTRUCTURE

It goes without saying that communities who are successful at recruitment and retention have an adequate supply of fully improved land and vacant buildings. Having an inventory of suitable space will position the County well into the future to successfully compete for quality business opportunities. Today the county lacks large, fully improved sites that are ready for construction, and available buildings that meet current industry standards. There are however many large sites without infrastructure and small sites that are ready for construction. The soon to be available West Patterson Business Park is an excellent example of a business park that meets the needs of today's business.

QUALITY OF LIFE

The key to recruiting and retaining companies in an economy in which skills are the scarcest resource is attracting or "growing" knowledge workers. As a result enhancing the quality of life by providing abundant amenities, a clean environment, and a superior quality of life is more important today to attract and retain a quality labor force.

The communities in Stanislaus County offer a variety of lifestyle choices from urban downtowns to rural ranches. The planned Gallo Arts Center and white river rafting are two examples of the diversity offered. Cost of living and housing prices are lower than large metropolitan areas where the county may attract businesses from, however housing prices are slightly higher than some regional competitors.

AIR QUALITY

Stanislaus County is within the San Joaquin Valley Air Pollution Control District, an eight county region which includes San Joaquin County to the north and Kern County to the south. The combination of internal and external factors results in a non-attainment designation for ozone and PM-10 by both Federal and State criteria for the entire district. While Stanislaus County itself has only minor pollution issues, the higher pollution levels in the southern counties impact the designation for the entire district. The effects of non-attainment status are the need to develop a plan to achieve attainment, and increased federal and state regulation of the amount of pollution that can be emitted by businesses.

ATTACHMENT A

RECOMMENDATIONS

Focusing resources and policy efforts towards improving or rectifying the key issues identified by the ESI Strategic Planning Team will position the county, the cities and The Alliance in developing a vibrant economy and building stronger sustainable communities. Recommendations presented here will help advance the larger progressive goals, such as higher incomes, new job opportunities, more individual choice and stronger communities. Some of the recommendations are best implemented on a city level while others are best at the countywide level.

ECONOMIC DEVELOPMENT

- Develop The Alliance into a true public private partnership for the implementation of economic and workforce development activities. Increase participation and financial contributions from the private sector.
- Create an economic development team (EDT) that will serve as an advisory committee to The Alliance by providing input on marketing, industry targets, research needs, and economic development process and procedures. The Economic Development Team (EDT) should include the key person responsible for economic development from the county and each member city.
- Bring together CEOs and general managers of local companies quarterly to understand the key issues in the business community.
- Develop a countywide Agri-Sciences Industry Cluster. This group of the core agriculture businesses, their related support industries, academia, and workforce training providers will work to improve the competitiveness and profitability of the industry by connecting business with suppliers; academia for innovation; and workforce development for skills enhancement.

EDUCATION AND WORKFORCE

- Develop strong connections between universities, colleges, the public sector, and business community to ensure that research priorities and economic development strategies are linked. This should include the development of a four-year engineering degree focused on agriculture that can be obtained entirely within Stanislaus County.
- Develop a continuum of education from pre-school through elementary school, high school, post secondary technical schools, and colleges. The continuum should offer smooth transitions and articulation of programs between institutions. It should further build relationships between educators to identify challenges, exchange successful strategies, and develop inter-institution solutions.
- Strengthen the relationships between business and K-12 educators. Relationships are strained in many communities as businesspeople do not see quality workers emerging from the K-12 education system, and educators believe that the community at large does not understand the often conflicting mandates with which they must contend. Businesspeople need to understand their dual roles of both explaining their needs to educators and offering workplace experiences for students. Educators need to clearly articulate their constraints, work with the businesspeople to identify solutions to their issues, and be open to regular modification of programs to meet the changing needs of business.
- Implement strategies to lower the dropout rate in the county, especially among Hispanic teenagers.
- Develop post-secondary training programs that hold both businesses and educators accountable for outcomes. Too often educators attempt to build programs that meet the needs

ATTACHMENT A

of business but miss the mark due to reasons that include incomplete articulation of needs from the business community or misinterpretation by the educators. Both parties need to work together to continually assess and refine programs to meet the desired outcome.

BUSINESS DEVELOPMENT

- Foster entrepreneurship and small businesses through targeted training and the creation of a business incubator.
- Develop a collaborative approach to business retention and expansion that will utilize the resources of The Alliance, local chambers of commerce, and jurisdictional staff to meet with existing businesses and spread the word about new programs.

INFRASTRUCTURE AND SITES

- Prioritize and fund needed transportation improvements. Although various groups have come together in the recent past, a solution agreeable to all parties remains elusive. A solution with widespread political support from the business community as well as local and county governments must be developed.
- Increase the amount of land available for commercial and industrial development by extending infrastructure and developing business and industrial parks.

AIR QUALITY

- Confront the issues of air quality in advance of federal sanctions. The air quality issues facing the county are not likely to go away, and choosing a wait-and-see course of action may not be the best approach due to the long timeframes needed to implement a chosen course.

MODESTO STRATEGIC DIRECTION

The Modesto economic development plan is a blueprint of the city's priorities in the area of economic development over the next five years. It identifies specific issues that the city will focus on, and the strategies to be undertaken to perpetuate short and long term economic development successes for Modesto. This plan was developed in conjunction with the Modesto Economic Development Committee and city staff. Their participation in meetings and input to draft reports helped mold a realistic plan that can be implemented over the course of the next five years.

As a foundation to build from, the Modesto Economic Development Committee used the City of Modesto's vision, which follows here:

Modesto: A healthy, safe, attractive, economically vibrant, socially diverse and culturally rich city with a strong sense of identity and pride, a community engaged in the practice of citizenship with governance based on the principle of stewardship.

ATTACHMENT A

The Modesto Strategic Planning Team built on the City's overall vision by agreeing upon the following economic development directive for the future of the community.

Modesto will be an economically diverse and vibrant community, which works with its partners in the region to implement economic development practices that encourage businesses which raise our community's median income and reduces unemployment.

The findings from our research and analysis include a number of key strengths to leverage and key weaknesses to overcome in order for Modesto to optimize business development opportunities.²

STRENGTHS TO LEVERAGE

- Low electric power costs
- Proximity to State Highway 99
- Center of government for Stanislaus County
- Mainline rail access
- Revitalized and flourishing downtown
- Home of the Gallo Arts Center and other cultural amenities
- Planned office projects in downtown
- Large outcommuting population - could be enticed to work locally
- Labor availability is above average (except skilled)
- Quality of life - ability to relocate management

WEAKNESSES TO OVERCOME

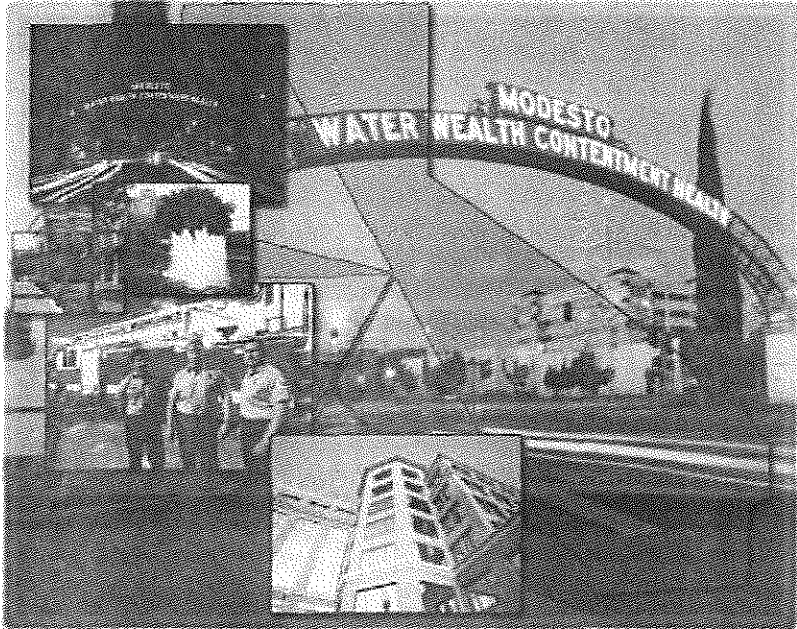
- Limited land available for immediate construction due to lack of infrastructure
- Lack of available buildings that meet current market needs and demand
- Lack of basic skills and employability

This plan includes many goals and strategies that will be beneficial to the economic development efforts of the city of Modesto. The Economic Development Committee wanted to ensure a plan that included all the key issues as well as many opportunities for diverse stakeholders to identify some of the ways in which they can have a positive impact on the future success of the community. Pursuing some of these may be beyond the resources available to the city in the next five years, however there are three major issues / opportunities that must be addressed for this to be dubbed a successful plan.

² Derived from various research. Major sources: Labor and Wage Analysis and Strengths and Weaknesses Assessment – City of Modesto prepared by the ESI Corp Strategic Planning Team in 2002.

ATTACHMENT A

1. Adding ready to build land to the City's inventory is a key component to bringing in new jobs to the community. The Kansas-Woodland Business Park and the North Gateway/Kiernan Business Park are the two projects that are most active at this time. Addressing the federal and state regulatory and permitting requirements at the Kansas-Woodland site to ensure that it continues to move forward will be critical to bringing the project online in a timely fashion. Continuing to work with property owners, the County and others in the North Gateway/Kiernan area is important to laying the groundwork for quality development to occur in this area.
2. The development process is an important part of doing business in a community, and one that the local government can readily control. From streamlining the process to investing in state-of-the-art technology, improvements can be made to appeal to the needs of a business community that everyday must move faster.
3. Downtown Modesto is a true asset to the community. Business, entertainment, government, culture and other activities all occur in this vibrant part of the city. Residential development, business development, beautification and infrastructure investments will be the anchors for an even more vibrant and successful downtown Modesto.



ATTACHMENT A

SUMMARY OF GOALS

The Modesto Economic Development Plan includes the following seven goals, which are summarized below and organized by focus area. The implementation of these goals, in tandem with the countywide goals, will quickly position Modesto in a more competitive role relative to strengthening economic development and building a sustainable economy.

OVERALL GOAL

GOAL 1 Modesto will be designated a "Livable Community" in recognition of its efforts to improve the business climate and quality of life of its residents.

SITES AND BUILDINGS

GOAL 2 Business and industrial parks and ready-to-go sites and buildings will be available to meet the needs of business.

GOAL 3 The City's development process will be efficient, customer friendly and informative.

INFRASTRUCTURE

GOAL 4 Infrastructure will meet the needs of existing and future businesses and residents.

DOWNTOWN AND CULTURAL VIBRANCY

GOAL 5 Our downtown will be a vibrant government, financial, corporate and regional entertainment center with high-density housing and services.

BUSINESS DEVELOPMENT

GOAL 6 The individual resources of the City of Modesto, The Alliance, the Modesto Chamber of Commerce and the Modesto Convention and Visitors Bureau (CVB) and other key economic development partners will be maximized to achieve common goals.

WORKFORCE DEVELOPMENT

GOAL 7 Workforce support programs will be available to Modesto residents so that anyone who is interested in working will have that opportunity.

I. INTRODUCTION

Economic development strategic planning has never been more important to the future success of communities, regions, states or even nations than it is today. The speed of socioeconomic change and technological advances are increasing around the world, and therefore having a plan in place that provides solid footing to address these changes is important. The challenge that economic development faces today is providing value and remaining relevant in this changing world.

In order to provide value and stay relevant, the focus of economic development must be twofold: 1) foster a business environment that will allow a company to be more profitable relative to its other global location options and competitors, and 2) foster a quality of life that will attract and retain skilled workers and corporate decision makers. Economic development today must focus not just on being a cost competitive location, but on offering *value*. Therefore, factors such as productivity, profitability, quality of life, and many others are evaluated by companies in determining where to startup or expand an operation.

Competition in the global marketplace cannot be underestimated as the world grows closer together through socioeconomic ties, technology advancements, and improved transportation systems. The ease of entering foreign markets, for both production and sales, means that most companies work on an international scale or compete with companies that do. Therefore Modesto and Stanislaus County must foster an environment that will allow its businesses to compete globally.

Communities today need a workforce that is motivated and trainable to fit into the higher productivity jobs that will remain in the U.S. They need the ability to quickly and efficiently bring in materials and ship out goods to a global marketplace. A smooth and simple development process is needed that will allow a company to startup or expand on their schedule, not the schedule of the local jurisdiction. The community must offer a quality of life that will attract and retain the skilled workers that will be demanded in any location they choose to locate. This is the environment that is needed to stay relevant.

Economic development is not just the field of business recruitment, retention, and expansion, it involves reforming the workforce development system, marshaling public investment in infrastructure, and molding tax and regulatory policy. To be successful the private and public sectors will need to work as a team, each contributing staff time and financial resources to the economic development efforts. The City of Modesto Community and Economic Development Department will be the primary entity guiding this local plan, and this role includes implementation, coordination and team building. Collaboration with key stakeholders will be the catalyst for community action, which will help build economic sustainability and vitality for the community.

COLLABORATION

The California Department of Housing and Community Development (HCD) during 2001 announced a grant opportunity under the Jobs-Housing Balance Improvement Program. This

ATTACHMENT A

program allowed communities who met HCDs criteria of: 1) having fewer than 1.5 jobs per housing unit and 2) a current housing plan, the opportunity to submit an application for funding to conduct economic development planning.

Leaders in the community determined that a collaborative approach to obtain grant money for the county and eligible communities would be beneficial and submitted application for funding. HCD announced their awards and Stanislaus County, Waterford, Modesto, Turlock, Ceres and Newman were approved for funding. For three cities that did not meet the criteria, Hughson, Oakdale, and Patterson, the Stanislaus County Workforce Investment Board decided to provide funding in order to ensure a comprehensive countywide planning process.³ The ESI Strategic Planning Team was hired to prepare a countywide economic development and marketing plan and a strategic economic development plan for each city and the unincorporated county.

PLANNING PROCESS

The planning process employed for this project drew on the strengths and resources of the entire county to develop a plan for the city of Modesto. While the primary input for Modesto's plan came from the Modesto Economic Development Committee and the City of Modesto, the local plan benefited from the countywide efforts conducted on a parallel track. The following are summaries of the background components of the planning effort conducted by the ESI Strategic Planning Team:

- Previous Studies and Plans – The project team reviewed various county-specific studies on topics including: the economic base, industry clusters and targets, telecommunications and technology, regional transportation and freight, unemployment and workforce development, and the vision for the future.
- Economic Summit – An Economic Summit was held May 14, 2002 to give leaders throughout the county an opportunity to identify the key opportunities and issues they thought were most important for Stanislaus County to focus on in the future.
- Labor and Wage Analysis – This was an evaluation of the labor force of Stanislaus County from the point of view of a corporate site selector. A total of 27 interviews with large employers and key organizations active in Stanislaus County took place in April of 2002.
- Strengths and Weaknesses Analysis – This examined the communities of Stanislaus County in relation to 19 site selection factors from within the major categories of labor force, transportation / market access, sites and buildings, utility / municipal services, and cost of living / relocation. The city was rated on a scale from 1 to 10 in each factor.
- Cost Comparison Reports – These reports compared the costs of locating and operating a hypothetical business in Stanislaus County to other locations in the region and the country. The three types of industries studied were technical support service center, electronics facility, and a plastics molding facility.
- Mock Site Visit – This process evaluated how each jurisdiction worked with a corporate site selector during a mock site selection exercise. The process involved an information request for a hypothetical project, and was followed by a site visit interview with each community. A

³ The City of Riverbank was also awarded the HCD grant. The City developed a local plan and participated in the countywide planning effort.

ATTACHMENT A

debriefing was held at the end of the process to provide constructive criticism in order to achieve greater success in future business attraction opportunities

- Industry Cluster Opportunities – An analysis was prepared detailing the key industry cluster opportunities for Stanislaus County based on industries growing locally and/or regionally and paying above average wages. Agri-Sciences was found to be a key opportunity throughout the county, along with medical services.
- Countywide Marketing Plan – The background sections of the plan evaluated the external audience's perception of Stanislaus County through a survey of national corporate site selectors, assessed the marketability of existing and planned land and buildings based on the key site location factors defined by businesses, and evaluated existing marketing materials and websites produced by each of the jurisdictions. A summary of the goals and strategies contained in the plan is in the following section.

The Modesto Economic Development Committee and city staff were the key groups providing input to the final plan developed. Two meetings were held with the Committee: 1) at the first the group identified their vision and discussed some of the key successes, obstacles and opportunities in the city, and 2) at the second the group discussed the city's goals and strategies in detail. Meetings were held throughout the process with city staff to understand city policy and to refine the plan into a document that will be implemented in the short and long term.

THREE PLANS

The parallel planning process resulted in the development of three distinct implementation plans. The challenges faced by any one community are multifaceted, and in some cases are specific to that community and in others are shared by the entire county. Each of the plans contains strategies that must be implemented to achieve economic development success at the local and countywide levels. The relationship of these documents is as follows:

1. Modesto Economic Development Plan – Certain economic development issues are inherently local in nature. Examples include readying individual sites for development within the city, redevelopment, downtown beautification, infrastructure development, and maintaining a development process that is straightforward and fair. While there are certainly supporting partners present throughout the county and in some cases beyond, the impetus for action must come from the City and local economic development partners to address these issues.
2. Countywide Economic Development Plan – The countywide economic development and implementation plan specifically addresses issues that transcend municipal boundaries and, while impacting the economic development successes of the cities, are not issues that cities can reasonably confront on their own. Examples include air quality, regional transportation, workforce development, education, and how the cities and The Alliance work together in handling leads and providing data to prospects.
3. Marketing Plan – This plan contains five marketing campaigns, Local Business Development, Downtown Retail Development, Branding (Awareness), Master Developers, and Target Industries. These campaigns are designed to afford each community the opportunity to participate as much or as little as their resources will allow. The campaigns can be implemented by a single community, or a partnership of all or some communities.

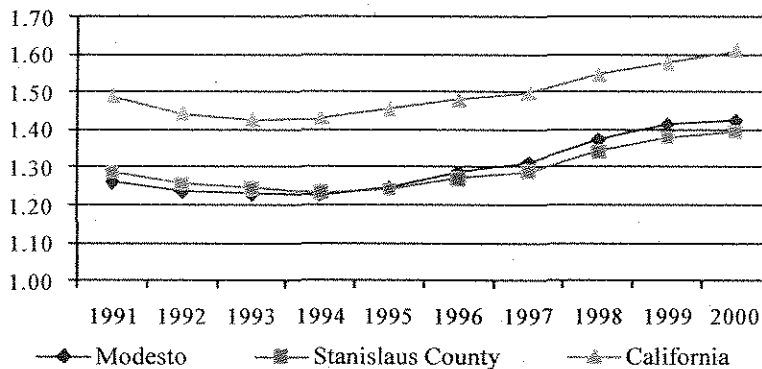
ATTACHMENT A

II. BACKGROUND

The focus of the plan is to improve the jobs to housing balance in the county and ultimately in Modesto. Many of the specific issues discussed here, such as unemployment and wages are best evaluated in a regional context, as opposed to on a city by city basis. Labor markets do not follow city boundaries, and many of the residents of Modesto are in fact employed in other parts of the county and the region. The way these issues are addressed in the city of Modesto, and how local government and organizations are able to work with regional partners and leverage regional assets are important aspects of the local plan.

Modesto added nearly four times as many jobs as housing units (16,111 new jobs and 4,059 new housing units) between 1991 and 2000. As Chart 1 shows, Stanislaus County, with overall jobs to housing balance of 1.39 in 2000 has an overabundance of housing relative to jobs in comparison to the state average of 1.61 as well as the HCD prescribed guideline of 1.5 jobs per house. Modesto's ratio of jobs to housing was slightly higher than the county's at 1.42 in 2000. Stanislaus County has also been plagued by a relatively high unemployment rate (often as much as twice the state average) for decades.

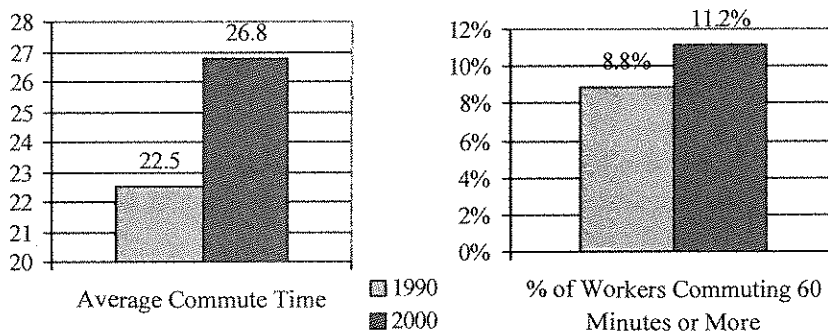
Chart 1 – Job to Housing Balance, Modesto, Stanislaus County, and California, 1991 to 2000



Source: CA Employment Development Dept., CA Dept. of Finance, US Census, BEA, ESI Corp

For these reasons, the primary focus of economic development planning in the county is directed toward job creation, both to provide more and better opportunities for the existing unemployed workers (in conjunction with coordinated training to ensure that workers have the skills to fill the jobs) and in order to mitigate the need for long and costly commutes by residents. As shown on Chart 2, 11.2 percent of employed Stanislaus County residents commute one hour or more one way to work each day and the average commute time has increased from 22.5 in 1990 to 26.8 in 2000.

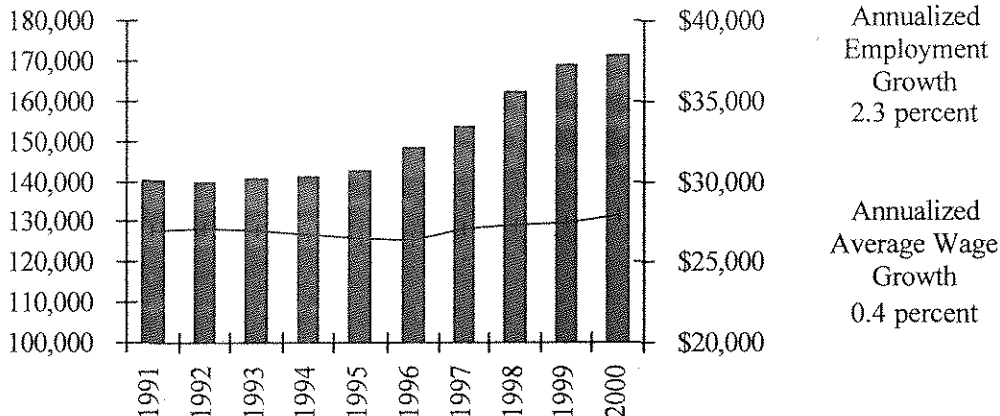
Chart 2 – Average Commute Time and Percentage of the Population Commuting One Hour or More One Way to Work, Stanislaus County 1990 and 2000



Source: US Census 1990 and 2000

Another key issue of importance in Stanislaus County today is the quality of the available jobs. As Chart 3 shows, while the county has generally been fairly successful in job creation efforts average wages have increased more slowly. This exacerbates the “modern” phenomena whereby more than one full time job is *needed* to support the household, and the associated issues which include long commutes driven by multiple wage earners with jobs not in proximity to one another, air quality impacts, and a time shortage in the household that limits civic and community involvement.

Chart 3 – Growth in Employment and Average Wages in Stanislaus County, 1991 to 2000



Note: Wages adjusted by a rebenchmarking West Urban CPI (1999-2001=100)
 Source: BEA, BLS, ESI Corp

Though Stanislaus County has been relatively successful in job creation efforts in recent years, the potential for housing growth is in many instances greater than the potential for job growth because of transportation infrastructure, lack of suitable sites and available buildings, and market conditions. Overcoming barriers to job creation and creating better (higher skill and higher wage) jobs will be a constant struggle, but one that can and will be undertaken.

ATTACHMENT A

MODESTO TODAY⁴

Understanding the socioeconomic make up of the city of Modesto is an important factor in identifying and taking advantage of appropriate opportunities for regional partnerships and targeting local resources optimally for success.

POPULATION

The population of Modesto grew from 164,730 persons in 1990, to 188,856 persons in 2000. With an overall population increase of 15 percent over this ten year period, Modesto grew slightly faster than the state of California (14 percent), yet somewhat slower than Stanislaus County (21 percent).

HOUSING

According to the 2000 census, there are 67,278 total housing units within the city of Modesto, 65,103 of which are occupied. The renter occupation rate is 41 percent. The median home price is \$126,000, and the median year that a Modesto home was built is 1975, same as that for Stanislaus County, and newer than California as a whole (1970).

RACE, ETHNICITY AND LANGUAGE

The majority of the population of Modesto is white (70 percent). This is somewhat higher than the share of the population at the state level (60 percent), while at the same time equaling the percentage of Stanislaus County as a whole (70 percent). With 26 percent of Modesto claiming Hispanic or Latino ethnicity, the city possesses a moderately lower proportion of Hispanics and Latinos than the county at 32 percent. Modesto and Stanislaus County contain a similar percentage of African Americans at 5 percent and 3 percent respectively. These both contrast to California's figure of 7 percent of the state population being African American. American Indians make up 2 percent of the Modesto population, Asians make up 7 percent, and Pacific Islanders constitute a small 1 percent. According to the census, 15 percent of the population of Modesto classify themselves as some race other than those referenced above.⁵

Of the population 5 years and over, 72 percent speak English exclusively at home. The remaining population speaks Spanish (17 percent), Indo-European languages (4 percent), and Asian and Pacific Island languages (5 percent). The city's percentage of Spanish speakers at home is lower than that of the county at 24 percent, and that of the state of California at 26 percent.

AGE

Age distribution figures for the city indicate that the population of Modesto is relatively young. According to US Census 2000 estimates, 30 percent of Modesto residents are under the age of 18, which is somewhat higher than the same statistic for California (27 percent) and close to

⁴ All data referenced in this section is from the US Census.

⁵ Census respondents are allowed to indicate multiple races and Hispanics can be of any race.

ATTACHMENT A

Stanislaus County (31 percent). Conversely, 59 percent of the Modesto population is of the workforce age (age 18 to 64), which mirrors 59 percent for the county, yet falls below 62 percent for California. Persons age 65 and over constitute 11 percent of the population of Modesto, close to the roughly 11 percent of both Stanislaus County and California that fit in the same age category.

INCOME

The median household income in Modesto is \$40,394, which is nearly identical to the median household income for the county at \$40,101. Both of these are somewhat lower than the median household income of California, with a figure of \$47,493. It is estimated that 30 percent of Modesto households make below \$25,000, while only 10 percent make more than \$100,000 annually. A majority of the households (61 percent) make between \$25,000 and \$100,000. Modesto and the county both have a somewhat higher poverty rate (16 percent) than the state.

EDUCATIONAL ATTAINMENT

Modesto is effectively on par with the county and the state in several educational statistics. The percentage of the Modesto population (age 25 and older) with a high school diploma or more currently stands at 75 percent. While this is higher than Stanislaus County at 70 percent, it is fairly close to a figure of 77 percent for California as a whole. About 17 percent of the Modesto population holds a bachelor's degree or higher, a figure that exceeds the county a whole at 14 percent, but trails the percentage of all Californians (age 25 and older) with a bachelor's degree or higher at 27 percent.

EMPLOYMENT

It is estimated that 28 percent of the employed labor force in Modesto works in management, professional, and related occupations, followed by 28 percent in sales and office occupations, followed by 16 percent in production, transportation, and material moving occupations. This contrasts to Stanislaus County as a whole, where 18 percent of the employed labor force works in production, transportation, and material moving occupations, and a similar 27 percent of the county labor force works in management, professional, and related occupations. At 36 percent, a higher percentage of California's entire labor force works in management, professional, and related occupations.

ATTACHMENT A

Table 1 – Employment by Occupation, Modesto, Stanislaus County, and California, 2000

	Modesto		Stanislaus		California	
	Count	Percent	Count	Percent	Count	Percent
Employed civilian population 16 years and over	76,567	100.0%	174,328	100.0%	14,718,928	100.0%
Management, professional, and related occupations	21,760	28.4%	46,182	26.5%	5,295,069	36.0%
Service occupations	12,206	15.9%	26,856	15.4%	2,173,874	14.8%
Sales and office occupations	21,200	27.7%	44,706	25.6%	3,939,383	26.8%
Farming, fishing, and forestry occupations	973	1.3%	6,226	3.6%	196,695	1.3%
Construction, extraction, and maintenance occupations	8,079	10.6%	19,877	11.4%	1,239,160	8.4%
Production, transportation, and material moving occupations	12,349	16.1%	30,481	17.5%	1,874,747	12.7%

Source: US Census

ECONOMY

Stanislaus County has a wide and varied distribution of the industries that employ its growing population. Of these industries, the one that employs the largest percentage of the county’s population is the educational, health and social services sector, accounting for 20 percent of the employed civilian population 16 years and over. This is slightly higher than the corresponding figure for the state of California’s as a whole, of which only 19 percent work in the same industry. The manufacturing industry comes in second for the county; employing 15 percent of Stanislaus County’s employed residents, compared to a slightly smaller percentage of California as a state (13 percent). The retail trade sector follows as the third largest employment industry for Stanislaus, employing 12 percent of the county, which is also somewhat higher than 11 percent for the state. Combined, these three aforementioned industries employ approximately 47 percent of Stanislaus County, with the remaining 53 percent of the county employed across a range of ten other industry categories. Some other industries that employ sizeable portions of the county’s working population are construction at 8 percent, and arts, entertainment, recreation, accommodation and food services at 7 percent. Agriculture, forestry, fishing and hunting, and mining also employ a significant 6 percent of the county’s civilian population 16 years and over. One industry area where Stanislaus County lags the rest of California is in professional, scientific, management, administrative, and waste management services, which claim only 7 percent of the county’s working population, yet employs almost 12 percent of California’s working population.

ATTACHMENT A

Table 2 – Employment by Industry, Stanislaus County and California, 2000

	Stanislaus County		California	
Employed civilian population 16 years and over	174,328	100.0%	14,718,928	100.0%
Agriculture, forestry, fishing and hunting, and mining	9,715	5.6%	282,717	1.9%
Construction	13,943	8.0%	915,023	6.2%
Manufacturing	25,469	14.6%	1,930,141	13.1%
Wholesale trade	7,447	4.3%	596,309	4.1%
Retail trade	21,687	12.4%	1,641,243	11.2%
Transportation and warehousing, and utilities	9,153	5.3%	689,387	4.7%
Information	3,379	1.9%	577,463	3.9%
Finance, insurance, real estate, and rental and leasing	7,881	4.5%	1,016,916	6.9%
Professional, scientific, management, administrative, and waste management services	12,874	7.4%	1,711,625	11.6%
Educational, health and social services	34,825	20.0%	2,723,928	18.5%
Arts, entertainment, recreation, accommodation and food services	11,876	6.8%	1,204,211	8.2%
Other services (except public administration)	9,273	5.3%	761,154	5.2%
Public administration	6,806	3.9%	668,811	4.5%

Source: US Census

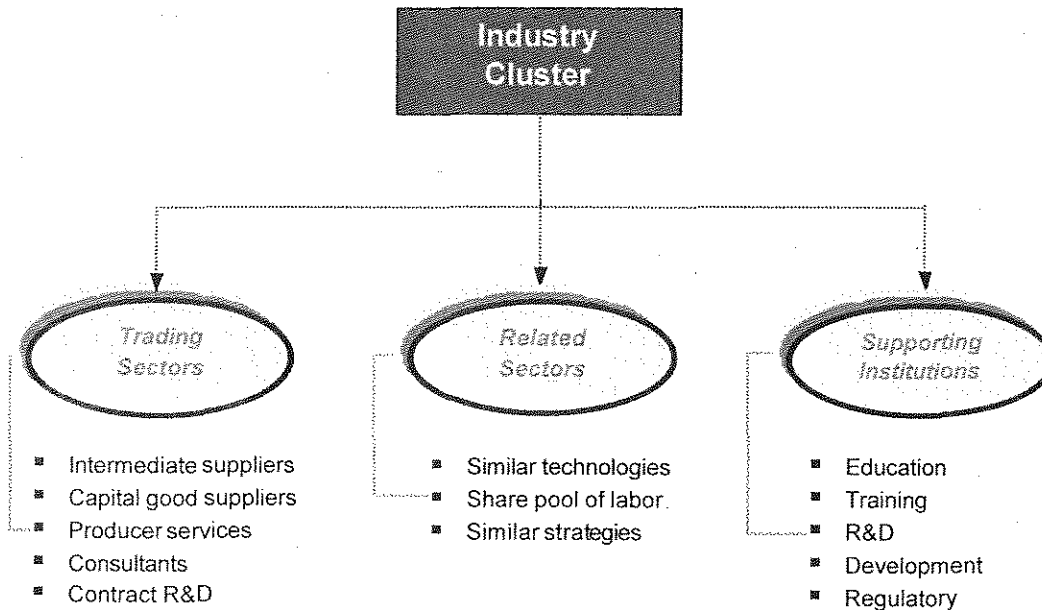
INDUSTRY CLUSTERS

As was eloquently pointed out in earlier Stanislaus County research, “A Job is Not a Job.”⁶ Industries which make purchases of raw materials locally provide greater support to the local economy, and industries paying higher wages provide more money for consumers to recirculate through the local economy and also have a greater vested interest in further investment in their workforce.

Given limited resources, strategic application of economic development efforts is necessary to achieve the best possible success. The new paradigm of economic development, which Stanislaus County is well positioned to take advantage of, involves a holistic, comprehensive focus on a limited number of key industries as a way to grow the regional economy. Key industries can mean a number of things, including industries that employ a large share of the local workforce, industries that pay high wages, industries that have rapid expansion potential due to market conditions, industries that support the supply chain of others active in the market and so on. Industry clusters embody these factors in their very definition, as shown on Chart 4.

⁶ “A Job is Not a Job,” Center for Public Policy Studies, January 1999.

Chart 4 – Components of an Industry Cluster



Source: "Industrial and Regional Clusters: Concepts and Comparative Applications"

Industry clusters include not only firms active in the same industry and their buyers and suppliers (Trading Sectors), but also other industries that share similar technologies, labor pool, and / or strategies (Related Sectors). When the industry cluster concept is further developed it also considers the Supporting Institutions, such as education and training providers and regulatory agencies, which can support or hinder industries throughout the cluster. The way in which these various entities come together can be enhanced by the recent merger of workforce development and economic development into The Alliance, one of the first mergers of its kind in the nation.

AGRI-SCIENCES CLUSTER

Stanislaus County is at an important crossroads today in terms of economic development. The total value of agricultural products produced in Stanislaus County in 2000 was \$1.2 billion. Agriculture is, and will continue to be a key economic sector in Stanislaus County. The long term trend in this industry is, however, toward increased use of capital (relative to labor) in production. This means that even while maintaining, and possibly increasing, its position as a large scale supplier of agricultural goods, overall agricultural employment in Stanislaus County is likely to remain flat or decrease and the jobs that remain will require (on average) higher skill levels and new skill sets.

The county is well represented in agricultural production and in associated manufacturing industries such as food processing and canning. The brightest future of the county, however, lies in further developing the Agri-Sciences Industry Cluster (of which the aforementioned are an important part) by taking advantage of existing competencies, integrating new and existing

ATTACHMENT A

institutions and partnerships, and investing in and providing tools for success to the local workforce.

MEDICAL SERVICES CLUSTER

Medical services has been identified as an emerging cluster in Stanislaus County to be targeted at the local level. Health care jobs are among the fastest growing in the country. Nationwide shortages of nurses and skilled care professionals make the need to develop local programs to train these individuals and support their career development evident. Health care can be an economic engine for Modesto and Stanislaus County through the siting of hospital campuses and other medical office space, which can employ thousands of health care workers at above average wages.

There are nearly 700 health-care related firms in the county that employ over 13,500 people. Except for intermediate care facilities (SIC 8052) and psychiatric hospitals (SIC 8063) all sectors are represented in Stanislaus County. The industry has shown excellent growth in Stanislaus County over the past ten years and continued growth is projected nationally. Through a coordinated effort the hope is that the county will become the regional medical services hub of the entire Central Valley. Working to develop a formalized industry cluster in this area will facilitate opportunities for supporting activities and research and enhance efforts to retain and recruit associated businesses.

BUSINESS SERVICES CLUSTER

As the center of business and government in Stanislaus County, Modesto will focus on developing the business services cluster. Banking, real estate, advertising, engineering, and architecture are examples of the types of firms that make up higher end business services. While distinct in their fields of specialization, they share many of the same clients and have similar needs for qualified support staff. Strengthening the relationships between these firms will help build the business services industry through referrals and other linkages to keep these activities from leaking outside the county.

III. MODESTO ECONOMIC DEVELOPMENT PLAN

The city of Modesto's economic development plan is a blueprint of the city's priorities in the area of economic development over the next five years. It identifies specific issues that the city will focus on, and the strategies to be undertaken to perpetuate short and long term economic development successes for Modesto. The specific allocation of staff and financial resources for the implementation of the plan will be determined at the time the steps are taken.

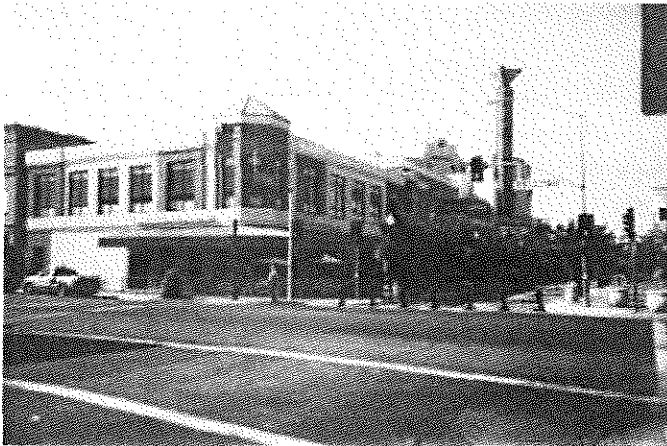
This plan has been developed in support of the City of Modesto's vision:

Modesto: A healthy, safe, attractive, economically vibrant, socially diverse and culturally rich city with a strong sense of identity and pride, a community engaged in the practice of citizenship with governance based on the principle of stewardship.

The Modesto Strategic Planning Team built on the City's overall vision by developing the following economic development directive:

Modesto will be an economically diverse and vibrant community, which works with its partners in the region to implement economic development practices that encourage businesses which raise our community's median income and reduces unemployment.

This plan includes many goals and strategies that will be beneficial to the economic development



efforts of the city of Modesto. The Economic Development Committee wanted to ensure a plan that included all the key issues as well as many opportunities for diverse stakeholders to identify some of the ways in which they can have a positive impact on the future success of the community. Pursuing some of these may be beyond the resources available to the city in the next five years, however there are three major issues / opportunities

that must be addressed for this to be dubbed a successful plan.

1. Adding ready to build land to the City's inventory is a key component to bringing in new jobs to the community. The Kansas-Woodland Business Park and the North Gateway/Kiernan Business Park are the two projects that are most active at this time. Addressing the federal and state regulatory and permitting requirements at the Kansas-Woodland site to ensure that it continues to move forward will be critical to bringing the project online in a timely fashion. Continuing to work with property owners, the County and others in the North

ATTACHMENT A

Gateway/Kiernan area is important to laying the groundwork for quality development to occur in this area.

2. The development process is an important part of doing business in a community, and one that the local government can readily control. From streamlining the process to investing in state-of-the-art technology, improvements can be made to appeal to the needs of a business community that everyday must move faster.
3. Downtown Modesto is a true asset to the community. Business, entertainment, government, culture and other activities all occur in this vibrant part of the city. Residential development, business development, beautification and infrastructure investments will be the anchors for an even more vibrant and successful downtown Modesto.

FOCUS AREAS

The economic development plan is divided into six sections: one overall goal and five focus areas. The overall goal relates to coalescing an effort to achieve the “Livable City” designation from the Partners of Livable Cities organization. This goal impacts all of the subsequent goals because for Modesto to receive this designation it will need to be a leader in economic development and community development. The other goals in this plan are listed under the following five key focus areas:

- Sites and Buildings
- Infrastructure
- Downtown and Cultural Vibrancy
- Business Development
- Workforce Development

PLAN ELEMENTS

- Goal – Goals represent our conception of the preferred state of being.
- Current Situation – The current situation describes how things are in the city and / or county today.
- Strategies – A strategy is an approach or step to be taken to achieve a goal. Strategies that are lettered (for example 1A, 1B and 1C) represent sequential steps and / or activities dependant on one another. Numbered strategies (for example 1, 2 and 3) are separate activities that could be complementary activities to achieving the goal but performing one activity does not necessarily depend on the others happening.
- Key Partners – The key partners listed are the groups, organizations or persons that are primarily responsible for taking ownership of, monitoring and implementing the strategy.
- Timeframe – The timeframes delineated in this plan are underway (has already been started), short term (up to two years to implement), long term (more than two years to implement, but at least begun within five years) and ongoing (activities that need to be revisited periodically).
- Support Partners – Support partners are other groups, organizations, or people that will be invited to participate in the implementation of one or more strategies discussed under a given goal.

ATTACHMENT A

- Performance Measures – Performance measures represent criteria that can be reexamined in the future to help to evaluate the success of the plan. They are not necessarily (but may be) direct measures of the goals, but rather factors in the city and county that can be expected to exhibit a relationship to the achievement of the goal.

Brackets are used throughout the plan to designate goals and strategies which are also included in the City's 2001 – 2004 Strategic Plan. A tilde (~) is used if the goal or strategy is linked to the 2001 – 2004 Strategic Plan, but does not use it directly.

ATTACHMENT A

OVERALL GOAL

The quality of life in a community is an asset to economic development efforts. Communities that are desirable places to live and that are both experiencing growth and mitigating any associated negative impacts make good locations for new and existing businesses to develop.

Historically, people moved based on where businesses was located. Today, it is theorized that the location choices of "creative people" drive, rather than follow company location decisions. Thus, locations that are viewed as desirable to live in by skilled workers will tend to be more successful in attracting companies that require a highly educated workforce.

GOAL 1 MODESTO WILL BE DESIGNATED A "LIVABLE COMMUNITY" IN RECOGNITION OF ITS EFFORTS TO IMPROVE THE BUSINESS CLIMATE AND QUALITY OF LIFE OF ITS RESIDENTS.

CURRENT SITUATION

The Partners for Livable Communities, based in Washington, D.C., has identified 33 of the most livable communities in the US over the past 25 years. The designation as a Livable Community is a recognition of the hard work that is put into making a city a great place to live and do business. The selection process is based on the following factors:

- Amenities: environmental quality; parks and open space; arts and culture; design and planning; special places(downtowns and neighborhoods)
- Ability to Put Amenities to Work: economic development (image and marketing); cultural, heritage, and discovery tourism; outdoor performances, street fairs, festivals, etc.; human development (using culture to help youth and minorities, and to train workers)
- Leadership: recruitment, training, and development; public/private partnerships; community visioning and civic engagement; regionalism; evaluation (indices, report cards, and stewardship organizations)

"Community livability is about more than green spaces and parks. It's about a community's ability to retain and attract business, stimulate convention and visitor trade, increase downtown retail activity, and improve the community's image to residents and nonresidents alike." – Robert McNulty, President of Partners for Livable Communities.

Modesto is a city that struggles with the image outsiders have of it, however it has made strides in a number of the criteria used to define a Livable Community. A designation of this type would require significant effort by the City of Modesto and the leadership of the community, but would result in an important tool for the recruitment and retention of high quality businesses and workers.

ATTACHMENT A

Strategies	Key Partners	Timeframe
1. Identify the criteria necessary for being selected a Livable Community, and chart a course of action and timeline to achieve the designation.	City	Short Term
2. Adopt resolutions to marshal local efforts to achieving the designation.	City, Chamber, Downtown Merchants Association, CVB	Short Term

Performance Measures: Designation as a "Livable City"

FOCUS AREA

SITES AND BUILDINGS

Having an inventory of appropriate sites and buildings to accommodate new and expanding businesses in the community is a key component to achieving success in economic development. Growth can come in many forms: small entrepreneurs, midsize companies and large industries, and all should be able to be accommodated. This means a variety of parcel sizes and locations, and existing and speculative buildings should be accessible in the area. Without this all other economic development efforts become more challenging.

Working with land owners and developers to build this inventory through public-private partnerships is generally started at the local government level. All parties must work within the framework of a land owner interested in maximizing their land value, and a city interested in promoting a land use pattern which benefits the entire city. Creativity and open-mindedness are required by all parties to achieve a mutually agreeable outcome.

Related to the identification and facilitation of appropriate sites and buildings is the ease of navigating a city's permitting process. From the initial master plan to the construction of a building, the process must flow smoothly. A clear understanding of what is acceptable to a city and the process that should be followed will help developers and builders bring projects forward which will achieve quick approval.

GOAL 2 BUSINESS AND INDUSTRIAL PARKS AND READY-TO-GO SITES AND BUILDINGS WILL BE AVAILABLE TO MEET THE NEEDS OF BUSINESS.

CURRENT SITUATION

The city lacks sites which are ready for occupancy for targeted businesses. While there are small parcels available throughout the city, fully improved large tracts of land and business/industrial parks are not generally available. A lack of infrastructure to many of the larger sites is an ongoing constraint to development (see GOAL 4 for infrastructure related activities). There are a number of planned industrial projects which are ongoing in or near the city:

- Kansas-Woodland Business Park (FMC) – This is a 45 acre site located in downtown. It is a top priority of the Redevelopment Agency, and will likely soon be purchased by the City. It will likely not be available for occupancy until late 2004 or early 2005 due to regulatory and permitting requirements. This park will likely accommodate small users.
- Beard Industrial Area – This site is located east of the airport along Highway 132, and is outside the city limits. There are approximately 500 acres available there, but growth is constrained by traffic congestion between the site and Highway 99.
- North Gateway / Kiernan Business Park – This is a 614 acre site located east of Highway 99 and south of Kiernan Avenue. It is planned for a mix of uses including business park, office buildings and limited commercial. Part of the site is in the city limits and part is outside, and will require annexation prior to development. This is likely the best prospect for long term accommodation of large users.

ATTACHMENT A

- Northwest Business Park – This is a 240 acre site located west of Highway 99 and north of Shoemaker Avenue. The project outside of the city, and is a long term project.
- Village One Business Park – This is a 220 acre site located on the far eastern side of the city east of Claus Road and north of Parker Road. Lack of access to a highway creates unique challenges for commercial development.
- Westland Office Project – This is 75,000 square foot project located in downtown. It is a City/County cooperative project which will be available by mid-2003.
- Hinchey-Bray Office Project – This 70,000 square foot project is located in downtown. The land is owned by the City. The project is currently stalled.

Strategies	Key Partners	Timeframe
1. Protect viable future business park areas in the general plan from down-zoning to other uses.	City	Underway <i>Ongoing</i>
2. Protect future business park areas in the general plan from encroachment by non-industrial land uses. [V.C.1.a]	City	Underway <i>Ongoing</i>
3. Encourage business park and industrial land development by revising the fee structure for development which meets the City's goals (likely through the existing Enterprise Designation Areas program).	City	Short Term
4. Work with the local stakeholders to develop a unified vision of the area along Kiernan Road including land uses, circulation, school locations, jurisdictions, etc.	City, County, StanCOG, CalTrans, school district, property owners	Short Term

ATTACHMENT A

Strategies	Key Partners	Timeframe
<p>5. A. Work with the County to install storm drainage infrastructure to the Kiernan site.</p> <p>B. Annex those parts of the Kiernan Site not in the city limits.</p> <p>C. Work with the land owners to bring in a developer to improve the site. Recommend a variety of land ownership-developer relationships to make the deal work.</p> <p>D. Share the cost or fund entirely engineering and planning studies needed to bring the project online.</p> <p>E. Developed a master plan with distinct phasing. This will:</p> <ul style="list-style-type: none"> ▪ Reduce total upfront costs for infrastructure improvements ▪ Allow the land owner to sell the later phases at a higher price. 	<p>City, County</p> <p>City, County, property owners</p> <p>City, property owners, real estate community</p> <p>City, County, property owners</p> <p>City, property owners, real estate community</p>	<p>Short Term</p> <p>Short Term</p> <p>Short Term</p> <p>Short Term</p> <p>Short Term</p>
<p>6. Complete planning and entitlement process for the Kansas-Woodland park.</p>	<p>City</p>	<p>Underway</p>
<p>7. Assist the owners of small adjacent parcels to be able to offer their land as a single unit to a large user through assistance with marketing and parcel aggregation.</p>	<p>City, property owners, real estate community</p>	<p>Short Term <i>Ongoing</i></p>
<p>8. A. Identify future potential business park sites which can be available in a short time frame. [~V.C.1.i]</p> <p>B. Through zoning and the general plan designate land for business parks and industrial uses near existing infrastructure (transportation corridors, water, wastewater, telecom, rail, etc.) to foster efficient land use and to bring projects online faster. [~V.C.1.b]</p>	<p>City, real estate community</p> <p>City</p>	<p>Short Term</p> <p>Underway <i>Ongoing</i></p>

ATTACHMENT A

Strategies	Key Partners	Timeframe
9. Include an economic development element in the future general plan update.	City	Short Term
10. Work within the framework developed in consultation with The Alliance to develop a list of business parks and available sites and buildings to support business recruitment.	City, The Alliance	Short Term

Performance Measures: The city will have 450 acres of vacant industrial/business park zoned land with infrastructure to the site in proximity to Highway 99 within five years.

GOAL 3 THE CITY'S DEVELOPMENT PROCESS WILL BE EFFICIENT, CUSTOMER FRIENDLY AND INFORMATIVE. [~V.A.10]

CURRENT SITUATION

Due to the significant growth pressures experienced by Modesto in the past decade, the City's current development process has been identified as challenging to navigate. Within this broad area the challenges seem more weighted toward large scale developments on activities such as subdivisions as opposed to the pulling of an individual permit on a building. Some of the challenges include:

- Multiple departments and divisions involved in any particular development activity
- Conflicting policy toward growth
- Limited staffing especially to facilitate a complicated permit through the process
- Outdated general plan and building code

Strategies	Key Partners	Timeframe
1. Improve customer service at the permits counter. [V.A.10.a]	City, builders, developers	Underway <i>Ongoing</i>

ATTACHMENT A

Strategies	Key Partners	Timeframe
2. A. Develop a flow chart for each type of development so that developers know up front the various departments which will be involved and the recommended steps to follow and timeframe required. B. Conduct a retreat to help property owners understand the City process.	City, builders, developers City, property owners	Short Term Short Term <i>Ongoing</i>
3. Review the development process and identify steps which can be approved by staff without planning commission or city council approval.	City	Short Term
4. A. Put all the required development forms on the City's website. B. Research "off the shelf" online permitting software and methods for "hosting" the services on the internet. C. Implement online permitting.	City City City	Short Term Short Term Short Term
5. Develop a short evaluation form which can be filled out by developers once they have completed the development process to obtain their feedback on their experience with the City.	City, builders, developers	Short Term
6. Create a permit coordination position to facilitate the development process.	City	Short Term

Performance Measures:

Perceptions about the development process from a survey of those who use the system will improve each year.

An Illustration

Overland Park, Kansas Electronic Permitting

Overland Park, Kansas initiated a series of focus groups and surveys to define problems and identify solutions, resulting in a plan promoted by its city managers to:

- Consolidate the city's building services by merging departments
- Streamline business processes, including improving the quality and speed of plan reviews by adding a prescreening process to assure that plans entering the review process were complete
- Centralize coordination of workflow and establish accountability among all the departments and divisions involved
- Establish high professional standards, multidisciplinary expertise, and substantial training for technical staff
- Implement an efficient enterprise system that would unify information, integrate it with GIS, and provide effective computerized tools for the City's building safety services and other departments.

A task force was created to develop an RFP. It reviewed available vendor systems and learned what programs similar communities were using, identifying Scottsdale and Phoenix, Arizona, as models. After a vendor was selected, an implementation team was formed to work with the vendor for a year to adapt its system to the city's requirements, merge and standardize records, integrate GIS information, and train team leaders. The leaders trained the rest of the staff.

Overland Park's electronic permitting system began operations in 1999 after two years of preparation. It includes a website that provides a broad range of information, forms, and requirements. Upgrade plans include remote inspection capabilities and expanded online services.

**FOCUS AREA
INFRASTRUCTURE**

Available infrastructure, and reliable and inexpensive utilities are key site location factors for all industries. A community's strengths and weaknesses in water, wastewater, transportation, electricity, and telecommunications infrastructure determine, to a large extent, the type of business and industry that will locate in the community. In addition, high quality of fire, police, storm drainage and other city services are also hallmarks of a city in which business would like to locate. The City of Modesto is directly responsible for some of these infrastructure items, and is able to directly or indirectly influence the others. If any one of these site location factors do not meet the needs of the prospective company it does not matter how good the others are. It is therefore important that a city maintain and expand the infrastructure it controls and effectively marshal the maintenance and expansion of those it does not.

**GOAL 4 INFRASTRUCTURE WILL MEET THE NEEDS OF EXISTING AND FUTURE
BUSINESSES AND RESIDENTS.**

CURRENT SITUATION

The City has an immediate wastewater transmission and discharge issue today, leaving it with little excess capacity during years with low precipitation. The City will soon have excess water capacity once the new treatment plant is completed. Overall, the City faces funding challenges for all forms of municipal infrastructure, which will need to be addressed creatively. While overall telecommunications infrastructure is good, there are some business areas of the city that are not adequately served.

Strategies	Key Partners	Timeframe
1. A. Compile data collected through the City's "Trench Cut Ordinance" to build a database of the location of telecommunications infrastructure in the city.	City	Short Term <i>Ongoing</i>
B. Identify the location of telecommunications "points of presence" (POP) using building permit data, assessor data or data from private sources such as www.telcoexchange.com or www.dslreports.com .	City	Short Term <i>Ongoing</i>
C. Ensure that future franchise agreements with telecommunications companies result in the City receiving maps of the installed infrastructure.	City, telecom companies	Short Term <i>Ongoing</i>
D. Create a GIS data layer of telecommunication infrastructure and update it regularly.	City, County	Short Term <i>Ongoing</i>

ATTACHMENT A

Strategies	Key Partners	Timeframe
2. Develop a policy that makes city rights of way available to telecommunications companies for installation of their lines for free when the City is rebuilding or otherwise cutting into a roadway.	City, telecom companies	Short Term
3. A. Conduct annual rate reviews/cost-of-service analyses for water, sewer, and storm drainage. [I.A.1.a.(1)] B. Conduct annual development fee reviews/cost-of-service analyses for all fees. [~VII.B.2] C. Update development fees annual to account for changes in level of service and the cost of infrastructure. D. Benchmark rates and development fees against other communities in the state to ensure that the City remains competitive. [~I.A.1.a.(2)]	City City City City	Short Term <i>Ongoing</i> Short Term <i>Ongoing</i> Short Term <i>Ongoing</i> Short Term <i>Ongoing</i>
4. Evaluate the City's ability to refinance its debt to take advantage current low interest rates.	City	Short Term
5. Work with regional partners to develop a mutually agreeable long term plan for the Kiernan corridor.	City, County, CalTrans, StanCOG	Short Term
6. Work with CalTrans and StanCOG on the beautification of freeway off ramps that form entryways into the city. This first impression of the city is an important component for presenting a positive image of the city.	City, CalTrans, StanCOG	Short Term
7. Tap into funding sources such as the Economic Development Bank, EDA, RDA, and EPA to get infrastructure in place for land which is the most economically feasible.	City, The Alliance	Underway <i>Ongoing</i>
8. A. Consider bonded growth financing to provide funding upfront when infrastructure is needed for growth [VII.C.1] B. Utilize CFDs for infrastructure financing. [VII.C.2]	City City, property owners	Underway <i>Ongoing</i> Underway <i>Ongoing</i>

ATTACHMENT A

Performance Measures: Infrastructure plan in place for reaching all targeted industrial areas.
GIS map of telecommunications infrastructure in the city.

An Illustration

Finding Points of Presence (POP) in Your Community

The following two sources, when used in tandem, provide a significant amount of information about the telecommunications providers in a community.

www.telcoexchange.com: The "Carrier Information" section of TelcoExchange, Inc.'s website provides detailed information about the POP related to any telephone number in the country.

www.dslreports.com (also known as www.broadbandreports.com): The "Broadband/CO Finder" section of DSLreports.com (now also broadbandreports.com) provides the address of POPs in the entire county.

FOCUS AREA

DOWNTOWN AND CULTURAL VIBRANCY

The deterioration of downtowns is a national phenomenon that has resulted from changes in land use patterns, transportation, and commercial growth in the periphery of communities. Many cities are recognizing the value of having a vibrant downtown and seeking to build community pride in the area. Success in this effort is almost always through partnerships of the public and private sectors. Municipal and business investment together are what make a downtown a 24-hour 7-day a week destination.

Urban infill housing is a necessary ingredient to downtown redevelopment efforts. It is usually higher density than suburban housing, thus making better use of increasingly limited urban land, and reuses existing properties which oftentimes are neighborhood eyesores. Infill housing takes advantage of infrastructure that is already in place and is often less destructive to the natural environment and supports mass transit and alternative modes of transportation including walking and biking.

A vibrant downtown is an asset as a central gathering place for residents, a focal point for community pride and cohesion, and a signal to visitors of the community's well being.

GOAL 5 OUR DOWNTOWN WILL BE A VIBRANT GOVERNMENT, FINANCIAL, CORPORATE AND REGIONAL ENTERTAINMENT CENTER WITH HIGH-DENSITY HOUSING AND SERVICES. [~IX]

CURRENT SITUATION

Modesto's downtown is a substantial asset for the city and the county. The nucleus has already formed around an eclectic mix of businesses and well maintained buildings. Projects such as the Doubletree conference hotel, 10th Street Place, the Gallo Arts Center, and the many small entrepreneurial ventures show the commitment of private business, local government and non-profit organizations to this area. However, much of this activity has progressed without a plan marshalling the efforts of the various stakeholders in the downtown.

There are two groups which have as their focus to improve downtown. The Downtown Merchants Association (DMA) is a membership organization of people interested in downtown, and the Downtown Improvement District (DID) is a taxing entity which covers a limited area of downtown and spends its funds on targeted cleanup, special events and improvements.

The success which has been seen does not come without hard work, and if future successes are expected, efforts will need to be maintained, if not increased. Funding and planning for major improvements will need to come from a partnership of the public and private sectors. Residential development, business development, beautification and infrastructure investments will be the anchors for an even more vibrant and successful downtown Modesto.

ATTACHMENT A

Strategies	Key Partners	Timeframe
<p>1. A. Develop a partnership between downtown business and land owners and the City to fund a Downtown Master Plan.</p> <p>B. Retool the Downtown Master Plan RFP to both meet the needs of the City and existing land owners, and also remain within budgetary constraints. It should include the identification of residential land uses, among other components.</p> <p>C. Reissue the RFP.</p> <p>D. Hire consultant to produce the downtown master plan. [~IX.A.1]</p>	<p>City, downtown land owners</p> <p>City, DMA, downtown land owners Redev. Agency</p> <p>City</p> <p>City</p>	<p>Short Term</p> <p>Short Term</p> <p>Short Term</p> <p>Short Term</p>
<p>2. Strengthen the relationship between the City and DID to leverage DID's private sector funds with City funds for target improvement activities.</p>	<p>DID, City</p>	<p>Short Term</p>
<p>3. Investigate increasing the boundaries of the DID to encompass all of the downtown and potentially surrounding areas.</p>	<p>DID, downtown land owners</p>	<p>Short Term</p>
<p>4. Encourage infill and revitalization by revising fee structure for development within the downtown core. [IX.B.2]</p>	<p>City, builders, developers</p>	<p>Short Term</p>
<p>5. Develop a parking and circulation plan for downtown. This plan should:</p> <ul style="list-style-type: none"> ▪ Explore alternative transportation options to reduce vehicle impacts on downtown and to move people around more efficiently (e.g. automated people movers, free bus/trolley, etc.) [~IX.B.5] ▪ Develop parking strategies to support current and future commercial development. [~IX.A.1] 	<p>City, DMA</p>	<p>Short Term</p>
<p>6. Assess the current infrastructure in downtown and make necessary improvements, including storm drainage and fire flow.</p>	<p>City, DID</p>	<p>Short Term</p>
<p>7. Improve deteriorating or unkempt vacancies in downtown and adjacent gateway areas [~IX.B.1]</p>	<p>City, Redev. Agency</p>	<p>Underway <i>Ongoing</i></p>

ATTACHMENT A

Strategies	Key Partners	Timeframe
8. A. Forge public-private partnerships to facilitate the development of key parcels.	Redev. agency, local developers	Underway <i>Ongoing</i>
B. Provide developers assistance with the acquisition and assembly of land.	Redev. agency	Underway <i>Ongoing</i>
9. Encourage the development of small scale residential projects in downtown in conjunction with non-profit housing providers such as the Housing Authority.	Redev. Agency, Housing Authority	Short Term
10. Encourage the construction of a flagship housing development in downtown. [IX.C.1]	City	Long Term
A. Purchase targeted parcels for future downtown residential project.	Redev. Agency	Short Term
B. Issue a RFP for the construction of a market rate residential project on the land.	Redev. Agency	Short Term
C. Adopt developer incentives for high-density housing (Redevelopment Agency, CDBG, HOME, etc.). [IX.C.1]	Redev. Agency	Short Term

Performance Measures: Completion of the Downtown Master Plan
 At least 100 new residential units available downtown
 At least 1,500 new parking spaces available downtown

FOCUS AREA
BUSINESS DEVELOPMENT

Collaboration and leadership go hand in hand when conducting business development activities. No matter the size of the city or the region, partnerships need to be found and leadership needs to be fostered.

“Going it alone” has long proven to be a fruitless approach to business development as there are rarely enough resources in any one community to conduct successful implementation. Independent implementation tends to lead to duplicated efforts, inconsistent messages, and “turf battles.” The Alliance, the City, the chamber of commerce, and the convention and visitors bureau each have their role, and it is important that each work in concert in the areas where their missions overlap.

Without strong and unified leadership business development will be slow to implement. This leadership must come from the business community, the economic development professionals, and elected officials. Leaders must be able to identify the challenges faced by the community, be able to effectively articulate them, and be able to rally support around the solution. However, it is important that all leaders are open to listening and are willing to recognize the role.

GOAL 6 THE INDIVIDUAL RESOURCES OF THE CITY OF MODESTO, THE ALLIANCE, THE MODESTO CHAMBER OF COMMERCE AND THE MODESTO CONVENTION AND VISITORS BUREAU (CVB) AND OTHER KEY ECONOMIC DEVELOPMENT PARTNERS WILL BE MAXIMIZED TO ACHIEVE COMMON GOALS.

CURRENT SITUATION

There are number of participants in economic development in the city of Modesto including the City, The Alliance, the chamber and the CVB. Each of these entities has their particular strengths which should be maximized. Two significant changes are happening in the area which will impact how these partners relate to each other:

- The Alliance is transitioning from SCEDCO.
- The CVB is transitioning from being housed at the chamber to being an independent entity. During the transition it will be housed at the City.

With these changes provide an ideal time to define the roles of each entity in terms of economic development activities. Better communication and better information exchange, reducing overlaps in the areas of marketing and lead generation and other factors should be addressed during this transition time.

ATTACHMENT A

Strategies	Key Partners	Timeframe
<p>1. A. Enter into a memorandum of understanding with The Alliance that will define the role of each entity, and the processes which will be followed.</p> <p>B. Define the roles and responsibilities of each entity (City, chamber, CVB, The Alliance and others) in order to find ways to better leverage resources.</p>	<p>City, The Alliance</p> <p>City, CVB, Chamber, The Alliance</p>	<p>Short Term</p> <p>Short Term</p>
<p>2. Continue to support The Alliance's efforts through funding and active participation on committees and the organization's governance.</p>	<p>City</p>	<p>Underway <i>Outgoing</i></p>
<p>3. Coordinate retention efforts by the City, the chamber and The Alliance to ensure that an effective business call plan is in place. Efforts will be coordinated through a framework developed in cooperation with The Alliance.</p>	<p>City, Chamber, The Alliance</p>	<p>Short Term</p>
<p>4. Develop a council appointed citizens advisory group focused on economic development and the economic health of the city of Modesto to advise the city council and the Community and Economic Development Department.</p>	<p>City, business leaders</p>	<p>Short Term</p>
<p>5. Coordinate the marketing activities of the City, The Alliance, the chamber and the CVB to ensure that there is no duplication and that mutual goals can be achieved more efficiently.</p>	<p>City, CVB, Chamber, The Alliance</p>	<p>Short Term</p>
<p>6. Review incentive programs on an annual basis to ensure that they continue to meet their stated goals.</p>	<p>City</p>	<p>Short Term</p>
<p>7. Investigate new targeted incentive programs which meet the City's economic development goals.</p>	<p>City, developers, builders, The Alliance</p>	<p>Short Term</p>
<p>8. Continue to exchange information with the Alliance about potential leads, and encourage those which cannot be accommodated in Modesto to locate in other communities within the county.</p>	<p>City</p>	<p>Short Term</p>

ATTACHMENT A

Strategies	Key Partners	Timeframe
9. Participate in efforts by The Alliance to create a common core of economic development data, including documentation of the permitting process, identification of zoned and served land and other information as needed.	City, The Alliance	Short Term

Performance Measures: Number of businesses contacted in the business call program.
 Estimation of combined marketing dollars spent by all economic development partners that benefit Modesto.

An Illustration
Phoenix Commission on the Economy
 The Phoenix Commission on the Economy is appointed by the Mayor of Phoenix to advise the Community and Economic Development Department and the Phoenix City Council on matters pertaining to the competitiveness of Phoenix and the health of its business community. The Commission is made up of 15 leaders from the Phoenix business community.

An Illustration
City of Yuma Economic Development Policy
 In January 2001 the Yuma, Arizona city council adopted an economic develop policy as a guide for staff regarding the reasoning for and magnitude of economic development incentives. The policy divides the type of businesses that can receive incentives into four categories: 1) industrial or non-retail commercial businesses, 2) large retail businesses, 3) large private commercial recreational or tourism businesses, and 4) redevelopment areas. Within each category is defined how a business can qualify, and the type and level of incentive available to them. (Resolution R2000-88, City of Yuma Economic Development Division (928) 373-5189)

An Illustration

Site Selection Data Standards

For communities to attract new facilities in today's highly competitive environment, they need reliable, comprehensive data that can be quickly provided to corporate location professionals. Responding to this need, the International Economic Development Council (IEDC) formed the Site Selection Data Task Force, who have worked collaboratively with corporate relocation professionals to devise a comprehensive site selection data template to guide communities with data collection, analysis and delivery. The Task Force unveiled the first version of the standards at an International Development Research Council meeting in New York in May 2000. The data set contained over 1,200 data elements organized into 25 spreadsheets. The end goal is to adopt the template as the industry standard for the site selection process. So for economic development professionals looking to control their data message to craft an attractive community profile, the implementation of standards returns control back to communities; this way everyone involved in the location process is clear on the data being examined and can bank on its reliability. Communities can then build a marketing campaign that complements the data and compensates for the problems they reveal.

www.iedconline.org/hotlinks/site_selection.html

FOCUS AREA
WORKFORCE DEVELOPMENT

Labor is the single largest expense for most businesses. Therefore, the strength of a community's workforce is a significant driver in corporate location decisions. The role of workforce development in economic prosperity today is embodied in assuring a minimum level of basic skills throughout the workforce, working closely with new and emerging industries to develop appropriate training programs, and encouraging participation by workers and companies.

The entities involved in workforce development range from those at the community level to those that are countywide. In general, the countywide entities such as the Workforce Investment Board (WIB), the community college and others take the lead, but there is still a significant role which the local communities can play. This role can be in addressing social issues which impact their residents' potential success in the workplace, offering training programs which are targeted to the needs in their community, supplementing the financial resources of the countywide entities and participating in countywide bodies that are charged with improving the workforce.

GOAL 7 WORKFORCE SUPPORT PROGRAMS WILL BE AVAILABLE TO MODESTO RESIDENTS SO THAT ANYONE WHO IS INTERESTED IN WORKING WILL HAVE THAT OPPORTUNITY.

CURRENT SITUATION

In a study entitled *Getting Back to Work*, welfare recipients and social service providers in Stanislaus County both ranked child care as the top barrier to employment. Other top barriers included transportation and inadequate clothing. A study by the California Child Care Resource and Referral Network showed that in 2000 downtown (defined by zip code 95354) was significantly underserved by licensed child care providers, and that the west side (95351) and far east side (95357) of the city were underserved, but to a lesser extent. The city is served by most of the regional buses as well as the Modesto Area Express (MAX).

ATTACHMENT A

Strategies	Key Partners	Timeframe
<p>1. Increase the childcare opportunities in Modesto.</p> <p>A. Facilitate the process for individuals interested in starting-up licensed childcare services out of their homes or from a business location.</p> <p>B. Assist individuals with paperwork and navigating the local and state regulatory processes.</p> <p>C. Direct individuals to small business loan programs.</p> <p>D. Identify non-profit and religious entities which may be interested in providing child care services.</p> <p>E. Develop grant and loan applications to secure funding for child care. Key agencies offering funds include: California Department of Education (Child Care Facilities Revolving Fund Program), California Economic Development Lending Initiative (Child Care Facility Financing Program, note business must be at least three years old), Enterprise Foundation (offering loans available to all non-profits and to child care centers that serve low income families), Federal Housing Administration (Title I Home Improvement Loans, note family child care businesses only), and the Rural Community Assistance Corporation.</p>	<p>City, Chamber</p> <p>City, Chamber</p> <p>City, Chamber</p> <p>City</p> <p>City</p>	<p>Short Term <i>Ongoing</i></p> <p>Short Term <i>Ongoing</i></p> <p>Short Term <i>Ongoing</i></p> <p>Short Term <i>Ongoing</i></p> <p>Short Term <i>Ongoing</i></p>
<p>2. Conduct a ridership survey to determine demand for expanded bus routes and times.</p>	<p>City, StanCOG</p>	<p>Short Term</p>
<p>3. Build upon the success of the Modesto Workforce Development Program, and use this as a model for workforce development programs in other industries.</p>	<p>City, The Alliance</p>	<p>Short Term <i>Ongoing</i></p>
<p>4. Develop, in partnership with local volunteer and business organizations, a clothing bank. Encourage professionals to donate clothing which they no longer use for individuals in need of clothes for an interview or work.</p>	<p>Chamber, Non-profit organizations</p>	<p>Short Term</p>

Performance Measures: 200 new day care spaces are available.

Seat-miles of bus service in the Modesto city limits increases by 25 percent

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-97**

**RESOLUTION ADOPTING THE RECOGNIZED OBLIGATION PAYMENT
SCHEDULE FOR THE PERIOD OF JANUARY 1, 2012 THROUGH JUNE 30,
2012, AS PROVIDED FOR IN ASSEMBLY BILLS AB 1X 26**

WHEREAS, on December 29, 2011, the California State Supreme Court upheld AB 1X 26 which provides for the elimination of Redevelopment Agencies, and

WHEREAS, the legislation contains many actions that successor agencies must take and indicates deadlines for such actions (which were modified by the Supreme Court ruling), and

WHEREAS, in August 2011, the Redevelopment Agency adopted the Enforceable Obligation Payment Schedule, which identified the fiscal obligations of the Agency, and

WHEREAS, AB 1X 26 requires the preparation of a Recognized Obligation Payment Schedule, and

WHEREAS, The Recognized Obligation Payment Schedule lists enforceable obligations, due dates and the source of payment for a six month period, and

WHEREAS, a Recognized Obligation Payment Schedule must be adopted for each successive six-month fiscal period,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Recognized Obligation Payment Schedule for the period of January 1, 2012 through June 30, 2012 is hereby adopted.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

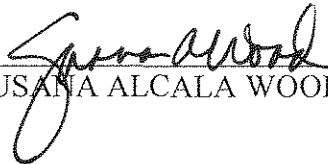
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-98

RESOLUTION AMENDING THE FISCAL YEAR 2011-2012 ANNUAL
OPERATING BUDGET

WHEREAS, a financial analysis has been completed and it has been determined that a budget adjustment is required to the Annual Budgets of the City of Modesto for Fiscal Year 2011-2012,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2011-2012 annual operating budget as shown in **Exhibit A**, which is **attached** hereto and incorporated by reference herein.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez,
Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

HUMAN RESOURCES

An adjustment is necessary to appropriate \$100,000 from the Property Insurance Fund (5340) for a transfer to Cost Center 32010 in the General Fund (0100) that was created to track repair costs and insurance reimbursements for the recent fire at McHenry Mansion. The transfer amount represents the insurance deductible.

PARKS, RECREATION AND NEIGHBORHOODS

An adjustment is necessary to appropriate \$187,000 from Solid Waste Fund (4890) reserves to the Solid Waste Fleet Replacement Fund (4899) for the purchase of two new packer trucks for the Pruned Refuse division.

An adjustment is necessary to budget the anticipated \$500,000 from insurance for Funds, Damages and Cost Recovery revenue in Cost Center 32010 of the General Fund (0100) and to appropriate the same amount of to establish a budget for expenses associated with repairs and renovations of the McHenry Mansion due to fire damage.

PUBLIC WORKS

An adjustment is necessary to release \$161,000 in expense budget from Capital Improvement Project #100518 – Effluent Pump Station Stabilization and reappropriate it to Capital Improvement Project #100661 – Install Irrigation Flow Meter to establish funding for Project 100661.

An adjustment is necessary to appropriate \$330,440 from the Water COP Fund Reserves (4130) to the Water Debt Service (2008 Issue) budget to increase expense associated with a Water Revenue Certificate of Participation arbitrage rebate installment payment including late payment interest. This arbitrage calculation and payment should have been made in 2008; however, due to Finance staff turnover the City did not become aware of this until 2011. Sufficient funds are available in the Water bond reserves to appropriate this previously unbudgeted expense.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-99**

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF
MODESTO AND RETIRED DETECTIVE GARY MARTINEZ FOR THE
PURCHASE OF RETIRED CITY OF MODESTO POLICE EQUESTRIAN
HORSE, SHAWN; AND AUTHORIZING THE CITY MANAGER, OR HIS
DESIGNEE, TO EXECUTE THE AGREEMENT**

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

WHEREAS, City of Modesto retired police equestrian handler, Detective Gary Martinez, wishes to purchase and assume possession of his assigned equestrian horse, Shawn, upon the horse's official retirement, and

WHEREAS, it is necessary to approve an agreement between the City and Retired Detective Martinez for the purchase of a City of Modesto police equestrian horse by its assigned handler,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement between the City of Modesto and retired Detective Gary Martinez for the purchase of retired police equestrian horse, Shawn.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

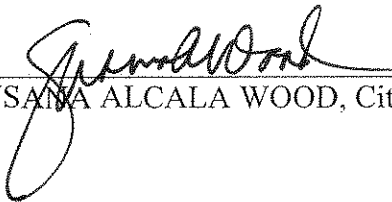
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-100**

**RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE
SCOPE OF THE PROJECT COVERED BY THE WATER SYSTEM ENGINEER'S
REPORT PROGRAM ENVIRONMENTAL IMPACT REPORT (PEIR)
(SCH#2008092095): PROPOSED TANK AND WELL IN DEL RIO AREA**

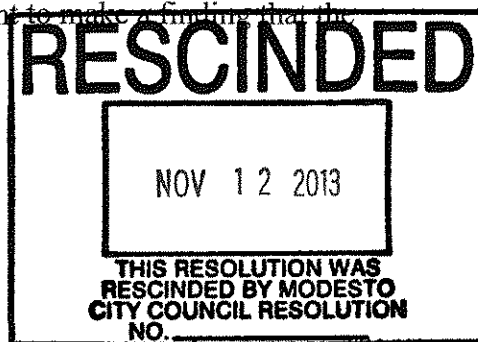
WHEREAS, on September 14, 2010, the City Council, by Resolution No. 2010-408 certified the Final Environmental Impact Report ("EIR") for the City of Modesto 2010 Water System Engineer's Report (SCH No. 2008092095, EA/PW2008-18), and

WHEREAS, the City of Modesto intends to construct a water storage tank, booster pump, and domestic water well, which will provide additional storage volume and pressure for the existing water system serving the Del Rio community as identified in an appendix to the adopted 2010 Water System Engineer's Report, and

WHEREAS, the Utility Planning and Projects Department has prepared an Initial Study, Environmental Assessment No. EA/UP&P 2010-15 for proposed Tank and Well in the Del Rio Area, and

WHEREAS, pursuant to Section 15162 (a) of the CEQA Guidelines, the City of Modesto finds that no new effects could occur or no new mitigation measures would be required, therefore the activity is within the scope of the project covered by the Program EIR and no new environmental document or Public Resources Code Section 21083 findings are required, and

WHEREAS, in accordance with CEQA guidelines on January 9, 2012, the City caused to be published a 30-day notice of the City's intent to make a finding that the proposed project conforms with the Program EIR, and



WHEREAS, said matter was considered by the City Council at a regular meeting on March 13, 2012, at 5:30 p.m., in the Tenth Street Place Chambers, 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it has reviewed and considered the Initial Study prepared for the proposed Project, a copy of which is **attached** hereto as **Exhibit "A"** and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

- A. The type of Project under consideration is described in the Program EIR (PEIR).
- B. All applicable policies, regulations, and mitigation measures identified in the PEIR have been applied to the project.
- C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the PEIR. It has been determined that the project is within the scope of the PEIR (SCH No. 2008092095), which analyzed the potential impacts of build out of the 2010 Water System Engineer's Report.
- D. Pursuant to Public Resources Code 21094 and Government Code Section 15162 and based on the Initial Study, the City of Modesto finds and determines:
 - 1) No substantial changes are proposed in the project which will require major revisions of the Program EIR due to new or substantially more severe significant environmental effects;
 - 2) No substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the Program EIR as a result of new or substantially more severe significant environmental effects; or
 - 3) No new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Program EIR was certified as complete shows any of the following:
 - a. The project will have one or more significant effects not discussed in the Program EIR;

- b. Significant effects previously examined will be substantially more severe than shown in the Program EIR;
 - c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the projects, but the project proponent declines to adopt the mitigation measure or alternative; or
 - d. Mitigation measures or alternatives which are considerably different from those analyzed in the Program EIR would substantially reduce one or more significant effects on the environment, but the project proponent declines to adopt the mitigation measure or alternative.
- E. The Initial Study, Environmental Assessment No. EA/UP&P 2010-15, provides the substantial evidence to support findings A through D, above.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Interim Director of Utility Planning and Projects is hereby authorized and directed to file a notice of determination within five (5) business days with the Stanislaus County Clerk, pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)
APPROVED AS TO FORM:

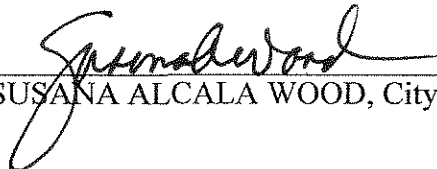
By: 
SUSANA ALCALA WOOD, City Attorney

Exhibit "A"

**INITIAL STUDY
EA/UP&P 2010-15**

City of Modesto

**Finding of Conformance to
Water System Engineer's Report Program EIR**

**Initial Study Environmental Checklist
No. EA/UP&P 2010-15**

For the proposed:

Del Rio Tank and Wells

**Prepared by:
City of Modesto
Utility Planning and Projects Department**

December 2011

(Intentional Blank Page)

City of Modesto Program EIR Initial Study Environmental Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Water System Engineer's Report Program Environmental Impact Report ("Program EIR" or "PEIR"). This Initial Study Environmental Checklist ("Initial Study") is used in determining whether Del Rio Tank and Well is "within the scope" of the project analyzed in the Water System Engineer's Report Program EIR (SCH# 2008092095) (Public Resources Code Sections 21003, 21093, and 21094 and California Code of Regulations Sections 15152 and 15168). When the Initial Study supports this conclusion, the City will issue a finding of conformance.

A subsequent project is "within the scope" of the Program EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Program EIR; and
2. no new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Program EIR. [Public Resources Code Section 21094]

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (CEQA Guidelines Section 15384)

II. PROJECT DESCRIPTION

A. Title: **Del Rio Tank and Well**

B. Address or Location:

Site A **APN 004-077-018 and 004-077-019 (718 Ladd Road), southeast of the intersection of Ladd Road and St. John's Road and**

Site B **APN 004-102-003, northwest of the intersection of McHenry Avenue and Stewart Road (portion near Stewart Road)**

C. Applicant: **City of Modesto, Utility Planning and Projects Department
1010 10th Street, 4th Floor
Modesto, CA 95354**

D. City Contact Person: **Rob Christensen**

Project Manager: Rob Christensen
Department: Utility Planning and Projects
Phone Number: 209.571.5869
E-mail address: rchristensen@modestogov.com

E. Current General Plan Designation(s):

Site A: AG, Agriculture (County)

Site B: PD, Planned Development (County)

F. Current Zoning Classification(s):

Site A: A-2-40, 40-acre-lot Agriculture (County)

Site B: PD, Planned Development (County)

G. Existing Conditions:

Site A The essentially flat 2.03- and 1.95-acre properties have been split for sale into two from a single larger parcel. The larger, western parcel is vacant. The smaller, eastern parcel is occupied with a house and accessory buildings.

Site B The 82.4-acre site is flat and is used for agricultural crops, including an orchard and row crops. A house lies on the southerly portion of the site and takes access from McHenry Avenue. The south-eastern-most portion of the site is adjacent to Stewart Road and it is this portion of the site on which the City intends to locate a well.

H. Surrounding Land Uses:

Site A

North: mostly large agricultural parcels (over 40 acres) and a small number of associated residences

South: residences on small agricultural parcels and small agricultural parcels (less than 40 acres)

East: residences on small agricultural parcels and small agricultural parcels (less than 40 acres)

West: small and medium agricultural parcels (40 acres and less) and associated residences

Site B

North: large agricultural parcel and associated residence

South: large single family detached houses

East: large agricultural parcels and farmstand

West: large single family detached houses

I. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Program EIR (Attach additional maps/support materials as needed for complete record):

The City of Modesto intends to construct a water storage tank, booster pump station, and two domestic water wells, which will provide additional storage volume, water supply, and pressure for the existing water system serving the Del Rio area. The total amount of water delivered to the Del Rio area will not exceed the amount required to complete development of the Del Rio Plan. Currently, the existing water system does not meet certain design pressure and volume storage requirements, and the proposed tank and well will help the system meet these requirements.

The project facilities described herein will be constructed on two different sites, identified as Site A and Site B, as noted above. The tank, booster station and one of the wells will be constructed on either APN 004-077-018 or APN 004-077-019. The remaining well will be constructed at the northwest corner of McHenry Avenue and Stewart Road on the south-eastern-most portion of APN 004-102-003.

Site A: APN 004-077-018 and APN 004-077-019, Ladd Road

The project facilities at this site will consist of an above ground water storage tank, water well and motor, a booster pump station, stand-by generator, and motor control center. Site improvements will include a small parking and access area, fencing or walls, a retention basin, and low-maintenance landscaping. Landscaping will include trees to help screen the tank from adjacent properties and from Ladd Road. As proposed, the water tank would store at least 250,000 gallons of water. The tank will stand a maximum 20 feet above grade and be approximately 70 feet in diameter. The footprint area of the tank will be approximately 3,900 square feet. The booster pump station will be enclosed within a masonry building approximately 2,100 square feet standing a maximum of 22 feet tall.

The site will be enclosed within an eight-foot-tall security wall or fence constructed of either concrete masonry or wrought iron topped with no-climb points. Portions of the site may also include a no-climb chain link fence. The specific type of wall or fence will be determined during the final design. Vehicular access and parking areas within the site will be paved either with Portland cement concrete or asphaltic concrete. Other portions of the site will be covered either with low-maintenance landscaping or gravel.

The water well will be drilled a maximum of 600 feet deep with a desired minimum yield of 1,000 gallons per minute. It is intended to primarily draw water from the confined aquifer below the Corcoran clay layer, which is typically 150 feet to 250 feet below ground. While 1,000 gallons per minute is the desired yield, pumping will vary throughout the year depending upon need, based upon system pressure or tank level, ranging from as much as 20 hours per day during the summer months to as few as two hours per day in the winter. Pumping is expected to occur for an annual average of eight hours per day, with an annual yield of about 175 million gallons.

Additionally, a transmission main will be constructed within St. John's Road from the tank site. The transmission main will run from the tank site northerly for a distance of approximately 2,500 feet and will connect to the existing distribution system near the intersection of St. John's Road and Country Club Drive.

Site B: APN 004-102-003, Stewart Road

The facilities at this site will consist of a water well and motor, stand-by generator, and motor control center. Site improvements will include paved surfaces around the wellhead, fencing or walls, a small retention basin, and low-maintenance landscaping. Landscaping will be designed to minimize the effects of the wall and provide some screening for the well site facilities from adjacent roads.

The water well will be a maximum of 600 feet deep with a desired minimum yield of 1,000 gallons per minute. It is intended to primarily draw water from the confined aquifer below the Corcoran clay layer, which is typically 150 feet to 250 feet below ground. While 1,000 gallons per minute is the desired yield, pumping will vary throughout the year depending upon need, based upon system pressure or tank level, ranging from as much as 20 hours per day during the summer months to as few as two hours per day in the winter. Pumping is expected to occur for an annual average of eight hours per day, with an annual yield of about 175 million gallons.

The site will be enclosed with an eight-to-12-foot-tall security wall or fence constructed either of concrete masonry block or wrought iron topped with no-climb points. The specific type of wall will be determined during the final design. The retention basin may be enclosed with a chain link fence depending on the final layout, but will be screened from view from adjacent residents. The area surrounding the wellhead will be paved with Portland cement concrete. A gravel access road will be constructed around the proposed retention basin.

A transmission main will be constructed within Stewart Road from the well site. The transmission main will run from the well site westerly approximately 500 feet and will connect to the existing distribution system near the intersection of Stewart Road and Grove Point Drive.

Figure 1 shows the project sites and vicinity.

Figure 2 shows Site A

Figure 3 shows Site B

J. Other Public Agencies Whose Approval is Required:

Every municipal water well must receive the following approvals:

Stanislaus County Health Department—permit to drill the well

Regional Water Quality Control Board—receives and approves County permit

State Department of Public Health--issues a permit to use the water after all water testing and distribution procedures have been completed

III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. X **Within the Scope** - The City of Modesto finds that pursuant to California Code of Regulations Section 15162, no new effects could occur or no new mitigation measures would be required, therefore the activity is within the scope of the project covered by the Program EIR and no new environmental document or Public Resources Code Section 21083 findings are required. All of the following statements are found to be true:

- A. The proposed project is of a type described in Chapter II of the Program EIR.
- B. All applicable policies, regulations, and mitigation measures identified in the Program EIR have been applied to the project or otherwise made conditions of approval of the project.
- C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the Program EIR and it has been determined that the project was described as being within the scope of the Program EIR.
- D. Pursuant to Public Resources Code 21094 and California Code of Regulations Section 15162 and based on the Initial Study, the City of Modesto finds and determines:
 - 1) No substantial changes are proposed in the project which will require major revisions of the Program EIR due to new or substantially more severe significant environmental effects;

- 2) No substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the Program EIR as a result of new or substantially more severe significant environmental effects; or
- 3) No new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Program EIR was certified as complete shows any of the following:
 - a. The project will have one or more significant effects not discussed in the Program EIR;
 - b. Significant effects previously examined will be substantially more severe than shown in the Program EIR;
 - c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the projects, but the project proponent declines to adopt the mitigation measure or alternative; or
 - d. Mitigation measures or alternatives which are considerably different from those analyzed in the Program EIR would substantially reduce one or more significant effects on the environment, but the project proponent declines to adopt the mitigation measure or alternative.

2. **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Program EIR. A mitigated negative declaration will be prepared for the project. The following statements are all found to be true:

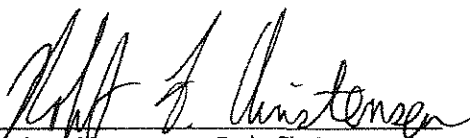
- A. The proposed project is of a type described in Chapter II of the Program EIR.
- B. All applicable policies, regulations, and mitigation measures identified in the Program EIR have been applied to the project or otherwise made conditions of approval of the project.
- C. No subsequent Mitigated Negative Declaration or EIR shall be prepared unless the lead agency determines one or more of the following, pursuant to California Code of Regulations Section 15162(a):
 - 1) Substantial changes are proposed in the project which will require major revisions of the Program EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.
 - 2) Substantial changes have or will occur with respect to the circumstances since the Program EIR was adopted which will require major revisions in the Program EIR due to new significant environmental effects or a substantial increase in the severity of previously identified significant environmental effects.
 - 3) New information of substantial importance which was not known and could not have been known with the exercise of reasonable diligence at the time the Program EIR was certified as complete (a) shows new significant environmental effects or (b) shows that environmental effects previously examined will be substantially more severe or (c) shows that mitigation measures or alternatives found not to be feasible are indeed

feasible or (d) shows that mitigation measures considerably different than those in the Program EIR, but not adopted, would substantially reduce project impacts.

- D. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Program EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

3. Focused EIR Required On the basis of the above determinations, the project is not within the scope of the Program EIR. A Focused EIR will be prepared for the project. All of the following statements are found to be true:

- A. The proposed project is of a type described in Chapter II of the Program EIR.
- B. All applicable policies, regulations, and mitigation measures identified in the Program EIR have been applied to the project or otherwise made conditions of approval of the project.
- C. No subsequent Mitigated Negative Declaration or EIR shall be prepared unless the lead agency determines one or more of the following, pursuant to California Code of Regulations Section 15162(a):
- 1) Substantial changes are proposed in the project which will require major revisions of the Program EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.
 - 2) Substantial changes have or will occur with respect to the circumstances since the Program EIR was adopted which will require major revisions in the Program EIR due to new significant environmental effects or a substantial increase in the severity of previously identified significant environmental effects.
 - 3) New information of substantial importance which was not known and could not have been known with the exercise of reasonable diligence at the time the Program EIR was certified as complete (a) shows new significant environmental effects or (b) shows that environmental effects previously examined will be substantially more severe or (c) shows that mitigation measures or alternatives found not to be feasible are indeed feasible or (d) shows that mitigation measures considerably different than those in the Program EIR, but not adopted, would substantially reduce project impacts.
- D. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Program EIR. New or additional mitigation measures or alternatives are required as a result.


Project Manager – Rob Christensen

Senior Civil Engineer
Title

1/9/12
Date

4. Within the Scope Analysis of this Document:

The Program EIR allows projects to be found within the scope of the PEIR if certain criteria are met. If the following statements are found to be true for all 15 impact categories identified during the Program EIR scoping process, then the proposed project is addressed by the PEIR analysis and is within the scope of the Program EIR. Any "No" response must be discussed.

	YES	NO
(1) The lead agency for subsequent projects is the City of Modesto or a responsible agency identified in the Program EIR.	X	<input type="checkbox"/>
(2) City policies which reduce, avoid, or mitigate environmental effects will continue to be in effect and, therefore, would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template. Project impacts would be mitigated to a less-than-significant level using Program EIR mitigations only.	X	<input type="checkbox"/>
(3) Federal, State, regional, and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Program EIR).	X	<input type="checkbox"/>
(4) No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	X	<input type="checkbox"/>
(5) The development will occur within the boundaries of the City's contiguous and outlying water service areas, as established in the Water System Engineer's Report.	X	<input type="checkbox"/>
(6) Development within the project will comply with all appropriate mitigation measures contained and enumerated in the 2010 Water System Engineer's Report Program EIR.	X	<input type="checkbox"/>

Discussion:

All responses are "yes," therefore, there is no need to discuss the responses above.

IV. ENVIRONMENTAL ANALYSIS

In accordance with Section 15168 of the California Code of Regulations, this Initial Study discloses whether the proposed project described in Section II above may cause any project-specific significant effect on the environment that was not examined in the Final Program EIR for the Water System Engineer's Report and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is "within the scope" of the Program EIR.

Pursuant to California Code of Regulations Section 15168, no new environmental document is necessary for projects that are determined to be within the scope of the Program EIR. Adoption of the findings specified in Section III.1, above after completion of the Initial Study fulfills the City's obligation if the project is within the scope of the Program EIR.

The Water System Engineer's Report identifies a Capital Improvement Program that will deliver safe and reliable water and effectively meet water demands under existing and future developed conditions. The Program EIR assumes that the City's Sphere of Influence will be completely developed by 2038. Outlying service areas: Del Rio is expected to grow to the north, east, and southwest; Grayson is almost completely developed; Hickman is almost completely developed;

Turlock service area is completely developed; Waterford service area is expected to be completely developed in five years.

The environmental impact analysis in the Program EIR for the Water System Engineer's Report is organized in fifteen subject areas. The following analysis is based on the impact analyses contained in Chapter 3 of the Program EIR. For ease of reference, the sections are numbered in the same order as the analyses in Chapter 3.

1. AESTHETICS

a. Significant Effects Identified in the Program EIR

The Program EIR discloses the following significant aesthetic impacts and their associated mitigation measures. Refer to pages 3.1-9 to 3.1-11 in the PEIR for details.

Direct Impacts

Impact AES-3: Temporary degradation of visual character or quality during construction activities (Less than Significant with Mitigation)

Mitigation Measure AES-1: Locate staging areas away from public areas

Mitigation Measure AES-2: Screen staging and construction areas

Impact AES-4: Permanent degradation of visual character or quality from proposed facilities (Less than Significant with Mitigation)

Mitigation Measure AES-3: Design fencing, storage tanks, and booster pump station and groundwater well buildings to be consistent with the surrounding setting

Impact AES-5: Permanent degradation of visual character or quality from proposed new corporation yard (Significant and Unavoidable)

No mitigation measures identified.

Cumulative Impacts

No significant cumulative impacts were disclosed in the PEIR.

b. Program EIR and/or New Mitigation Measures Applied to the Project

Aesthetic mitigation measures pertinent to this project are found on PEIR pages 3.1-9 to 3.1-11 and above. All mitigation measures appropriate to the project, including any new measures, will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigations to be applied to this project are **AES-1, AES-2, and AES-3**. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section 3.1 of the Program EIR provides an analysis of aesthetic impacts of implementation of the Water System Engineer’s Report. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Program EIR.

Significance Criteria: A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
1. AESTHETICS				
1) Would the project have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) Would the project substantially damage scenic resources, including trees, rock outcroppings, and historic buildings along a scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
3) Would the project substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
4) Would the project create a new source of substantial light or glare that would adversely affect daytime or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
5) Would the project substantially degrade views from riverside areas and parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
6) Would the project substantially degrade views of riverside areas from public roadways and nearby properties?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

Site A

- (1-2) There are no scenic vistas from or of the project site, which lies in a farming area, along a heavily traveled roadway.
- (3) Development of this site with a well, tank, wall or fence, and landscaping, is consistent with the type of development described in the Program EIR and is expected to occur at various locations in the City’s water service area. Mitigation Measures AES-1, AES-2, and AES-3 would be implemented to reduce visual impacts. Construction staging would occur away from Ladd Road and would be screened from adjoining properties. The structures would be designed as shown conceptually on Figure 2.
- (4) A minimal amount of night lighting would be used on site for security. When the gate opens or a motion sensor is triggered, additional lighting will be activated. All lighting would be

directed on site and would be consistent with existing lighting levels in the project vicinity, as disclosed in the Program EIR. Lighting fixtures will be shielded from neighboring properties.

- (5-6) The project site is not visible from the Stanislaus River, nor from any parks along the Stanislaus River. Neither the river nor any parks along the river are visible from the site.

Site B

- (1-2) The project site lies at the edge of a developed residential area. The 82-acre parcel of which the site is a part is currently farmed, allowing views of the Stanislaus River's riparian canopy from McHenry Avenue. However, this parcel lies in the Del Rio planning area and is expected to develop in the future with large houses walled off from McHenry Avenue, which will eliminate views of farmland on the west side of McHenry and of the riparian canopy west of McHenry. Establishment of a well site at the corner of McHenry Avenue and Stewart Road will minimally reduce views of farmland and the riparian canopy from McHenry Avenue and is consistent with the expected loss of views associated with further development in the Del Rio area. Development of the well and associated structures will be consistent with existing views of the Del Rio area in the vicinity of Stewart Road.
- (3) Development of this site with a well, tank, wall or fence, and landscaping, is consistent with the type of development described in the Program EIR and is expected to occur at various locations in the City's water service area. Mitigation Measures AES-1, AES-2, and AES-3 would be implemented to reduce visual impacts. Construction staging would occur as far from McHenry Avenue and Stewart Road as practicable and would be screened from adjoining properties. The structures would be designed as shown conceptually on Figure 3.
- (4) A minimal amount of night lighting would be used on site for security. When the gate opens or a motion sensor is triggered, additional lighting will be activated. All lighting would be directed on site and would be consistent with existing lighting levels in the project vicinity, as disclosed in the Program EIR. Lighting fixtures will be shielded from neighboring properties.
- (5-6) The project site is not distinguishable from the Stanislaus River, nor from any parks along the Stanislaus River. As viewed from the banks of the Stanislaus River, the site would appear to be part of the existing development in the Del Rio area. As noted above, the area north of the site and west of McHenry Avenue is expected to develop in the future with residential development similar to existing development in the area.

2. AGRICULTURAL RESOURCES

a. Significant Effects Identified in the Program EIR

The Program EIR discloses the following significant impacts on agricultural resources and their associated mitigation measures. Refer to pages 3.2-5 to 3.2-8 and 4-9 for details.

Direct Impacts

Impact AG-1: Direct conversion of Important Farmland (Significant and Unavoidable)

Mitigation Measure AG-1: Compensate for a loss of farmland

Impact AG-3: Indirect conversion of farmland to non-agricultural uses (Significant and Unavoidable)

No mitigation measures identified.

Cumulative Impacts

Impact CUM-1: Conversion of agriculture to nonagricultural uses (Significant and Unavoidable)

b. Program EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural resource mitigation measures pertinent to the proposed project are found on pages 3.2-5 to 3.2-8 of the Program EIR. All mitigation measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project is AG-1. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section 3.2 of the Program EIR discloses the impacts resulting from the implementation of the Water System Engineer's Report. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Program EIR

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
2. EFFECTS ON AGRICULTURAL RESOURCES				
1) The proposed project would result in the conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (loss of farmland).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) The proposed project conflicts with existing zoning for agricultural use.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
3) The proposed project conflicts with a Williamson Act contract.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
4) The proposed project would indirectly result in the conversion of Farmland to a nonagricultural use.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

Site A

- (1&4) Farmland conversion of this magnitude for a single tank and well site was evaluated in the Program EIR. According to the Department of Conservation's map, "Stanislaus County Important Farmland 2010," the property is designated Rural Residential. Therefore, no prime farmland will be converted to non-agricultural use for this project and no mitigation is necessary. No additional impact on prime agricultural land is anticipated, as compared to the PEIR.
- (2) A project of this type is consistent with the County's A-2-40 zone although infrastructure of this type is not subject to additional entitlements, in accordance with Section 66428(a)(2) of the Subdivision Map Act.
- (3) There is no Williamson Act contract on the subject site.

Site B

- (1&4) Farmland conversion of this magnitude for a well site was evaluated in the Program EIR. According to the Department of Conservation's map, "Stanislaus County Important Farmland 2010," the property is designated Urban and Built Up. Therefore, no prime farmland will be converted to non-agricultural use for this project and no mitigation is necessary. No additional significant impact on prime agricultural land is anticipated, as compared to the PEIR.
- (2) A project of this type is consistent with the County's plan for the Del Rio area and the expired Planned Development zone on the property. This project is not subject to additional entitlements, in accordance with Section 66428(a)(2) of the Subdivision Map Act.
- (3) There is no Williamson Act contract on the subject site.

3. AIR QUALITY

a. Significant Effects Identified in the Program EIR

The Program EIR discloses the following significant impacts on air quality and their associated mitigation measures. Refer to pages 3.3-15 to 3.3-21 and 4-9 to 4-11 in the PEIR for details.

Direct Impacts

Impact AIR-1: Conflicts with or obstruction of implementation of the applicable air quality plan (Significant and Unavoidable)
No mitigation measures identified.

Impact AIR-2: Violations of any air quality standard or substantial contribution to existing or projected air quality violation during construction of proposed improvements (Less than Significant with Mitigation)

Mitigation Measure AIR-1: Implement SJVAPCD Regulation VIII control measures for construction emissions of PM₁₀.

Mitigation Measure AIR-2: Implement enhanced control measures for construction emissions of PM₁₀.

Impact AIR-3: Violations of any air quality standard or substantial contribution to an existing or projected air quality violation during operation of proposed improvements (Less than Significant with Mitigation)

Mitigation Measure AIR-3: Implement control measures for operation emissions of PM₁₀ and for ozone precursors (ROG and NO_x)

Impact AIR-4: Result in a Cumulatively Considerable Net Increase of Any Criteria Pollutant for which the Program Region is in Nonattainment under an Applicable Federal or State Ambient Air Quality Standard (Including Releasing Emissions that Exceed Quantitative Thresholds for Ozone Precursors) (Significant and Unavoidable)

No mitigation measures identified.

Cumulative Impacts

Impact CUM-2: Construction-related emissions of PM₁₀ and ozone precursors (Significant and Unavoidable)

Impact CUM-3: Emissions of greenhouse gases (Significant and Unavoidable)

Mitigation Measure CUM-1: Greenhouse gas calculations and emissions reduction measures

Impact CUM-4: Result in a cumulatively considerable net increase of any criteria pollutant for which the program region is in nonattainment under an applicable federal or State Ambient Air Quality Standard (including releasing emissions that exceed quantitative thresholds for ozone precursors) (Significant and Unavoidable)

b. Master EIR and/or New Mitigation Measures Applied to the Project

Air quality mitigation measure(s) pertinent to the proposed project are found on pages 3.3-15 to 3.3-21 and 4-9 to 4-11 of the Program EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes AIR-1, AIR-2, AIR-3, and CUM-1 from the Program EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section 3.3 of the Program EIR is the analysis of air quality impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not analyzed in the Program EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3. DEGRADATION OF AIR QUALITY				
1) The project will conflict with or obstruct implementation of the applicable air quality plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) The project will violate any air quality standard or contribute substantially to an existing or projected air quality violation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
3) The project will result in a cumulatively considerable net increase of any criteria pollutant for which the program region is in non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
4) The project will expose sensitive receptors to substantial pollutant concentrations.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
5) The project will create objectionable odors affecting a substantial number of people.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
6) The project will fail to comply with the SJVAPCD's mitigation measures for particulate matter 10 microns or less in diameter (PM ₁₀) during construction. The SJVAPCD has determined that compliance with its Regulation VIII and the implementation of other control measures presented in its <i>Guide for Assessing and Mitigating Air Quality Impacts</i> will constitute sufficient mitigation to reduce PM ₁₀ impacts to a level considered less than significant.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
7) The project would cause emissions of air pollutants that would cause or substantially contribute to either localized or regional violations of the ambient air quality standards. Program emissions of more than 10 tons per year of oxides of nitrogen (NO _x) or reactive organic gases (ROG) would substantially contribute to existing violations of ozone standards. Ten tons per year equals 54.8 pounds per day.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
8) The project would cause localized carbon monoxide (CO) concentrations that exceed the California ambient air quality standards (CAAQS) of 9 parts per million (ppm) averaged over 8 hours or 20 ppm averaged over 1 hour.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
9) The project would cause odor problems that result in more than one confirmed complaint per year, averaged over a 3-year period, or three	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
unconfirmed complaints per year averaged over a 3-year period.				
10) The project would expose sensitive receptors or the general public to substantial levels of TACs. The SJVAPCD's threshold of significance is whether the program would exceed: (1) an increased cancer risk for the person with maximum exposure potential by 10 in 1 million, or (2) ground level concentrations of noncarcinogenic TACs resulting in a non-cancer hazard index greater than 1 for the person with maximum exposure.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

Sites A and B

- (1-4) Construction emissions, as disclosed in the Program EIR, are expected to be significant. However, the proposed well and tank are consistent with the type of project described in the Program EIR and its air quality impacts are expected to be similar to impacts described in the Program EIR. Mitigation measures AIR-1 and AIR-2 will be implemented to reduce construction impacts to a less-than-significant level. No additional impacts are expected.
- (5) No objectionable odors are expected to result from construction or operation of the well and tank and associated infrastructure.
- (6) Mitigation measures to control PM₁₀ emissions during construction (AIR-1 and AIR-2) would reduce construction impacts to a less-than-significant level, as disclosed in the Program EIR.
- (7-10) The proposed project is entirely consistent with the type of project described and analyzed in the Program EIR. Emissions of nitrogen oxides, reactive organic gases, carbon monoxide, toxic air contaminants, and odors, which would occur almost exclusively during construction, would thus be consistent with emissions analyzed and quantified in the Program EIR. To reduce operational emissions, mitigation measure AIR-3 will be applied to reduce particulate emissions, ROG, and NO_x. No additional impact would occur, as compared to impacts disclosed in the Program EIR.

Greenhouse gases do not comfortably fall under any of these impact categories, as emissions of CO₂, CH₄, and N₂O are not considered criteria pollutants for the purpose of impact evaluation pursuant to Assembly Bill 32 (2006) or Senate Bill 375 (2008) and because impacts from the project are quite small, but contribute to a significant cumulative impact, when combined with local and regional activities.

Water transmission is one of the most difficult categories in which to reduce energy use. Using electricity to power equipment instead of generators results in small reductions in greenhouse gas emissions because the Modesto Irrigation District produces electricity largely through combustion of fossil fuels, while generators are powered entirely with fossil fuels. Solar panels and other alternative sources of electricity are a potential future energy source, but are not efficient enough to warrant the additional expense, particularly given the need for

on-site energy storage. Emissions offsets could be purchased but have a number of drawbacks, such as adding significant expense to the project and the uncertainty surrounding what is being purchased. The greatest potential for reduction in energy use may actually occur through water conservation measures: if less water is being treated and transported, less energy is used for treatment and transportation. The amount of energy reduced is related to the reduction in water use.

As detailed in Attachment A, two new mitigation measures will be incorporated into this project.

GHG Measure 1: Limit idling time of off-road construction equipment to three minutes.

GHG Measure 2: Limit idling time of on-road construction vehicles to three minutes.

Each of these measures is expected to reduce source emissions up to 1%. These measures will be included as requirements in the construction service contract for the project.

4. BIOLOGICAL RESOURCES

a. Significant Effects Identified in the Program EIR

The Program EIR discloses the following significant and unavoidable impacts on biological resources and their associated mitigation measures. Refer to pages 3.4-24 to 3.4-44 and 4-11 and 4-12 for details.

Direct Impacts

Impact BIO-1: Program-related impacts on plants (less than significant with mitigation)

Mitigation Measure BIO-1: Perform focused surveys for Special-Status plant species

Mitigation Measure BIO-2: Avoid and minimize impacts on Special-Status plant species

Mitigation Measure BIO-3: Compensate for unavoidable impacts on Special-Status plant species

Impact BIO-2: Impacts on the Valley elderberry longhorn beetle (less than significant with mitigation)

Mitigation Measure BIO-4: Conduct preconstruction surveys for the Valley elderberry longhorn beetle and its elderberry host species plant

Mitigation Measure BIO-5: Agency coordination and consultation for impacts on the Valley elderberry longhorn beetle

Mitigation Measure BIO-6: Avoid Valley elderberry longhorn beetle habitat

Mitigation Measure BIO-7: Transplant elderberry plants

Impact BIO-3: Construction-related loss of occupied burrowing owl habitat (less than significant with mitigation)

Mitigation Measure BIO-8: Avoid and protect burrowing owls

Mitigation Measure BIO-9: Compensate for loss of burrowing owl habitat

Impact BIO-4: Construction-related loss of Swainson's hawk foraging habitat (less than significant with mitigation)

Mitigation Measure BIO-10: compensate for loss of Swainson's hawk foraging habitat

Impact BIO-5: Construction-related impacts on nesting Swainson's hawks (less than significant with mitigation)

Mitigation Measure BIO-11: Conduct preconstruction surveys for Swainson's hawk nests

Impact BIO-6: Construction disturbance of bald eagle, tricolored blackbird, and other migratory birds, including raptors (less than significant with mitigation)

Mitigation Measure BIO-12: Conduct preconstruction surveys for nesting birds

Mitigation Measure BIO-13: Avoid and minimize impacts on nesting raptors and other migratory birds

Impact BIO-7: Construction impacts on vernal pool branchiopods (less than significant with mitigation)

Mitigation Measure BIO-14: Avoid habitat for vernal pool branchiopods

Mitigation Measure BIO-15: Conduct protocol-level surveys for vernal pool branchiopods

Mitigation Measure BIO-16: Compensate for impacts on vernal pool branchiopods

Impact BIO-8: Construction impacts on California tiger salamander (less than significant with mitigation)

Mitigation Measure BIO-17: Avoid habitat for California tiger salamander

Mitigation Measure BIO-18: Conduct protocol-level surveys for California tiger salamander

Mitigation Measure BIO-19: Compensate for impacts on California tiger salamander

Impact BIO-9: Construction-related impacts on western pond turtles (less than significant with mitigation)

Mitigation Measure BIO-20: Conduct preconstruction surveys for and minimize impacts on western pond turtles

Impact BIO-12: Construction-related impacts on riparian brush rabbit and riparian woodrat (less than significant with mitigation)

Mitigation Measure BIO-21: Avoid habitat for riparian woodrat and riparian brush rabbit

Mitigation Measure BIO-22: Conduct surveys for riparian woodrat and riparian brush rabbit

Mitigation Measure BIO-23: Consult with the USFWS to conduct monitoring for riparian woodrat and riparian brush rabbit / environmental training for construction crews

Impact BIO-13: Construction-related impacts on fish (less than significant with mitigation)

Mitigation Measures HYD-1 and HYD-2 relating to the City's NPDES permit would reduce impacts to a less-than-significant level.

Impact BIO-14: Loss of shaded river aquatic cover and riparian habitat (less than significant with mitigation)

Mitigation Measure BIO-24: Avoid or minimize disturbance to waters, wetlands, or riparian areas

Mitigation Measure BIO-25: Mitigate for permanent disturbance to sensitive habitats

Mitigation Measure BIO-26: Confine project design and construction to minimize impacts on sensitive habitats

Mitigation Measure BIO-27: Preserve habitat values

Impact BIO-15: Impacts on sensitive natural communities (less than significant with mitigation)

Mitigation Measure BIO-28: Preserve native trees

Mitigation Measure BIO-29: Protect riparian corridors

Mitigation Measure BIO-30: Use native species for landscaping

Impact BIO-16: Effects on Waters of the United States and Waters of the State (less than significant with mitigation)

Mitigation Measures BIO-24 through BIO-26 and BIO-28 would reduce this impact to a less-than-significant level.

Impact BIO-17: Effects on wildlife corridors and native wildlife nurseries (less than significant with mitigation)

Mitigation Measures BIO-1 through BIO-30 would reduce this impact to a less-than-significant level.

Impact BIO-18: Inconsistency with local policies or ordinances protecting biological resources (less than significant with mitigation)

Mitigation Measures BIO-1 through BIO-27 would reduce this impact to a less-than-significant level.

Cumulative Impacts

Impact CUM-5: Effects on biological resources (less than significant with mitigation)

Mitigation Measures BIO-1 through BIO-30 would reduce this impact to a less-than-significant level.

b. Program EIR and/or New Mitigation Measures Applied to the Project

Biological resource mitigation measures pertinent to the proposed project are found on pages 3.4-24 through 3.4-44 V-7-24 of the Program EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes BIO-6, BIO-11, BIO-12, BIO-13, BIO-14, BIO-17, BIO-21, BIO-24, and HYD-1 from the Program EIR; of these, BIO-11, BIO-12, BIO-13, and HYD-1 require the city take specific actions prior to construction, while the remaining mitigation measures have been implemented by selecting a less-sensitive project site than was evaluated in the Program EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section 3.4 of the Program EIR discloses impacts on biological resources resulting from implementation of the Water System Engineer's Report. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Program EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless the project would:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
4. BIOLOGICAL RESOURCES				
1) Have a substantial adverse effect, either directly or through habitat modification, on any species identified as a candidate, sensitive, or special-status in local or regional plans, policies, or regulations, or by the DFG or USFWS.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the DFG or USFWS.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
3) Have a substantial adverse effect on federally-protected wetlands, as defined by CWA Section 404 (including marsh, vernal pool, and coastal wetlands) through direct removal, filling, hydrological interruption, or other means.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
4) Interfere substantially with the movement of any native resident or migratory fish or wildlife species, or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
5) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
6) Conflict with the provisions of an adopted Habitat Conservation Plan (HCP), Natural Communities Conservation Plan (NCCP), or other approved local, regional, or state Habitat Conservation Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

Site A

- (1) The Ladd Road well and tank are proposed to be located on a site currently occupied by a house and accessory buildings and pasture that lie slightly more than a mile from the Stanislaus River. Disturbance to Swainson's hawk foraging habitat could occur during construction. The preconstruction survey needed for the Stewart Road site should include consultation on whether and how Mitigation Measure BIO-10 could be applied to this site.
- (2-4) The Program EIR considered locating water storage tanks and wells in riparian areas. By relocating the project site away from riparian areas, the proposed project will avoid impacts on vernal pool branchiopods, California tiger salamanders, western pond turtles, riparian woodrats, riparian brush rabbits, Valley elderberry longhorn beetles and Valley elderberry bushes, loss of aquatic cover and riparian habitat, and impacts on Waters of the United States and Waters of the State (Mitigation Measures BIO-6, BIO-14, BIO-17, BIO-21, and BIO-24).

Because this site avoids impacts on the above named species, no mitigation for those species is required for this site.

Additionally, the proposed well and tank site is more than a mile from the Stanislaus River's riparian and riverine habitat and there are no vernal pools on the project site. As a result, there is no reasonable possibility of significant impacts from the project on migratory fish, riparian habitat, or wetlands, which will be reduced to a less-than-significant level by implementing Mitigation Measure HYD-1. The project site lies outside the 100-year floodplain.

- (5-6) There are neither local policies protecting biological resources nor an HCP, NCCP, or other habitat conservation plan in effect in the project area.

Site B

- (1) The Stewart Road well is proposed to be located on a site currently unused and occupied by a large native oak tree, a dense stand of smaller trees of an identified variety, and sparse ruderal grassland near McHenry Avenue. This site lies within 3/4 mile of the Stanislaus River. No impact on Swainson's hawk foraging habitat is expected to occur, as this species forages in irrigated cropland and pastures. However, the site is located near enough to nesting habitat that birds may be disturbed by construction activities; a preconstruction survey will be performed in accordance with Mitigation Measure BIO-11. There is also the potential for disturbance of other raptors (kites, hawks, and owls), nesting birds, and other migratory bird species near the site, which also necessitates a preconstruction survey (Mitigation Measures BIO-12 and BIO-13).

- (2-4) The Program EIR considered locating water storage tanks and wells in riparian areas. By relocating the project site away from riparian areas, the proposed project will avoid impacts on vernal pool branchiopods, California tiger salamanders, western pond turtles, riparian woodrats, riparian brush rabbits, Valley elderberry longhorn beetles and Valley elderberry bushes, loss of aquatic cover and riparian habitat, and impacts on Waters of the United States and Waters of the State (Mitigation Measures BIO-6, BIO-14, BIO-17, BIO-21, and BIO-24). Because this site avoids impacts on the above named species, no mitigation for those species is required for this site.

Additionally, the proposed well and tank site is approximately 3/4 mile from the Stanislaus River's riparian and riverine habitat and there are no vernal pools on the project site. As a result, there is a small possibility of significant impacts from the project on migratory fish, riparian habitat, or wetlands, which will be reduced to a less-than-significant level by implementing Mitigation Measure HYD-1. The project site lies outside the 100-year floodplain.

- (5-6) There are neither local policies protecting biological resources nor an HCP, NCCP, or other habitat conservation plan in effect in the project area.

5. CULTURAL RESOURCES

a. Significant Effects Identified in the Program EIR

The Program EIR discloses the following significant impacts on cultural resources and their associated mitigation measures. Refer to pages 3.5-12 to 3.5-17 and 4-12 in the PEIR for details.

Direct Impacts

Impact CR-2: Impacts on previously undiscovered archaeological resources (less than significant with mitigation)

Mitigation Measure CR-1: Implement plan to address discovery of unanticipated buried cultural resources

Impact CR-3: Impacts on previously undiscovered human remains (less than significant with mitigation)

Mitigation Measure CR-2: Implement plan to address the discovery of human remains

Impact CR-4: Impacts on paleontological resources (less than significant with mitigation)

Mitigation Measure CR-3: Minimize potential adverse impacts on paleontological resources

Cumulative Impacts

Impact CUM-6: Effects on Cultural Resources (Less than Significant with Mitigation)

Mitigation Measures CR-1 through CR-3 would reduce this impact to a less-than-significant level.

b. Program EIR and/or New Mitigation Measures Applied to the Project

Cultural resources mitigation measures pertinent to the project being analyzed in this Initial Study are found on page 3.5-12 to 3.5-17 of the Program EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes: CR-2, CR-2, and CR-3 from the Program EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section 3.5 of the PEIR discloses impacts on cultural resources resulting from implementation of the Water System Engineer’s Report. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Program EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5. CULTURAL RESOURCES				
1) The project would cause a substantial adverse change in the significance of a historic resource as defined in Section 15064.5 of the State CEQA Guidelines.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
2) The project would cause a substantial adverse change in the significance of a unique archaeological resource pursuant to Section 15064.5.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
3) The project would directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
4) The project would disturb any human remains, including those interred outside of formal cemeteries.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

Site A

(1-4) The project site has no structures on it, but the adjoining parcel, which the City also intends to purchase, has a farmhouse and accessory buildings on it. The house appears to have been constructed in the 1940s. Both parcels have been under cultivation for many years and is unlikely to yield any significant cultural or paleontological resources as a result of construction. However, should human remains be encountered during construction, Mitigation Measures CR-1, CR-2, and CR-3 will be implemented.

Site B

(1-4) The project site has no structures on it, but the lot that adjoins it to the west is occupied with a house built in the 1930s on a large lot. The site has been farmed for many years and is unlikely to yield any significant cultural or paleontological resources as a result of construction. However, should human remains be encountered during construction, Mitigation Measures CR-1, CR-2, and CR-3 will be implemented.

6. GEOLOGY, SOILS, AND MINERAL RESOURCES

a. Significant Effects Identified in the Program EIR

The Program EIR discloses the following significant impacts on cultural resources and their associated mitigation measures. Refer to pages 3.6-9 to 3.6-10 in the PEIR for details.

Direct Impacts

Impact GEO-1: Damage due to surface rupture, ground-shaking, liquefaction, expansive soils, or landsliding (less than significant with mitigation)

Mitigation Measure GEO-1: Conduct project-specific geotechnical investigation prior to construction

Impact GEO-2: Soil erosion or loss of topsoil due to program construction or operation (less than significant with mitigation)

Mitigation Measure HYD-1 would minimize the potential for erosion and sedimentation to a less-than-significant level

Cumulative Impacts

No significant cumulative impact was disclosed in the Program EIR.

b. Program EIR and/or New Mitigation Measures Applied to the Project

Geology, soils, and mineral resource mitigation measures pertinent to the proposed project are found on pages 3.6-9 to 3.6-10 of the Program EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of the proposed project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes GEO-1 and HYD-1 from the Program EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section 3.6 of the PEIR discloses geology, soils, and mineral resource impacts resulting from implementation of the Water System Engineer’s Report. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Program EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
6. GEOLOGY, SOILS, AND MINERAL RESOURCES				
1) The project would expose people, structures, or infrastructure to potential substantial adverse effects, including the risk of loss, damage, injury, or death involving surface rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area, or based on other substantial evidence of a known fault, strong seismic groundshaking, liquefaction and other related types of seismically induced ground failure, expansive soils, or landslides.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
2) The project would cause substantial soil erosion or loss of topsoil due to program operation or construction.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
3) The project would result in the loss of availability of a known mineral resource or mineral resource recovery site.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

Sites A and B

- (1) To ensure that the project site is underlain with soils suitable for the proposed tank and well, Mitigation Measure GEO-1 will be implemented.
- (2) Mitigation Measure HYD-1 would reduce erosion and sedimentation to a less-than-significant level.
- (3) As noted in the Program EIR, the proposed infrastructure would have no significant impact on the recoverability of any sand and gravel deposits in the vicinity of the project site.

7. HAZARDS AND HAZARDOUS MATERIALS

a. Significant Effects Identified in the Program EIR

The Program EIR discloses the following significant impacts related to hazards and hazardous materials and their associated mitigation measures. Refer to pages 3.7-8 to 3.7-11 in the PEIR for details.

Direct Impacts

Impact HAZ-4: Release of hazardous materials from an existing contaminated site (less than significant with mitigation)

Mitigation Measure HAZ-1: Prepare a risk assessment prior to construction activity

Mitigation Measure HAZ-2: Control contamination resulting from previously unidentified hazardous waste materials

Cumulative Impacts

No significant cumulative impact was identified in the Program EIR.

b. Program EIR and/or New Mitigation Measures Applied to the Project

Hazardous materials mitigation measures pertinent to the proposed project are found on pages 3.7-8 to 3.7-11 of the Program EIR. All mitigation measures appropriate to the project to be incorporated

into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes HAZ-1 from the Program EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section 3.7 of the Program EIR discloses impacts on hazardous materials resulting from implementation of the Water System Engineer’s Report. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Program EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless the project would:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
7. GENERATION OF HAZARDOUS MATERIALS				
1) Create a hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) Create a hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
3) Emit hazardous emissions or involve handling hazardous materials, substances, or waste within 0.25 mile of an existing or proposed school.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
4) Be located on a site that is listed as hazardous by the California Environmental Protection Agency, and, as a result, would create a significant hazard to the public or the environment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
5) Result in safety hazards near a public or public-use airport.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
6) Expose people or structures to risk of loss, injury, or death involving wildland fires.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
7) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

Site A

- (1-3) Most of the equipment to be installed runs on electricity, which neither creates nor uses hazardous materials at the project site. Backup generators use diesel fuel, which would be transported to the site, stored on site, and disposed of from time to time. On-site containment is required for the chlorinator and in case of diesel fuel spills and would be implemented as part of project design. This impact is consistent with the impact disclosed in the Program EIR.
- (4) The project site is not known to the State of California to be contaminated with hazardous materials. However, a Phase I assessment is being prepared for the site, as required by Mitigation Measure HAZ-1. All mitigation contained in the final Phase I assessment will be implemented.
- (5-6) There are no public or public-use airports near the project site. Additionally, the site is under cultivation and there are no wildlands near the site. Therefore, there is no impact on wildfires.

Site B

- (1-3) Most of the equipment to be installed on the project site runs on electricity, which neither creates nor uses hazardous materials on site. Backup generators use diesel fuel, which would be transported to the site, stored on site, and disposed of from time to time. On-site containment is required for the chlorinator and would be implemented as part of project design. This impact is consistent with the impact disclosed in the Program EIR.
- (4) The project site is not known to the State of California to be contaminated with hazardous materials. However, a Phase I assessment has been prepared for the site, as required by Mitigation Measure HAZ-1, and no sign of hazardous materials was discovered (Kleinfelder report, titled, "Phase I Environmental Site Assessment for Del Rio Tank and Water Well Property 6520 Carver Road, Modesto, California," dated August 13, 2010).
- (5-6) There are no public or public-use airports near the project site. Additionally, the site is under cultivation and there are no wildlands near the site. Therefore, there is no impact on wildfires.
- (7) In order to install distribution pipelines, there may be temporary lane closures in the vicinity of the site. Implementation of a traffic management plan would be included as part of the City's Standard Construction Procedures.

8. HYDROLOGY AND WATER QUALITY

a. Significant Effects Identified in the Program EIR

The Program EIR discloses the following significant impacts related to hydrology and water quality and their associated mitigation measures. Refer to pages 3.8-17 to 3.8-22 in the Program EIR for details.

Direct Impacts

Impact HYD-1: Water quality impacts from program construction (less than significant with mitigation)
Mitigation Measure HYD-1: Prepare and implement a drilling-contingency (or "frac-out") plan during microtunneling

Impact HYD-5: Flood hazards (less than significant with mitigation)

Mitigation Measure HYD-2: Conduct floodplain studies prior to program design

Cumulative Impacts

No significant cumulative impact was disclosed in the Program EIR.

b. Program EIR and/or New Mitigation Measures Applied to the Project

Hydrology and Water Quality mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages 3.8-17 to 3.8-22 of the Program EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project is HYD-1 from the Program EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section 3.8 of the Program EIR provides analysis of Hydrology and Water Quality impacts of implementation of the Water System Engineer’s Report, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the Program EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless the project would:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
8. HYDROLOGY AND WATER QUALITY				
1) Violate water-quality standards or waste discharge requirements.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) Substantially alter the existing drainage pattern of the site or area or the course of a stream or river in a manner that would result in substantial erosion or siltation onsite or offsite.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
3) Create or contribute runoff water that would provide substantial additional sources of polluted runoff.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
4) Place housing within a 100-year flood hazard area or place structures within a 100-year flood hazard area that would impede or redirect flood flows.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5) Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
6) Substantially alter the existing drainage pattern of the site or area or the course of a stream or river that would result in flooding onsite or offsite.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

Sites A and B

- (1-3) Water quality could be affected by construction of the tank and water wells or by a possible accident involving diesel fuel (chlorinator?), but the location of the site away from the river will reduce the potential for impacts on the Stanislaus River, as compared to the impacts analyzed in the Program EIR. Mitigation Measure HYD-1 would be implemented, further reducing the potential for impacts. The use of diesel fuel on site is discussed in Section 7, Generation of Hazardous Materials, above.
- (4) This project does not involve the construction or relocation of housing and the site does not lie within the 100-year floodplain.
- (5-6) The project site lies outside the 100-year floodplain, so risk of flood damage to the proposed infrastructure is consistent with the degree of risk assumed in the Program EIR. Furthermore, there would be no change in the risk of flooding from dam failure as compared to the risk throughout the area. Finally, the project would not substantially alter any existing drainage pattern or change a watercourse such that flood hazards are increased, and is consistent with the degree of risk analyzed in the Program EIR.

9. LAND USE AND PLANNING

a. Significant Effects Identified in the Program EIR

The Program EIR discloses the following significant impacts related to land use and planning.

Direct Impacts

No significant direct impacts were disclosed in the Program EIR, therefore no mitigation measures were identified.

Cumulative Impacts

No significant cumulative impact was disclosed in the Program EIR.

b. New Mitigation Measures Applied to the Project

All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

There are no required mitigation measures in the Program EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section 3.9 of the Program EIR discloses impacts of implementing the Water System Engineer’s Report on land use and planning. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Program EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless the project would:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
9. LAND USE AND PLANNING				
1) Physically divide an established community	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the program adopted for the purpose of avoiding or mitigating an environmental effect.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
3) Conflict with any applicable habitat conservation plan or natural community conservation plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

Sites A and B

- (1) Construction and operation of the proposed well and tank would occur outside of the Del Rio community, where the site will be surrounded by cultivated farmland and large lot residences on property similar in size to other lots. No impact greater than impacts disclosed in the Program EIR would occur and no mitigation would be required.
- (2) The well and tank would be consistent with existing land use plans, policies, and regulations.
- (3) There are no habitat conservation plans or natural community conservation plans in effect in Stanislaus County.

10. NOISE

a. Significant Effects Identified in the Program EIR

The Program EIR discloses the following significant impacts related to noise and their associated mitigation measures. Refer to pages 3.10-8 to 3.10-12 and 4-12 in the PEIR for details.

Direct Impacts

Impact NOISE-1: Exposure of Residences to Noise from Grading and Construction Activities (Significant and Unavoidable)

Mitigation Measure NOISE-1: Employ Noise-Reducing Construction Practices

Mitigation Measure NOISE-2: Limit Nighttime Construction Noise

Impact NOISE-2: Exposure of Residences to Noise from the Operation of Engines at Proposed Improvements Such as Wells and Pump Stations (Less than Significant with Mitigation)

Mitigation Measure NOISE-3: Employ Noise-Reducing Methods During Operations

Cumulative Impacts

Impact CUM-7: Program-Related Noise Emissions (Less than Significant with Mitigation)

Mitigation Measures NOISE-1 through NOISE-3 would reduce this impact to a less-than-significant level.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages 3.10-8 to 3.10-12 of the Program EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes NOISE-1, NOISE-2, and NOISE-3 from the Program EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section 3.10 of the PEIR discloses noise impacts resulting from implementation of the Water System Engineer's Report. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not analyzed in the Program EIR.

Significance Criteria: Determination of the proposed project's effects is based on the following thresholds. Project-specific effects will be less than significant unless the project would:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
10. NOISE				
1) Expose persons to or generate noise levels in excess of standards established in a local general plan or noise ordinance or applicable standards of other agencies.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) Expose persons to or generate excessive groundborne vibration or groundborne noise levels.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
3) Result in a substantial permanent increase in ambient noise levels in the program vicinity above levels existing without the proposed program.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
4) Result in a substantial temporary or periodic increase in ambient noise levels in the program vicinity above levels existing without the program.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
5) Be located within an airport land use plan area, or, where such a plan has not been adopted, within 2 miles of a public airport or public-use airport and expose people residing or working in the program area to excessive noise levels.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
6) Be located in the vicinity of a private airstrip and expose people residing or working in the program area to excessive noise levels.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

Sites A and B

- (1-4) Noise from the project would primarily result from construction activities, constituting a temporary impact. Construction noise would be substantial and is likely to exceed noise thresholds at times, however, this impact was disclosed in the Program EIR and the proposed project is expected to result in noise impacts similar to those described in the Program EIR. Mitigation Measures NOISE-1 and NOISE-2 would be implemented to reduce the impact of construction noise on nearby residences. Noise during from operation of the well and tank would result from the pumps, which could be significant, as described in the Program EIR. Mitigation Measure NOISE-3 would be implemented to reduce operational noise impacts to a less-than-significant level.
- (5-6) There is no airport or airstrip within two miles of the project site.

11. POPULATION AND HOUSING

a. Significant Effects Identified in the Program EIR

The Program EIR discloses the following significant impacts related to population and housing. Refer to pages 3.11-7 to 3.11-11 in the PEIR for details.

Direct Impacts

Impact POP-2: Potential to Induce Substantial Population Growth (Significant and Unavoidable)
 No mitigation measures were identified for this impact.

Cumulative Impacts

No significant cumulative impact was identified in the PEIR.

b. New Mitigation Measures Applied to the Project

All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

The Program EIR did not identify mitigation measures to reduce impacts on population and housing. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section 3.11 of the Program EIR discloses impacts of implementing the Water System Engineer’s Report on population and housing. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Program EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless the project would:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
11. POPULATION AND HOUSING				
1) Induce substantial population growth in an area, either directly (e.g., by proposing new homes and businesses) or indirectly (e.g., through the extension of roads or other infrastructure).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) Displace a substantial number of existing housing units, necessitating the construction of replacement housing elsewhere.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
3) Displace a substantial number of people, necessitating the construction of replacement housing elsewhere.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

Sites A and B

- (1) Addition of the proposed wells and tank in the Del Rio area would increase the local water supply and water pressure, which would, in turn, allow greater development in the Del Rio plan area, which has not yet been fully built. The new facilities are proposed to address existing deficiencies in the water delivery system; the amount of water that would be produced by these wells is not expected to facilitate growth greater than that anticipated to occur with the development of the Del Rio planning area. This impact was disclosed in the Program EIR and no mitigation was proposed to reduce the impact; the impact of this specific project is consistent with the impact disclosed in the Program EIR.
- (2-3) No people or housing would be displaced as a result of construction or operation of the proposed well and tank.

12. PUBLIC SERVICES

a. Significant Effects Identified in the Program EIR

The Program EIR discloses the following significant impacts related to public services. Refer to page 3.12-9 in the PEIR for details.

Direct Impacts

No significant impacts were identified in the Program EIR, therefore there are no mitigation measures.

Cumulative Impacts

No significant cumulative impact was disclosed in the Program EIR.

b. New Mitigation Measures Applied to the Project

All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

The Program EIR did not identify an impact and thus did not identify mitigation measures. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section 3.12 of the Program EIR discloses impacts of implementing the Water System-Engineer's Report on public services. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Program EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless the project would:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
12. PUBLIC SERVICES				
1) Result in substantial adverse physical impacts associated with the provision of new or physically-altered governmental facilities or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for fire protection, police protection, schools, parks, or other public facilities.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

Sites A and B

- (1) The Program EIR did not identify any significant impacts resulting from the proposed program. The proposed water wells and tank are very similar to those projects described in the Program EIR, thus impacts would be similar to those disclosed in the Program EIR. No significant impact on public services is anticipated.

13. RECREATION

a. Significant Effects Identified in the Program EIR

The Program EIR discloses the following significant impacts related to recreation. Refer to page 3.13-9 in the PEIR for details.

Direct Impacts

No significant impacts were identified in the Program EIR, therefore there are no mitigation measures.

Cumulative Impacts

No significant cumulative impact was disclosed in the PEIR.

b. New Mitigation Measures Applied to the Project

All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

The Program EIR did not identify an impact and thus did not identify mitigation measures. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section 3.13 of the Program EIR discloses impacts of implementing the Water System Engineer’s Report on recreation. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Program EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless the project would:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
13. RECREATION				
1) Cause any changes in the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical impact on the environment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

Sites A and B

(1-2) Construction and operation of the proposed wells and tank are not expected to have any impact on the use or quality of parks. Furthermore, this project would create no demand for new or expanded parks or other recreational facilities.

14. TRAFFIC/TRANSPORTATION

a. Significant Effects Identified in the Program EIR

The Program EIR discloses the following significant impacts related to traffic/transportation and their associated mitigation measures. Refer to pages 3.14-17 to 3.14-19 and page 4-12 in the PEIR for details.

Direct Impacts

No significant impacts were identified in the Program EIR, therefore there are no mitigation measures.

Cumulative Impacts

No significant cumulative impact was disclosed in the Program EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Traffic policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages 3.14-17 to 3.14-19 of the Program EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section V, Mitigation Applied to Project.

Discussion:

The Program EIR did not identify an impact and thus did not identify mitigation measures. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section 3.14 of the PEIR discloses traffic/transportation impacts resulting from implementation of the Water System Engineer’s Report. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not analyzed in the Program EIR.

Significance Criteria: Determination of the proposed project’s effects is based on the following thresholds. Project-specific effects will be less than significant unless the project would:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
14. TRAFFIC/TRANSPORTATION				
1) Cause an increase in traffic that is substantial in relation to the existing traffic load and the capacity of the street system (i.e., result in a substantial increase in the number of vehicle trips, the volume-to-capacity ratio on roads, or congestion at intersections).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) Cause, either individually or cumulatively, an exceedance of an LOS standard established by the County congestion management agency for designated roads or highways.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
3) Result in inadequate emergency access.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
4) Result in inadequate parking capacity.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5) The proposed program would have a significant impact if it resulted in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
6) The proposed program would have a significant impact if it substantially increased hazards because of a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
7) The proposed program would have a significant impact if it conflicted with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts and bicycle racks).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

Site A

- (1-2) The Program EIR disclosed that a small number of vehicle trips would occur during construction of individual projects and that even fewer vehicle trips would occur during operation of the well and tank. Construction trips would result from the conveyance of equipment to the site and from construction workers arriving and departing the site. Operation of the well and tank would result in occasional visits to the site primarily for maintenance purposes.
- (3) Construction activities would temporarily increase emergency response times due to lane narrowing or lane closures to allow the installation of approximately 2,500 linear feet of water transmission pipeline in St. John's Road from the site to the intersection of Country Club Drive. However, these impacts were disclosed in the Program EIR and no greater impacts would be expected to occur as a result of the proposed project. The City's Standard Construction Procedures would be implemented during construction; these include preparing a traffic control plan, public notification, and preconstruction meetings. Adherence to the City's Standard Construction Procedures would result in a less-than-significant impact, consistent with the Program EIR.
- (4) There would be no continuous demand for parking for maintenance staff. Any needed parking would be accommodated on site.
- (5-7) The project site is not located near any airport or airstrip and the infrastructure would have no effect on air traffic due to any of its features. This is consistent with the analysis in the Program EIR. Furthermore, the construction of the tank, well, and associated infrastructure would result in no significant changes to the affected roadways or traffic on them, after construction is complete. The project does not conflict with plans or policies for non-automobile transportation.

Site B

- (1-2) The Program EIR disclosed that a very small number of vehicle trips would occur during construction of individual projects and that even fewer vehicle trips would occur during operation of the well and tank. Construction trips would result from the conveyance of equipment to the site and from construction workers arriving and departing the site. Operation of the well and tank would result in occasional visits to the site primarily for maintenance purposes.
- (3) Construction activities would temporarily increase emergency response times due to lane narrowing or lane closures to allow the installation of approximately 500 linear feet of water transmission pipeline in Stewart Road to the intersection of Grove Point Drive. However, these impacts were disclosed in the Program EIR and no greater impacts would be expected to occur as a result of the proposed project. The City's Standard Construction Procedures would be implemented during construction; these include preparing a traffic control plan, public notification, and preconstruction meetings. Adherence to the City's Standard Construction Procedures would result in a less-than-significant impact, consistent with the Program EIR.
- (4) There would be no continuous demand for parking for maintenance staff. Any needed parking would be accommodated on site.
- (5-7) The project site is not located near any airport or airstrip and the infrastructure would have no effect on air traffic due to any of its features. This is consistent with the analysis in the Program EIR. Furthermore, the construction of the tank, well, and associated infrastructure would result in no significant changes to the affected roadways or traffic on them, after construction is complete. The project does not conflict with plans or policies for non-automobile transportation.

15. UTILITIES

a. Significant Effects Identified in the Program EIR

The Program EIR discloses the following significant impacts related to utilities. Refer to pages 3.15-12 and 3.15-13 and page 4-13 in the PEIR for details.

Direct Impacts

No significant impacts were identified in the PEIR, therefore there are no mitigation measures.

Cumulative Impacts

Impact CUM-11: Effects on Water Quality (Less than Significant with Mitigation)

Mitigation Measures HYD-1 and HYD-2 would ensure there is no contribution to identified impairments.

b. New Mitigation Measures Applied to the Project

All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

There is no need to apply mitigation measures from the Program EIR to this project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section 3.15 of the Program EIR discloses impacts of implementing the Water System Engineer's Report on utilities. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Program EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless the project would:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
15. UTILITIES				
1) Require or result in the construction of new water, stormwater, or wastewater treatment facilities or in the expansion of existing facilities.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) Have insufficient water supplies available to serve the program from existing entitlements and resources.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
3) Be served by a landfill with insufficient permitted capacity to accommodate the program's solid waste disposal needs.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
4) Fail to comply with federal, state, and local statutes and regulations related to wastewater treatment or solid waste.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

Sites A and B

- (1) The proposed new water supply infrastructure would not directly result in a substantial increase in the demand for stormwater drainage or wastewater treatment facilities. Surface runoff is expected to be minimal, as noted in the discussion of hydrology and water quality. Impacts from this project are expected to be consistent with those disclosed in the Program EIR.
- (2) The purpose of this project is to address existing deficiencies and future demand in the water supply system in the Del Rio area. The proposed project would help diversify water supply and improve reliability, consistent with the Program EIR.
- (3) Any solid waste resulting from construction and maintenance of the proposed well and tank would be disposed of at the Fink Road Landfill, if it cannot be recycled, as disclosed in the

Program EIR. The Fink Road Landfill is expected to have adequate capacity to serve the very limited need expected to result from this project and no significant impact is anticipated.

- (4) All relevant federal, state, and local statutes and regulations will be complied with and no impact is expected to occur.

V. MITIGATION MEASURES APPLIED TO THE PROPOSED PROJECT

If the Initial Study results in the determination that a Finding of Conformance can be adopted for the proposed project, then Section A, below, applies. If the Initial Study results in the determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration/EIR must be prepared for the project then Section B, below, applies.

A. Program EIR Mitigation Measures Applied to the Project

Pursuant to Public Resources Code Section 21094, in order for a Finding of Conformance to be made, all appropriate mitigation measures from the Program EIR shall be incorporated into the proposed project. Urban Area General Plan Policies/Master EIR mitigation measures shall be made part of the proposed project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan. All applicable and appropriate mitigation measures have been applied to the project (see mitigation measures listed below).

Aesthetics:

Sites A and B

Mitigation Measure AES-1: Locate staging areas away from public areas

Mitigation Measure AES-2: Screen staging and construction areas

Mitigation Measure AES-3: Design fencing, storage tanks, and booster pump station and groundwater well buildings to be consistent with the surrounding setting

Agricultural Resources:

Sites A and B

None.

Air Quality:

Mitigation Measure AIR-1: Implement SJVAPCD Regulation VIII control measures for construction emissions of PM₁₀.

Mitigation Measure AIR-2: Implement enhanced control measures for construction emissions of PM₁₀.

Mitigation Measure AIR-3: Implement control measures for operation emissions of PM₁₀ and for ozone precursors (ROG and NO_x)

Mitigation Measure CUM-1: Greenhouse gas calculations and emissions reduction measures.

GHG Measure 1: Limit idling time of off-road construction equipment to three minutes.

GHG Measure 2: Limit idling time of on-road construction vehicles to three minutes.

Biological Resources:

Whether the following mitigation measures will be implemented depends on the results of preconstruction biological surveys.

Site A

Mitigation Measure BIO-10: compensate for loss of Swainson's hawk foraging habitat

Mitigation Measure HYD-1: Prepare and implement a drilling-contingency (or "frac-out") plan during microtunneling

Site B

Mitigation Measure BIO-11: Conduct preconstruction surveys for Swainson's hawk nests

Mitigation Measure BIO-12: Conduct preconstruction surveys for nesting birds

Mitigation Measure BIO-13: Avoid and minimize impacts on nesting raptors and other migratory birds

Mitigation Measure HYD-1: Prepare and implement a drilling-contingency (or "frac-out") plan during microtunneling

Cultural Resources:

Sites A and B

Mitigation Measure CR-1: Implement plan to address discovery of unanticipated buried cultural resources

Mitigation Measure CR-2: Implement plan to address the discovery of human remains

Mitigation Measure CR-3: Minimize potential adverse impacts on paleontological resources

Geology, Soils, and Mineral Resources:

Sites A and B

Mitigation Measure GEO-1: Conduct project-specific geotechnical investigation prior to construction

Mitigation Measure HYD-1: Prepare and implement a drilling-contingency (or "frac-out") plan during microtunneling

Hazards and Hazardous Materials:

Sites A and B

Mitigation Measure HAZ-1: Prepare a risk assessment prior to construction activity

Hydrology and Water Quality:

Mitigation Measure HYD-1: Prepare and implement a drilling-contingency (or "frac-out") plan during microtunneling

Land Use and Planning:

None.

Noise:

Mitigation Measure NOISE-1: Employ noise-reducing construction practices

Mitigation Measure NOISE-2: Limit nighttime construction noise

Mitigation Measure NOISE-3: Employ noise-reducing methods during operations

Population and Housing:

None.

Public Services:

None.

Recreation:

None.

Traffic/Transportation:

None.

Utilities:

None.

B. New or Additional Mitigation Measures or Alternatives Required

The Water System Engineer's Report Program EIR was certified on September 14, 2010, with City Council Resolution 2010-408, which included a series of findings and statements of overriding consideration addressing project impacts, mitigation measures, and alternatives. Among the significant unavoidable impacts disclosed in the Program EIR was the project's cumulative impact on greenhouse gas emissions.

A mitigation measure from the Program EIR and identified in this Finding of Conformance, CUM-1, required that emission calculations be made and any additional feasible measures to reduce greenhouse gas emissions be considered as part of subsequent environmental documents. This has been done and the additional measures below have been identified as feasible. However, the project's impact will be significant and unavoidable even when the mitigation measures are implemented. Therefore, City Council Resolution 2010-408 continues to be applicable to the project and no further environmental review is necessary.

Air Quality:

GHG Measure 1: Limit idling time of off-road construction equipment to three minutes.

GHG Measure 2: Limit idling time of on-road construction equipment to three minutes.

GHG-2 and GHG-3 are expected to reduce source emissions up to 1% each. These measures will be included as requirements in the construction service contract for the project.

City of Modesto Interoffice Memorandum

To: Rob Christensen, Utilities Planning and Projects
From: Cindy van Empel, Planning Division
Date: December 19, 2011
Subject: EA/UP&P No. 2010-15 (Attachment A to EA/UP&P 2010-15)

This memorandum is based upon the report from ICF International dated April 2011, titled, "Greenhouse Gas Emissions and Reduction Measure Analysis for the Del Rio Well Project" (Report) and uses information contained in that report, supplemented with additional information from the project engineer and from the Modesto Irrigation District. The report was prepared for the purpose of addressing Mitigation Measure CUM-1 in the Water System Engineer's Report Program EIR (Program EIR, SCH No. 2008092095), certified by the Modesto City Council on September 15, 2010.

Mitigation measure CUM-1 in the Program EIR requires that greenhouse gas emissions be estimated and feasible emission reduction measures be applied to each project within the scope of the Program EIR. However, City Council adopted Resolution 2010-408, which includes findings and statements of overriding considerations for the expected significant impact on greenhouse gas emissions.

Construction Emissions

Construction related emissions from heavy-duty construction equipment and vehicle travel were estimated using the URBEMIS2007, Version 9.2.4 model. URBEMIS2007 analyzes the type of construction equipment used and the duration of the construction period associated with construction of each of the infrastructure components. The following construction assumptions were made (Christensen pers. comm.):

Site A (Ladd Road, well and tank)

- Site Clearing and Grubbing: 4 days
- Site Grading: 10 days
- Site Utilities: 10 days
- Tank & Mechanical Systems: 40 days
- Paving/Site Work: 4 days
- Waterline Extension: 8 days

During the site clearing and grubbing and water line extension phases, heavy-duty diesel trucks would be required to haul excavated soil and material. It was assumed that approximately 93 trips would be made during the site clearing and grubbing phase and 25 trips would be made during the water line extension phase (Christensen pers. comm.). Carbon dioxide emissions associated with these trips were estimated using URBEMIS. Trip distances were assumed to be 20 miles, based on URBEMIS defaults.

Emissions are characterized in carbon dioxide equivalence, or by relative climate change potential. Carbon dioxide, being the basis for equivalence, is assigned a factor of 1.0. Methane (CH₄) has a climate change potential 21 times greater than does carbon dioxide and is assigned a factor of 21. Nitrogen oxides have a climate change potential 310 times greater than carbon dioxide and is assigned a factor of 310. The table below estimate emissions and converts emissions to climate change potential.



TABLE 1: Construction Emissions for Site A

Phase	Source	Construction Emissions in Metric Tons			
		CO ₂	CH ₄	NO _x	CO ₂ e
Clearing and Grubbing	Construction Equipment	1.17	0.00	0.00	1.17
	Heavy Duty Truck	3.40	0.00	0.00	3.40
	Employee Commute	0.45	0.01	0.01	3.76
Grading	Construction Equipment	8.01	0.00	0.00	8.01
	Heavy Duty Truck	----	----	----	0.00
	Employee Commute	1.12	0.03	0.03	11.05
Site Utilities	Construction Equipment	10.36	0.00	0.00	10.36
	Heavy Duty Truck	----	----	----	0.00
	Employee Commute	1.12	0.03	0.03	11.05
Tank, Well, and Mechanical	Construction Equipment	44.27	0.00	0.00	44.27
	Heavy Duty Truck	----	----	----	0.00
	Employee Commute	4.46	0.12	0.12	44.18
Paving/Site Work	Construction Equipment	1.45	0.00	0.00	1.45
	Heavy Duty Truck	----	----	----	0.00
	Employee Commute	0.45	0.12	0.12	40.17
Waterline Extensions	Construction Equipment	4.79	0.00	0.00	4.79
	Heavy Duty Truck	0.91	0.00	0.00	0.91
	Employee Commute	0.89	0.02	0.02	7.51
Total Construction Emissions		82.85	0.33	0.33	192.08
For off-road diesel engines, NO _x : CO ₂ = 0.000026 and CH ₄ : CO ₂ = 0.000057. For on-road gasoline engines, NO _x and CH ₄ = 5% of CO ₂ . CH ₄ has 21 times the CO ₂ e of CO ₂ ; NO _x has 310 times the CO ₂ e of CO ₂ .					

Site B (Stewart Road, well)

- Site Clearing and Grubbing: 2 days
- Site Grading: 8 days
- Site Utilities: 8 days
- Tank & Mechanical Systems: 40 days
- Paving/Site Work: 4 days
- Waterline Extension: 8 days

During the site clearing and grubbing and water line extension phases, heavy-duty diesel trucks would be required to haul excavated soil and material. It was assumed that approximately 45 trips would be made during the site clearing and grubbing phase and 5 trips would be made during the water line extension phase (Christensen pers. comm.). Carbon dioxide emissions associated with these trips were estimated using URBEMIS. Trip distances were assumed to be 20 miles, based on URBEMIS defaults.

TABLE 2: Construction Emissions for Site B

Phase	Source	Construction Emissions in Metric Tons			
		CO ₂	CH ₄	NO _x	CO ₂ e
Clearing and Grubbing	Construction Equipment	0.58	0.00	0.00	0.58
	Heavy Duty Truck	1.70	0.00	0.00	1.70
	Employee Commute	0.23	0.01	0.01	3.54
Grading	Construction Equipment	6.50	0.00	0.00	6.50
	Heavy Duty Truck	----	----	----	0.00
	Employee Commute	0.90	0.02	0.02	7.52
Site Utilities	Construction Equipment	8.15	0.00	0.00	8.15
	Heavy Duty Truck	----	----	----	0.00
	Employee Commute	0.90	0.02	0.02	7.52
Well and Mechanical	Construction Equipment	44.27	0.00	0.00	44.27
	Heavy Duty Truck	----	----	----	0.00
	Employee Commute	4.46	0.12	0.12	44.18
Paving/Site Work	Construction Equipment	0.73	0.00	0.00	0.73
	Heavy Duty Truck	----	----	----	0.00
	Employee Commute	0.45	0.12	0.12	40.17
Waterline Extensions	Construction Equipment	4.79	0.00	0.00	4.79
	Heavy Duty Truck	0.14	0.00	0.00	0.14
	Employee Commute	0.89	0.02	0.02	7.51
Total Construction Emissions		74.69	0.31	0.31	177.30
For off-road diesel engines, NO _x : CO ₂ = 0.000026 and CH ₄ : CO ₂ = 0.000057. For on-road gasoline engines, NO _x and CH ₄ = 5% of CO ₂ . CH ₄ has 21 times the CO ₂ e of CO ₂ ; NO _x has 310 times the CO ₂ e of CO ₂ .					

Operational Emissions

Direct Emissions

Facility inspections will occur three times per week; a total of 156 trips per year were assumed (Christensen pers. comm.) Both sites will likely be visited during a single inspection trip. Emissions associated with inspections were modeled using the URBEMIS 2007 model. One 760 horsepower backup diesel generator will be installed at each site. Each generator will be used no more than six hours per year (Christensen pers. comm.).

Indirect Emissions

The California Air Pollution Control Officers Association (CAPCOA) (2010) lists the following energy requirements for the San Joaquin River Basin:

- Water Treatment: 111 kilowatt-hours (kWh) per million gallons (MG)
- Water Distribution: 1,272 kWh per MG

These factors were multiplied by the amount of water produced by each of the two wells to estimate the total energy demand for water treatment and distribution. The desired minimum yield of each well is 1,000 gallons per minute and pumping is expected to occur an annual average of eight hours per day, although it would vary based on system pressure and tank level from as much as 20 hours per day in the summer to as little as two hours per day in the winter. The estimated annual production from each well is 175 million gallons. MID's 2012 resource mix profile results in CO₂ equivalent emissions of 874.1 pounds per MegaWatt hour of electricity.

TABLE 3: Operation Emissions for Both Sites

Source	horsepower	Total Hours/yr	kiloWatt hours	CO ₂ e metric tons
Booster Pumps (2)	300	8,760	1,944,720	772.67
Well Pump (2)	200	5,840	864,320	0.34
Treatment	----	----	38,850	0.02
Distribution	----	----	445,200	0.17
Mechanical Facility (2)	----	730	18,396	0.01
Maintenance Trips	----	----	----	1.00
Total				774.21
One horsepower = 0.74 kiloWatts Booster pumps will operate a maximum of 4,380 hours annually Well pumps are expected to operate an average of 8 hours per day over the year.				

Results Summary

Construction of the proposed project would generate approximately 369 metric tons of CO₂e. Operation of the proposed project would generate annual GHG emissions from fossil fuel combustion used to generate electricity and by maintenance vehicles, totaling approximately 774 metric tons of CO₂e annually.

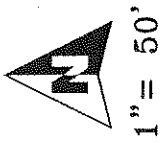
Mitigation

Appendix C of the Report identifies several potential mitigation measures, most of which are not feasible for the City of Modesto to implement, primarily due to the expense of many of the mitigation measures, although some mitigation measures are not directly related to the impact of the Del Rio Wells and Tank. Measures 1 and 2 are those most feasible for Modesto to implement.

Measure 1: Limit idling time of off-road construction equipment to three minutes.

Measure 2: Limit idling time of on-road construction vehicles to three minutes.

Each of these measures (Report, p 11-13) is expected to reduce source emissions up to 1%. They will be incorporated into the project and into the construction service contracts the City will let. All contractors and staff will be expected to implement these measures, which will reduce fuel use, improve air quality, and reduce greenhouse gas emissions.



M.I.D. MOORE LATERAL

BOOSTER
PUMP
BUILDING



RETENTION
BASIN
AREA

SECURITY FENCE

U.P.R.R.

Figure 2
Site A: Tank and Well Site

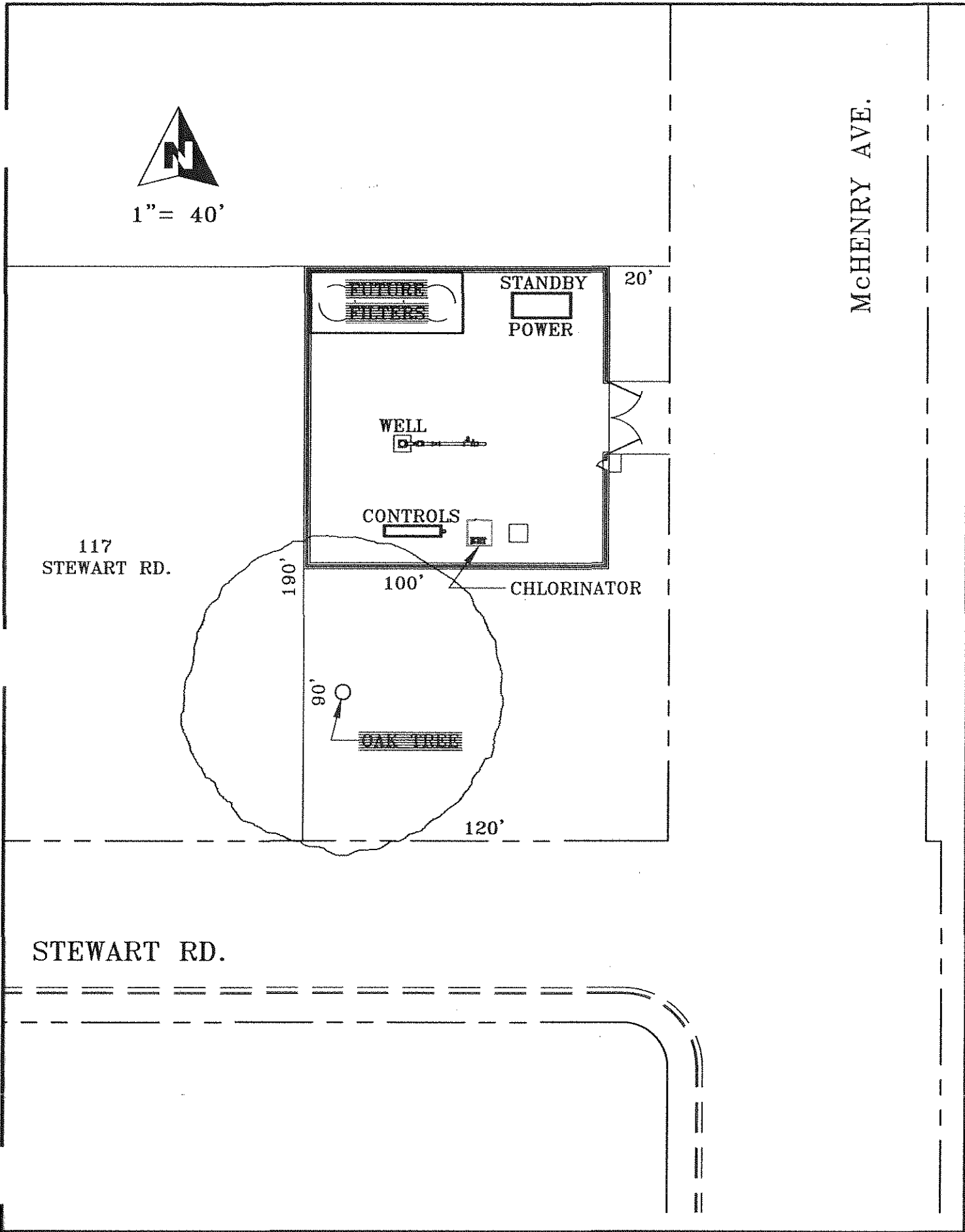


Figure 3
Site B: Well Site

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-101**

RESOLUTION APPROVING A PURCHASE AGREEMENT BETWEEN THE CITY OF MODESTO AND MARIA E. CRAWSHAW AND SANDRA L. MEAGHER, TRUSTEE OF THE SANDRA L. MEAGHER 2006 TRUST, FOR A 2.021-ACRE PARCEL AND A 1.942-ACRE PARCEL, TOTALING 3.96 ACRES OF LAND (APN 004-077-018 & 004-077-019), IN THE AMOUNT OF \$275,000, FOR THE DEL RIO WATER TANK & WELL PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND ALL RELATED DOCUMENTS REQUIRED TO CLOSE ESCROW

WHEREAS, on July 12, 1995, the City of Modesto acquired the former Del Este Water System, which includes the water system within the Del Rio community, and

WHEREAS, in January 2005, a Technical Memorandum prepared by West Yost Associates identified certain capital improvements to maintain existing water service levels and to provide additional service for anticipated new development, and

WHEREAS, staff has identified two adjacent parcels totaling 3.96 acres located at 718 Ladd Road in Del Rio to place a new domestic well, storage tank and booster pump station as a part of the capital improvements identified for the Del Rio Community, and

WHEREAS, staff has completed the required environmental review for the property, and

WHEREAS, an Agreement is needed for the acquisition of the property.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Purchase Agreement between the City of Modesto and Maria E. Crawshaw and Sandra L. Meagher, trustee of the Sandra L. Meagher 2006 Trust, for a 2.021-acre parcel and a 1.942-acre parcel, totaling 3.96 acres of land (APN 004-077-018 & 004-077-019), in the amount of \$275,000, for the Del Rio Water Tank & Well project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement, and all related documents required to close escrow.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-102**

RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE CERTIFICATE OF ACCEPTANCE FOR THE GRANT DEED, FOR THE ACQUISITION OF PROPERTY LOCATED AT 718 LADD ROAD, OWNED BY MARIA E. CRAWSHAW AND SANDRA L. MEAGHER, TRUSTEE OF THE SANDRA L. MEAGHER 2006 TRUST, (APN 004-077-018 & 004-077-019) TO BE PURCHASED BY THE CITY OF MODESTO FOR THE DEL RIO WATER TANK & WELL PROJECT

WHEREAS, Section 27281 of the Government Code requires a public agency to accept real property prior to the recordation of a deed or adopt a resolution accepting real property, and

WHEREAS, the City of Modesto desires to acquire two adjacent parcels of land totaling 3.96 acres, located at 718 Ladd Road, owned by Maria E. Crawshaw and Sandra L. Meagher, Trustee of the Sandra L. Meagher 2006 Trust., (APN 004-077-018 & 004-077-019), to be purchased by the City of Modesto for the Del Rio Water Tank & Well project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign the Certificate of Acceptance for the Grant Deed, for the acquisition of property located at 718 Ladd Road, owned by Maria E. Crawshaw and Sandra L. Meagher, trustee of the Sandra L. Meagher 2006 Trust, (APN 004-077-018 & 004-077-019) to be purchased by the City of Modesto for the Del Rio Water Tank & Well project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-103**

A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH KRAZAN & ASSOCIATES FOR CONSTRUCTION MATERIALS TESTING SERVICES FOR VARIOUS CITY OF MODESTO PROJECTS FOR FISCAL YEAR 2011/2012 IN AN AMOUNT NOT TO EXCEED \$107,251; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO AGREEMENT

WHEREAS, City staff finds it necessary to utilize the services of a materials testing firm during the course of administering the construction on public improvement projects, and

WHEREAS, the testing services are required to help achieve compliance with the specification requirements of the various projects, and

WHEREAS, staff does not have the required equipment or certifications to perform all the required testing services, and

WHEREAS, staff issued a Request for Bids through the City's competitive bidding process, and bids were opened on April 20, 2010, for Construction Materials Testing Services, and the firm of Krazan & Associates, Inc. was the lowest responsible bidder, and

WHEREAS, on June 22, 2010, by Resolution No. 2010-258, the City Council approved an Agreement with Krazan & Associates, Inc. to perform Construction Materials Testing Services on various City of Modesto projects for Fiscal Year 2010/2011, with two (2) one-year extension options, and

WHEREAS, on May 11, 2011, the first of two approved contract extensions was executed for Fiscal Year 2011/2012 in an amount not to exceed \$68,640, and

WHEREAS, on January 23, 2012, City Staff submitted a budget augmentation for additional funding in the amount of \$38,911, to a not to exceed total of \$107,251 for the Fiscal Year 2011/2012 contract extension period,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to Agreement for Construction Materials Testing Services between the City of Modesto and Krazaan & Associates, Inc., for various City of Modesto projects for Fiscal Year 2011/2012, in an amount not to exceed \$107,251.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh


NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-104**

**RESOLUTION APPROVING UPDATED NEIGHBORHOOD STABILIZATION
PROGRAM 2 (NSP2) LOAN TERMS AND PROGRAM GUIDELINES**

WHEREAS, on May 4, 2009, the U.S. Department of Housing and Urban Development (HUD) issued a Notice of Funding Availability (NOFA) for the Neighborhood Stabilization Program 2 (NSP2) and

WHEREAS, the City of Modesto made application to HUD for funding and was informed by HUD on January 14, 2010, that the City of Modesto had been granted \$25 million under the NOFA for NSP2, and

WHEREAS, on January 26, 2010, the City Council, by Resolution No. 2010-18, accepted the grant award, and

WHEREAS, the City of Modesto entered into an agreement with HUD on February 11, 2010, and

WHEREAS, staff has developed guidelines for allocating the NSP2 funding based on the activities outlined in the approved City of Modesto Neighborhood Stabilization grant application, and

WHEREAS, these guidelines were updated in February 2012, to require City Council approval of all property acquisition and rehabilitation loans made with NSP2 funds after initial approval of the Citizens' Housing & Community Development sub-committee, and

WHEREAS, this update was recommended by the Citizens' Housing & Community Development Committee (CH&CDC) at its February 29, 2012, meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the updated Neighborhood Stabilization Program II loan terms and program guidelines, as described in **Attachment 1**, a copy of which is on file in the Office of the City Clerk.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Mayor Marsh

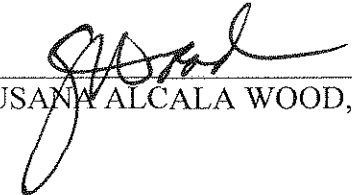
NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

NEIGHBORHOOD STABILIZATION PROGRAM 2 GUIDELINES & LOAN TERMS (UPDATED February, 2012)

PROPERTY PURCHASES MADE UTILIZING NSP2 FUNDS

- Properties are purchased by for-profit and non-profit developers who have been qualified by CH&CDC
- Properties purchased under the program must meet NSP2 definitions for foreclosed or abandoned residential properties
 - Acquisition cost must be a minimum of 1% under appraised value
- Short sales are permitted per HUD regulation and under the following circumstances
 - Property is owner-occupied **and** will meet income-eligibility requirements, **or**
 - Property has been vacant for 90 days
- All Loans for both acquisition and rehabilitation to be approved by the Modesto City Council after initial review and approval by the CH&CDC sub-committee
- All rehabilitation work must be done to HUD Housing Quality Standards (HQS)
- Appraisals* done on multi-unit properties of more than four (4) units will be reviewed by a certified review appraiser
- Remaining Affordable housing purchased under NSP2 funding will be subject to the following guidelines
 - Acquisition and rehabilitation will not exceed
 - \$165,000 for single family homes
 - \$125,000 per unit for multi-family units
 - If re-sale, property subsidy capped at 30%
 - Procurement must follow HA-HUD standards with two or three bids received on all work
 - all properties must be in HUD approved target areas/census tracts
 - as an approved sub-recipient, the HACCS can only receive an "Activity Delivery costs"
 - *Staff recommends setting this at 3% for future projects (current program-average "developer" cost is \$11,000/single-family property) Estimated "Activity Delivery costs" would be \$4,950 for single-family property*
 - Real Estate commission for the sale of NSP2 properties in the NSP2 Homebuyer's Program and future resale properties will be capped at 5%.

FOR-PROFIT DEVELOPER – RENTAL PROPERTIES

- Except for the affordability period and leveraging requirement, the loan terms are the same as NSP1:

NEIGHBORHOOD STABILIZATION PROGRAM 2 GUIDELINES & LOAN TERMS (UPDATED February, 2012)

- 25-year affordability period (increased from 15-years)
- 40-year loan period
- Payments on acquisition and rehabilitation are deferred for first 5 years with no interest or payments made
- Year 6 payments begin on acquisition costs amortized over 35 years at 3% interest
- Year 16 payments begin on rehabilitation costs amortized over 25 years at 3% interest
- Developer leveraging of 20% on total project cost is required (up from 10% in NSP1)
- At the sole discretion of the City Council, in the event the affordability covenant is fulfilled at the end of the fifteen year term, the rehabilitation portion of the loan will be forgiven if the property is sold to a qualifying low-income household.

AFFORDABILITY COVENANT:

Affordability restrictions such as the length of time a unit remains affordable, the targeted income level for the unit, annual reporting requirements, and the resale restrictions, are detailed in a covenant. A property may have one or more covenants associated with it, and these documents define the specific rules with which the property must comply.

NSP properties will remain affordable to individuals or families whose incomes do not exceed 120 percent of area median income. During which the property will be maintained; monitored and required recordkeeping will be continued.

NON-PROFIT DEVELOPER – RENTAL PROPERTIES

- Except for the longer affordability period, the loan terms are the same as NSP1:
 - Payments are deferred for 25 years (increased from 15 year)
 - If affordability period is maintained, loan is forgiven in full
 - If affordability is not maintained, the loans are immediately due in full

BLIGHTED STRUCTURE: A structure is blighted when it exhibits objectively determinable signs of deterioration sufficient to constitute a threat to human health, safety, and public welfare.

NOTE: QUALIFYING HOUSEHOLDS/NSP2 HOMEBUYERS GUIDELINES WILL BE PRESENTED AT THE MARCH 27, 2012 COUNCIL MEETING.

*Based on the Federal regulation 49 CFR 24,104

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-105**

**RESOLUTION SUPPORTING THE EXTENSION OF A 1/8 CENT SALES TAX
WHICH WOULD FUND THE STANISLAUS COUNTY LIBRARY**

WHEREAS, the Stanislaus County Library is seeking continued funding through an extension of a 1/8 cent sales tax; and

WHEREAS, an election will be held on June 5, 2012, whereupon the voters will be asked to extend the 1/8 cent sales tax to assist in funding of the Stanislaus County Library; and

WHEREAS, the Stanislaus County Library is requesting cities in Stanislaus County to support the extension of the 1/8 cent sales tax which supports the Stanislaus County Library by adoption of this resolution, and a certified copy of this resolution shall be delivered to the Stanislaus County Library;

NOW BE IT RESOLVED THAT the Modesto City Council hereby endorses the June 2012 election in support of the extension of the 1/8 cent sales tax which funds the Stanislaus County Library.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

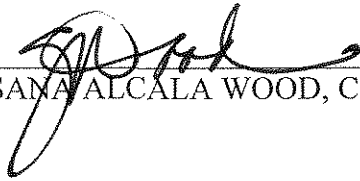
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-106**

**RESOLUTION APPROVING THE APPOINTMENT OF COUNCILMEMBER
DAVE COGDILL AND LAURIE A. SMITH, MCMA PRESIDENT, TO THE
MODESTO REDEVELOPMENT SUCCESSOR AGENCY OVERSIGHT BOARD
AND COUNCILMEMBER DAVE COGDILL TO THE STANISLAUS COUNTY
REDEVELOPMENT SUCCESSOR AGENCY OVERSIGHT BOARD**

WHEREAS, on January 24, 2012, the City Council, by Resolution No. 2012-41, and in accordance with AB 1X 26 (Health and Safety Code Section 34173) assumed the role of Redevelopment Successor Agency to wind down the affairs of the agency, and

WHEREAS, the Successor Agency's activities are subject to review and approval by an oversight board, and

WHEREAS, Health and Safety Code Section 34179(a) provides that the oversight board will be comprised of seven appointees from the affected local taxing entities and the community that created the redevelopment agency, and

WHEREAS, Health and Safety Code Section 34179 also provides that in the case of the County redevelopment agency, the largest city by acreage in the jurisdiction of the former redevelopment agency may select one member for the County Oversight Board,

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

SECTION 1. Councilmember Dave Cogdill is hereby appointed to the Modesto Redevelopment Successor Agency Oversight Board as the representative appointed by the Mayor for the city that created the redevelopment agency.

SECTION 2. Laurie A. Smith, MCMA President, is hereby appointed to the Modesto Redevelopment Successor Agency Oversight Board as the representative

appointed by the Mayor from the recognized employee organization representing the largest number of former redevelopment agency employees employed by the successor agency at that time.

SECTION 3. Councilmember Dave Cogdill is hereby appointed to the Stanislaus County Redevelopment Successor Agency Oversight Board as the representative appointed by the Mayor from the largest city by acreage in the jurisdiction of the former redevelopment agency.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NAYS: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-107**

**A RESOLUTION APPROVING AMENDMENTS TO THE CITY OF MODESTO
POLICY AGAINST HARASSMENT AND DISCRIMINATION AND THE
COMPLAINT PROCEDURE, AND ADOPTION OF THE CITY'S ANTI-
RETALIATION POLICY**

WHEREAS, California AB 887, amends the Fair Employment and Housing Act (FEHA) to add gender identity and gender expression to the enumerated characteristics that require equal rights and opportunities under the law and prohibit discrimination, and

WHEREAS, upon the advice of counsel, the City Council has determined that it is in the best interest of the City to adopt the City of Modesto Anti-Retaliation Policy as a stand alone policy prohibiting retaliation in the workplace,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City of Modesto Policy Against Harassment and Discrimination is hereby amended as set forth in **Exhibit "A"**, the City of Modesto Complaint Procedure in Violation of Policy Against Harassment and Discrimination is hereby amended as set forth in **Exhibit "B"**, and the City of Modesto Anti-Retaliation policy is hereby adopted as set forth in **Exhibit "C"**.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
POLICY AGAINST HARASSMENT AND DISCRIMINATION

It is the policy of the City of Modesto that harassment is unacceptable and will not be tolerated. Further, it is the policy of the City of Modesto to treat its citizens, customers and employees with respect and dignity and to strive to provide a working environment free of discrimination and harassment. This policy applies to all employees, officials, agents and volunteers, and all non-employees who have contact with employees during working hours.

Any City employee who has been found, after an investigation, to have harassed another City employee, official, agent, volunteer, consultant or non-employee because of their race, color, ancestry, religion or creed, sex, national origin, marital status, age, physical or mental disability or perceived disability, medical condition, pregnancy-related condition, sexual orientation, gender identity, gender expression, or political affiliation or belief will be subject to disciplinary action up to and including termination.

Definition of Harassment

Harassment based on a person's race, color, ancestry, religion or creed, sex, national origin, marital status, age, mental or physical disability, or perceived disability, medical condition, pregnancy-related condition, sexual orientation, gender identity, gender expression, or political affiliation or belief can constitute a violation of Title VII of the Civil Rights Act, the California Fair Employment Act and/or the City of Modesto's Equal Opportunity Policy. Harassment based on a person's race, color, ancestry, religion or creed, sex, national origin, marital status, age, mental or physical disability, or perceived disability, medical condition, pregnancy-related condition, sexual orientation, gender identity, gender expression, or political affiliation or belief occurs when:

1. The focus and/or content of the harassing act is race, color, ancestry, religion or creed, sex, national origin, marital status, age, physical or mental disability or perceived disability, medical condition, pregnancy-related condition, sexual orientation, gender identity, gender expression, or political affiliation or belief; and,
2. The harassing act tends to create an intimidating, oppressive, hostile or offensive working environment or tends to otherwise interfere with an individual's emotional well being or ability to perform work.

Sexual harassment is a form of sex discrimination. It includes an unwelcome or unsolicited sexual advance, a request for sexual favors, and other verbal or physical conduct of a sexual nature, and can constitute a violation of Title VII of the Civil Rights Act, and Fair Employment Housing Act.

Conduct is considered sexual harassment when:

- a. Submission is made an express or implied term or condition of employment; or
- b. Submission to or rejection of the harassing act is used as a basis for employment or business decisions affecting an individual; or
- c. Such conduct may have the purpose or effect of interfering with an individual's work performance and/or may create an intimidating, hostile or otherwise offensive work or business environment.

Examples of Harassment

- Written examples include suggestive or obscene letters, notes, jokes, e-mails and invitations.
- Verbal examples include derogatory comments, slurs, jokes, and racial epithets.

Deleted: S:\SUSANA\Agendas\Agen
da
2012\Harassment.Discrimination.Anti-
Retaliation.Reso.02.2012\Exhibit
A.doc

- Physical examples include assault, touching, impeding or blocking movements.
- Visual examples include leering, gestures or displays of sexually suggestive objects or pictures, cartoons or posters.

Other examples include, but are not limited to, threats of reprisal, implying or actually withholding support for appointments, promotion or transfer, rejection during probation, punitive actions, changes of assignments, or suggesting that a poor performance report will be prepared if requests for sexual favors are not met.

The harassing act may be focused on an individual who is not physically present at the time, or who was present but did not actually see or hear the acts.

Retaliation

Formatted: Strikethrough

~~It is also a violation of this Policy for an employee to retaliate against the complainant(s), witness(es) or other parties to a complaint of discrimination or harassment. A verified allegation of retaliation will be treated the same as any other violation of this Policy and may result in action taken against the retaliator, even if the original complaint is not determined to have merit.~~

Responsibilities

1. Except as set forth below, the City Manager is responsible for enforcement of the City Policy Against Harassment and Discrimination.
2. The City Attorney is responsible for ensuring that all complaints of harassment are investigated thoroughly and promptly, including presentation of recommendations for any necessary action to the City Manager, Department Director, or Supervisor.
3. Every Department Director is responsible for informing all employees of the City Policy Against Harassment and Discrimination and for taking the steps necessary to set a positive example in the prevention of harassment.
4. Every Supervisor is responsible for taking immediate and appropriate corrective action upon the observation of any incident of harassment or upon receipt of an oral or written report of any occurrence of harassment.
5. Every City Employee is responsible for reporting any act of harassment to the immediate Supervisor or Department Director, or the City Attorney.

Complaint Resolution Procedures

City employees shall report any act of harassment to their immediate Supervisor or Department Director, and to the City Attorney. The City Attorney will investigate and attempt resolution of harassment complaints in accordance with the City's Complaint Process as outlined in Exhibit B to the City's Equal Opportunity Plan.

Deleted: S:\SUSANA\Agendas\Agendas 2012\Harassment.Discrimination.Anti-Retaliation.Reso 02.2012\Exhibit A.doc

**CITY OF MODESTO
COMPLAINT PROCEDURE
VIOLATION OF POLICY AGAINST HARASSMENT AND DISCRIMINATION**

1. **Intent** - Any person who feels that he/she has encountered discrimination and/or harassment is encouraged to come forward and present that information. All complaints are kept confidential to the extent permitted by law. However, it should be noted that when a supervisor or other management employee is made aware of a situation of potential harassment or discrimination, he/she is required to take steps to verify whether or not the discrimination/harassment occurred and to take whatever action is necessary to correct the situation. A prompt and appropriate investigation may require disclosure of the allegations, the person making the allegations and may necessitate the use of other parties to assist in the investigation.

It is the intent of this procedure to provide an effective means for resolving individual or group problems of a sensitive nature quickly and with a minimum of formal procedural requirements.

2. **Scope** - This procedure should be used for perceived discrimination or harassment based on age (40 and over), ancestry, color, mental or physical disability including HIV and AIDS or perceived disability, marital status, medical condition (cancer and genetic characteristics), pregnancy-related condition, national origin, race, religion or creed, sex, sexual orientation, gender identity, gender expression, or political affiliation or belief.
3. **Limitations** - This procedure for resolving complaints of discrimination and harassment is not intended to supplant or prohibit employees or applicants from filing complaints with the federal Equal Employment Opportunity Commission (EEOC), the state Department of Fair Employment and Housing (DFEH), other appropriate state or federal agencies, or with the courts.

PROCEDURE: The procedure for reporting incidents of discrimination or harassment is meant to be as flexible as possible. It is the goal that complaints be resolved informally, if possible. If informal resolution is not achieved, then a process for formal resolution is provided.

- a) Complainants should come forward as soon as possible after an incident of harassment or discrimination. Generally, an issue or concern should be raised no later than 30 days from the date the complainant knew or should have known about the incident.
- b) Complainants have the option of contacting their immediate supervisor for assistance or contacting the City Attorney. If an employee goes directly to a supervisor, the supervisor should notify the City Attorney that he/she has received the complaint. This can be done informally and confidentially.
- c) Depending on the nature of the complaint, the supervisor may refer the complaint immediately to the City Attorney so that a formal investigation be conducted. Alternatively, the supervisor may conduct an informal investigation or may recommend an alternative means of dispute resolution. If the complainant declines the informal or alternative process, a formal investigation by the City Attorney will be initiated.

- d) The City Attorney should begin a confidential investigation of the complaint as soon as possible. A reasonable time line to begin an internal investigation would be two-five (2-5) working days, depending on employees' work schedules.
- e) The complainant should be assured that the matter will be kept confidential to the extent possible, but be advised that a full investigation will include advising the alleged discriminator/harasser of the charges and interviewing witnesses. The alleged discriminator/harasser should be cautioned that DFEH, EEOC, the City of Modesto Anti-Retaliation Policy, and this Policy prohibit any retaliation against the complainant, witnesses or other parties to the complaint. A verified allegation of retaliation will be treated as a violation of the City of Modesto Anti-Retaliation Policy, this policy, and the City may take action against the retaliator, even if the original complaint is not determined to have merit.
- f) The investigation may include witness interviews, review of documents or materials and discussions with the complainant and the alleged discriminator/harasser. Witnesses shall be directed to maintain confidentiality during the investigation and shall be admonished not to engage in retaliation against either the complainant or alleged discriminator/harasser.
- g) The investigation should be completed in a timely manner. If the investigation will require greater than 30 days, the investigator or department shall notify the complainant of the status of the investigation and anticipated completion date.
- h) The investigator will prepare a written report including a finding related to each allegation. The complainant and the alleged discriminator/harasser shall be notified of the findings.
- i) If the investigator finds that discrimination or harassment has occurred, the department management, in consultation with the City Attorney and the Personnel Director, shall determine what remedial action is appropriate. Remedial action may include but is not limited to coaching the responsible employee, training, a record of discussion, written reprimand, or formal discipline.
- j) If the complainant has first taken their complaint to a supervisor and is not satisfied with the supervisor's or department's timeliness or efforts, he/she may then contact the City Attorney and the Personnel Director. He/she should notify the department that this is being done. If the supervisor or department cannot effect conciliation and negotiation within a reasonable amount of time, the complainant should contact the City Attorney. The City Attorney may assist the department in completing the investigation or in identifying an alternate investigator to complete the confidential investigation and come to a resolution.
- k) The complainant should be notified that he/she has the right to file a complaint with the federal Equal Employment Opportunity Commission (EEOC) or the state Department of Fair Employment and Housing (DFEH) or other appropriate state or federal agency or the court.

Deleted:

- l) Complaints against the City Attorney shall be made to and investigated by the City Manager in a manner consistent with this procedure who shall report his/her findings to the City Council who shall determine the appropriate remedial action.

CITY OF MODESTO
NON-RETALIATION POLICY

PURPOSE

The City of Modesto is committed to providing a workplace conducive to open discussion of the City's business practices. The purpose of the policy is to reassure City employees that they can raise workplace concerns regarding alleged violations of City policy or local, State or Federal Law without retaliation.

Our commitment to integrity includes a responsibility to foster an environment that allows individuals to report violations without the fear of retaliation or retribution. No one should be discouraged from using any available channel within the organization.

SCOPE OF APPLICATION

This Policy prohibits City officials, officers, employees, or contractors from retaliating against applicants, officers, officials, employees, or contractors because of any of the protected activity as defined below.

POLICY

City employees are expected and encouraged to promptly raise questions and concerns regarding possible violations of City policy or local, State or Federal law with his/her immediate supervisor, Human Resources or the City Attorney's office. Promptly raising questions and concerns allows the opportunity for such concerns to be addressed quickly and can help prevent problems from occurring or escalating.

Complaints and concerns are accepted in person, by telephone, email and regular mail, and can be anonymous. A complaint form and copy of this Policy can be obtained at the City Attorney's office at 1010 Tenth Street, Modesto, CA 95353, or on the City's website at <http://www.modestogov.com/hr/policies/>. Employees are also free to file a complaint with the appropriate outside agency.

It is the policy of the City to prohibit the taking of any adverse employment action against those who in good faith report or participate in investigations into complaints of alleged violations of City policy or local, State or Federal law in retaliation for that reporting or participation. (Refer to definitions of "protected activity" and "adverse employment action" below.)

No employee of the City shall directly or indirectly use or attempt to use the authority or influence of such employee for the purpose of intimidating, threatening, coercing, directing or influencing any person with the intent of interfering with that person's duty to disclose alleged violations of City policy or local, State or Federal law.

Disciplinary action, up to and including termination, will be taken against an employee who is found to have violated this Non-Retaliation Policy, and any contractor who violates this Policy will be subject to appropriate sanctions. However, employees who file reports or provide evidence which they know to be

false or without a reasonable belief in the truth and accuracy of such information will not be protected by this Policy and may be subject to disciplinary action, including termination.

DEFINITIONS

- I. **PROTECTED ACTIVITY:** Includes but is not limited to the following:
 1. Making or filing an internal complaint with the City regarding alleged violations of City policy, local, State or Federal law.
 2. Providing informal notice to the City regarding alleged violations of City policy, local, State or Federal law.
 3. Participating in investigations and/or in court/administrative hearings regarding alleged violations of City policy, local, State or Federal law.
 4. Filing a complaint with a Federal or State enforcement or administrative agency.
 5. Disclosing information to a government or law enforcement agency where an employee has reasonable cause to believe the information discloses a violation of State or Federal statute, or a violation or noncompliance with a State or Federal rule or regulation.
 6. Participating in or cooperating with a Federal or State enforcement agency that is conducting an investigation of the City regarding alleged unlawful activity.
 7. Reporting conflicts of interest, dishonesty or unethical conduct.
 8. Calling an internal or outside governmental agency's "Whistleblower hotline."
 9. Associating with another employee who is engaged in any of the protected activities enumerated here.

- II. **ADVERSE EMPLOYMENT ACTION:** May include, but is not limited to, any of the following:
 1. Real or implied threats of intimidation to attempt or prevent an individual from reporting alleged wrongdoing or because of protected activity.
 2. Denying promotion to an individual because of protected activity.
 3. Taking any form of disciplinary action because of protected activity.
 4. Extending a probationary period because of protected activity.
 5. Altering work schedules, work assignments or work location because of protected activity.

6. Issuing a poor evaluation because of protected activity.
7. Shunning or avoiding an individual who has engaged in any of the forms of protected activity described above.

This policy does not prohibit adverse action that is taken for legitimate or non-discriminatory reasons, such as: discipline for just cause, or refusing to hire because of inadequate qualifications. As a result, adverse action is only prohibited if it is causally connected to, or taken because of, the alleged protected activity.

COMPLAINT PROCEDURES

An applicant, employee, officer, official, or contractor who believes he or she has been retaliated against in violation of this Policy should immediately report the conduct to their supervisor, Human Resources, or the City Attorney's office. Department Directors, Supervisors and Managers who receive complaints regarding alleged retaliation must immediately notify the City Attorney's office at (209) 577-5284.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-108**

A RESOLUTION APPROVING THE EXTENSION OF THE PREQUALIFIED CONSULTANT LIST FOR RIGHT OF WAY ACQUISITION SERVICES FOR VARIOUS CAPITAL IMPROVEMENT PROGRAM PROJECTS FOR A PERIOD OF ONE (1) YEAR

WHEREAS, the City of Modesto has one Property Agent position allocation in the Utility Planning and Projects Department, and

WHEREAS, there are currently a large number of Capital Improvement Projects (CIP) requiring right-of-way acquisition, and

WHEREAS, having a list of pre-qualified consultants for right-of-way acquisition will save time and expense on each project, and

WHEREAS, on December 22, 2009, the Community and Economic Development Department solicited Request for Qualifications for the delivery of Right-of-Way Acquisition services for the City of Modesto to five (5) prospective qualifiers and posted the request on the City's web site, and

WHEREAS, eleven (11) Statements of Qualifications were received on or before the deadline of January 22, 2010, and

WHEREAS, an evaluation committee composed of staff from Community & Economic Development Department, Parks, Recreation and Neighborhood Department, and Utility Planning and Projects Department evaluated the Statements of Qualifications, and

WHEREAS, the following four (4) companies were selected by the evaluation committee to be on the City's eligibility list:

Associated Right of Way Services
Overland, Pacific & Cutler
Universal Field Services, Inc.
Bender Rosenthal

and,

WHEREAS, on March 23, 2010, the City Council, by Resolution No. 2010-095, approved a pre-qualified consultant list for ROW acquisition. The prequalified consultant list was approved for two (2) years, with three (3) one (1) year extensions,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the extension of the prequalified consultant list for Right-of-Way acquisition services for various Capital Improvement Program projects for a period of one (1) year.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-109**

RESOLUTION APPROVING AN AGREEMENT RELATED TO RELOCATION OF ELECTRIC UTILITY POLES IN THE AMOUNT OF \$24,575.18 BETWEEN THE CITY OF MODESTO AND MODESTO IRRIGATION DISTRICT FOR THE RELOCATION OF MODESTO IRRIGATION DISTRICT FACILITIES AT THE SOUTHWEST CORNER OF BANGS AVENUE AND PRESCOTT ROAD; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Congestion Mitigation Air Quality (CMAQ) Management CML 5059 (176) – Right Turn Lane Eastbound Bangs Avenue to Southbound Prescott Road Project involves the expansion of Bangs Avenue and Prescott Road to include an eastbound right turn lane at the southwest corner of Bangs Avenue and Prescott Road, and

WHEREAS, the City of Modesto desires Modesto Irrigation District to relocate its facilities prior to the construction of the street improvements, and

WHEREAS, Caltrans determined this project to be a categorical exclusion pursuant to the National Environmental Policy Act (NEPA) and all other applicable federal environmental law, regulations and executive orders, and

WHEREAS, on December 21, 2011, Caltrans approved Categorical Exemption / Categorical Exclusion Document, and

WHEREAS, the project is consistent, and is in conformance with the General Plan Master E.I.R. and no additional California Environmental Quality Act clearance is needed, and

WHEREAS, the City of Modesto requires an Agreement Related to the Relocation of Electric Utility Poles for the relocation of Modesto Irrigation District facilities, and

WHEREAS, the Right Turn Lane Eastbound Bangs Avenue to Southbound Prescott Road Project is eligible for CMAQ funds,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement Related to the Relocation of Electric Utility Poles between the City of Modesto and Modesto Irrigation District for the relocation of Modesto Irrigation District facilities at the southwest corner of Bangs Avenue and Prescott Road.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-110**

RESOLUTION APPROVING AN AGREEMENT RELATED TO RELOCATION OF ELECTRIC UTILITY POLES WITH MODESTO IRRIGATION DISTRICT IN THE AMOUNT OF \$112,000, FOR THE FOR THE RELOCATION OF MODESTO IRRIGATION DISTRICT FACILITIES LOCATED WITHIN THE LIMITS OF THE STATE ROUTE 99 / PELANDALE AVENUE INTERCHANGE RECONSTRUCTION PROJECT; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the State Route 99/Pelandale Interchange improvement project is a Caltrans project to address the traffic congestion problem at Pelandale Avenue and Highway 99 Interchange, and

WHEREAS, an initial study with Mitigated Negative Declaration document (SCH# 2009072012) was approved by California Department of Transportation on September 28, 2009, and

WHEREAS, the relocation of Modesto Irrigation District facilities is required for the construction of the State Route 99/Pelandale Avenue Interchange Reconstruction Project, and

WHEREAS, the City of Modesto requires an Agreement Related to the Relocation of Electric facilities for the relocation of Modesto Irrigation District facilities,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement Related to the Relocation of Electric facilities between the City of Modesto and Modesto Irrigation District.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-111**

RESOLUTION APPROVING A SECOND AMENDMENT TO AGREEMENT WITH AECOM TECHNICAL SERVICES, INC. (FORMERLY BOYLE ENGINEERING CORPORATION) FOR ADDITIONAL SCOPE OF WORK NOT INCLUDED IN THE ORIGINAL AGREEMENT FOR CONSULTANT SERVICES FOR THE DESIGN OF SYLVAN AVENUE BETWEEN MILLBROOK AVENUE AND CLAUS ROAD, AND THE DESIGN OF LITT ROAD BETWEEN SYLVAN AVENUE TO THE NORTH END OF THE GROGAN PARK SITE IN AN AMOUNT NOT TO EXCEED \$27,861 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS \$20,499 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF \$48,360, AND AUTHORIZING THE DISTRICT ADMINISTRATOR, OR HIS DESIGNEE, TO EXECUTE THE SECOND AMENDMENT TO AGREEMENT

WHEREAS, this project includes roadway improvements on Sylvan Avenue from west of Litt Road to Claus Road and on Litt Road from Sylvan Avenue to the north end of the future Grogan Park site, and

WHEREAS, this project is located on the northern edge of Village One, and

WHEREAS, per the Village One Facilities Master Plan, this section of Sylvan Avenue is to be widened from 2 lanes to 4 lanes and will include curb, gutter, landscaped median, street lighting, storm drainage, and a roundabout at the Litt Road intersection, and

WHEREAS, the sidewalk will be completed along the south side of the road; however a sidewalk will not be constructed along the north side of Sylvan Avenue between Litt Road and Claus Road at this time but would be a required improvement when the properties on the north side of Sylvan Avenue develop, and

WHEREAS, Litt Road north of Sylvan Avenue will be realigned to match up with the existing Litt Road south of Sylvan Avenue, and

WHEREAS, Litt Road will include curb, gutter, sidewalks, parkway strips and a roundabout at the entrance of the Grogan Park site, and

WHEREAS, the roadway improvements will accommodate planned and approved growth in the Village One area, and

WHEREAS, the project will also include construction of approximately 2,150 linear feet of new 12 inch water line in Sylvan Avenue, and approximately 2,040 linear feet of new 12 inch water line in Litt Road, and

WHEREAS, construction of these water lines will provide the necessary infrastructure for full build-out of the area in accordance with the recommendations of the Water System Engineer's Report, and

WHEREAS, in addition, the project will construct approximately 2,090 linear feet of 21 inch sanitary sewer pipeline in Litt Road, and

WHEREAS, this pipeline is also intended to serve future build-out needs of the area, and is identified as a portion of a project identified in the City's current Wastewater Master Plan, and

WHEREAS, it is important to construct these pipelines concurrently with the street widening project as it will avoid costly repairs to the pavement improvements that would occur if these pipelines are instead deferred to future construction, and

WHEREAS, on February 27, 2007, by Resolution No. 2007-141, the City Council approved an agreement with Boyle Engineering Corporation for Consultant Services for the Design of Sylvan/Litt Improvement Project, and

WHEREAS, in April 2008, Boyle Engineering Corporation was purchased by AECOM Technical Services, Inc. (AECOM), and

WHEREAS, the Original Agreement totaled \$384,376 for the identified scope of services, plus \$67,831 additional services (if needed), and

WHEREAS, additional services in the amount of \$61,137 were approved on April 15, 2011, and

WHEREAS, additional services included modifications related to MID comments, providing an alternate pavement design and revising legal descriptions and easements, and

WHEREAS, on August 9, 2011, by Resolution No. 2011-325, the City Council approved an amendment to agreement with AECOM in the amount of \$30,685 for the identified scope of services, plus \$19,048 additional services (if needed), to provide funding for needed plan modifications to accommodate the Grogan Park project, and

WHEREAS, additional services in the amount of \$8,417 were approved on January 16, 2012 for plan revisions related to Grogan Park and additional documentation needed for right-of-way (ROW) acquisitions, and

WHEREAS, as discussed above, the current agreement price including an amendment to agreement and adjustments for approved additional services options used totals \$484,615, and

WHEREAS, the proposed second amendment to the AECOM agreement including 4% for additional services (if needed), for \$48,360 will include services for preparing additional plats and legal descriptions for ROW acquisition, splitting the east end of the project out of the main project in the event that the ROW acquisition is not completed when the project goes out to bid, additional plan revisions, and

WHEREAS, with this second amendment, the total agreement costs will not exceed \$532,975, and

WHEREAS, the following list summarizes the changes and additional work by AECOM that is necessary to complete the design beyond what has been approved and budgeted for the project: 1) Prepare right-of-way plats and legal descriptions APN 085-049-014; 2) Coordination/meeting with the District and subconsultants; 3) Revise Plans, Specifications, and Estimate; 4) Additional plan sheets to show transitions; 5) Coordination with the District/MID; and 6) Address design review comments, and update plans/specifications/estimate, and

WHEREAS, City staff does not have the staffing level or subject matter expertise to provide final design services for Sylvan/Litt Improvement Project, and current workload levels do not provide for timely in-house solutions/responses, and

WHEREAS, City staff recommends approving this second amendment to agreement with AECOM to cover the additional scope of work that is beyond the original final design agreement for final design services for Sylvan/Litt Improvement Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Second Amendment to Agreement with AECOM Technical Services, Inc. (formerly Boyle Engineering Corporation) for additional scope of work not included in the Original Agreement for the Design of Sylvan Avenue between Millbrook Avenue and Claus Road, and the Design of Litt Road from Sylvan Avenue to the north end of the Grogan Park site in an amount not to exceed \$27,861 for the identified scope of services, plus \$20,499 for additional services (if needed), for a maximum total amount of \$48,360.

BE IT FURTHER RESOLVED that the District Administrator, or his designee, is hereby authorized to execute the Second Amendment to Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-112**

**A RESOLUTION DECLARING THE CITY COUNCIL'S INTENTION TO
ESTABLISH CITY OF MODESTO COMMUNITY FACILITIES NO. 2012-1
(KIERNAN BUSINESS PARK SOUTH) AND TO AUTHORIZE THE LEVY OF A
SPECIAL TAX WITHIN SAID COMMUNITY FACILITIES DISTRICT**

WHEREAS, the owners (collectively, the "Owners") of not less than 10 percent of the area of land depicted on the map of the proposed community facilities district referred to below on file with the City Clerk (the "Property"), has filed a written petition with the City of Modesto (the "City") to establish the City of Modesto Community Facilities No. 2012-1 (Kiernan Business Park South) (the "Community Facilities District") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, commencing with Section 53311 of the Government Code of the State of California (the "Act") in order to finance (i) the cost of purchasing, constructing, expanding, improving or rehabilitating the facilities listed in **Appendix A** hereto, and all appurtenances and appurtenant work associated therewith (collectively the "Facilities") and (ii) the incidental expenses to be incurred in connection with financing the Facilities, including (a) the cost of engineering, planning and designing the Facilities; (b) all costs incurred in connection with financing the Facilities, and (c) all costs associated with the creation of the Community Facilities District, the determination of the amount of special taxes to be levied and costs otherwise incurred in order to carry out the authorized purposes of the Community Facilities District and administering the Community Facilities District (collectively, the "Incidental Expenses") and to pay the cost of the services listed in **Appendix A** hereto (the "Services"), and

WHEREAS, the Owners have heretofore submitted to the City an application to form the Community Facilities District pursuant to the City's Policies & Procedures for the Formation, Annexation, and Administration of Communities Facilities Districts Created Pursuant to the Provisions of the Mello Roos Community Facilities Act of 1982 (the "City's CFD Policies and Procedures"), and

WHEREAS, the Owners have heretofore submitted deposits required by the City pursuant to Advance Funding Agreements as security for payment of City fees and costs incurred in conducting proceedings to create the Community Facilities District, and

WHEREAS, the petitions submitted by the Owners comply with the requirements of Section 53319 of the Act and the City's CFD Policies and Procedures, and

WHEREAS, subject to the satisfaction of all applicable requirements of law, it is the intention of this City Council to finance the Facilities and the Incidental Expenses and to pay for the Services through the formation of the Community Facilities District and the levy of a special tax, provided that the levy of the special tax are approved at an election to be held within the boundaries of the Community Facilities District,

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

SECTION 1. The above recitals are true and correct.

SECTION 2. The Community Facilities District is proposed to be established under the terms of the Act. It is further proposed that the boundaries of the Community Facilities District, shall be as depicted on the map of the proposed Community Facilities District which is on file with the City Clerk. The City Clerk is hereby directed to sign the original map of the Community Facilities District and record it with all proper

endorsements thereon with the County Recorder of the County of Stanislaus within fifteen days after the adoption of this resolution, all as required by Section 3111 of the Streets and Highways Code of the State of California.

SECTION 3. The name of the proposed Community Facilities District shall be “City of Modesto Community Facilities District No. 2012-1 (Kiernan Business Park South).”

SECTION 4. The Facilities and Services proposed to be provided within the Community Facilities District are each facilities or services, as the case may be, which the City is authorized by law to construct, acquire, own and operate, or to provide. This City Council hereby finds and determines that the descriptions of the Facilities and the Services contained herein is sufficiently informative to allow taxpayers within the proposed Community Facilities District to understand what the funds of the Community Facilities District may be used to pay for. The Incidental Expenses expected to be incurred include the cost of planning and designing the Facilities, the costs of forming the Community Facilities District and levying and collecting a special tax within the Community Facilities District.

SECTION 5. Except where funds are otherwise available, it is the intention of this City Council to levy annually in accordance with the procedures contained in the Act special taxes, secured by recordation of a continuing lien against all non-exempt real property in the Community Facilities District, sufficient to pay for the Facilities, the Incidental Expenses and the Services. The Facilities shall be financed on a direct payment basis. The rate, method of apportionment and manner of collection of the special tax are described in detail in Appendix B **attached** hereto and incorporated herein

as though set forth at length (the “Rate and Method”). Appendix B allows each landowner within the Community Facilities District to estimate the maximum amount that may be levied against each parcel.

If special taxes of the Community Facilities District are levied against any parcel used for private residential purposes, (i) such tax shall not be levied or collected to pay for Facilities or Incidental Expenses after the 2061-62 tax year and (ii) under no circumstances will such special tax be increased as a consequence of delinquency or default by the owner of any other parcel or parcels within the Community Facilities District by more than ten percent (10%).

This City Council hereby determines the Rate and Method to be reasonable. The special tax is apportioned to each parcel on the basis of its land use and area pursuant to Section 53325.3 of the Act; and such special tax is not on or based upon the value or ownership of real property. In the event that a portion of the property within the Community Facilities District shall become for any reason exempt, wholly or partially, from the levy of the special tax, this City Council shall, on behalf of the Community Facilities District, cause the levy to be increased, subject to the limitation of the maximum special tax for a parcel as set forth in the Rate and Method, to the extent necessary upon the remaining property within the Community Facilities District which is not delinquent or exempt in order to yield the special tax revenues required for the purposes described in this Section

SECTION 6. A public hearing (the “Hearing”) on the establishment of the Community Facilities District and the proposed Rate and Method shall be held at 5:30 p.m., or as soon thereafter as practicable, on May 1, 2012, in the Modesto City Council

Chamber, 1010 Tenth Street, Modesto, California 95353. Should this City Council determine to form the Community Facilities District, a special election will be held to authorize the levy of the special tax in accordance with the procedures contained in Government Code Section 53326. If held, the proposed voting procedure at the election is expected to be a landowner vote with each landowner of record as of the close of the Hearing having one vote for each acre of land or portion thereof owned within the Community Facilities District. Ballots for the special election may be distributed by mail or by personal service.

A special tax shall be levied in the future annexation areas only with the unanimous approval of the owner or owners of each parcel or parcels at the time that parcel or those parcels are annexed, without any requirement for further public hearings or additional proceedings.

SECTION 7. At the time and place set forth above for the Hearing, any interested person, including all persons owning lands or registered to vote within the proposed Community Facilities District, may appear and be heard.

SECTION 8. Each officer of the City who is or will be responsible for providing the Facilities or Services within the proposed Community Facilities District, if it is established, is hereby directed to study the proposed Community Facilities District and, at or before the time of the Hearing, file a report with this City Council containing a brief description of the Facilities or Services, as the case may be, which will in his or her opinion be required to meet adequately the needs of the proposed Community Facilities District and an estimate of the cost of providing those Facilities or Services and an estimate of the fair and reasonable cost of any Incidental Expenses to be incurred.

SECTION 9. The City may accept advances of funds or work-in-kind from any source, including, but not limited to, private persons or private entities, for any authorized purpose, including, but not limited to, paying any cost incurred by the City in creating the Community Facilities District. The City may enter into an agreement with the person or entity advancing the funds or work-in-kind, to repay all or a portion of the funds advanced, or to reimburse the person or entity for the value, or cost, whichever is less, of the work-in-kind, as determined by this City Council, with or without interest.

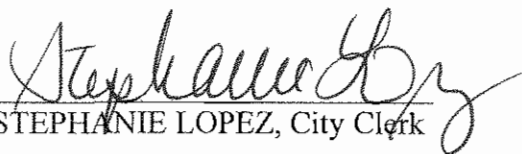
SECTION 10. The Clerk is hereby directed to publish a notice (the "Notice") of the Hearing pursuant to Section 6061 of the Government Code in a newspaper of general circulation published in the area of the Community Facilities District. Such publication shall be completed at least seven days prior to the date of the Hearing. The Clerk is further directed to mail a copy of the Notice to each of the landowners and registered voters, if any, within the boundaries of the Community Facilities District at least 15 days prior to the Hearing. The Notice shall contain the text or a summary of this Resolution, the time and place of the Hearing, a statement that the testimony of all interested persons or taxpayers will be heard, a description of the protest rights of the registered voters and landowners in the proposed Community Facilities District and a description of the proposed voting procedure for the election required by the Act.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 27th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

APPENDIX A

LIST OF FACILITIES

Transportation, Landscaping and Lighting System:

Transportation, lighting and landscaping system improvements include, but are not limited to, land acquisition, arterials and collector streets, roundabouts, traffic control devices, gateways, and other traffic related accessories. Landscaping and lighting improvements may include, but are not limited to, land acquisition and the construction of pavement, curb, gutter, sidewalk, irrigation improvements, separated bike paths and landscaping and lighting. Landscaping is included within the street right-of-way, landscape lots and gateways. Transportation, landscaping and lighting system improvements may be on-site or off-site.

Storm Drain System:

Storm drain system improvements include, but are not limited to, land acquisition, storm drainage facilities including pump station, dual-use detention basin and landscaping, fencing, lift stations, discharge mains and outfall structures, force mains, gravity collection storm water lines and other storm drain accessories. Storm drain system improvements may be on-site or off-site. The Storm Drain System Facilities and the Transportation, Landscaping and Lighting System Facilities are collectively referred to as the "Facilities."

Incidental Expenses:

Facilities include incidental expenses to be incurred, including (a) the cost of engineering, planning and designing the Facilities; (b) all costs incurred in connection with financing the Facilities, and (c) all costs associated with the creation of the Community Facilities District, the issuance of bonds by the Community Facilities District, the establishment and replenishment of bond reserve and special reserve funds, the determination of the amount of special taxes to be levied and costs otherwise incurred in order to carry out the authorized purposes of the Community Facilities District, and administering the Community Facilities District (collectively, the "Incidental Expenses").

LIST OF SERVICES

Authorized services include, but are not limited to, maintenance, repair and replacement of parkways, landscaped medians, the bike path, well site, storm drainage pump and basin, and related facilities, including but not limited to, concrete curbs and walks, trees, shrubs, vines, ground cover, turf, lights and irrigation systems. The services to be provided include, but are not limited to, litter and debris removal, graffiti abatement, painting repairs to landscape structures, pruning, staking, fertilizing, plant replacement and restoration, fire and weed control, erosion control, mowing of lawns, trimming of vegetation, and maintenance, repair and replacement of lighting systems. Services also include the following: (i) related reserves for capital replacement of vehicles, equipment, plants and materials, asphalt/concrete overlays, structures, and other facilities, or (ii) a sinking fund for services that could not otherwise be funded in a given fiscal year, or (iii) administrative fees of the City related to the Community Facilities District, including costs associated with preparing the annual special tax levy, or (iv) costs associated with legal services, advertising, legal notices, and mailings related to formation or administration of the Community Facilities District (collectively, the "Services").

APPENDIX B

CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2012-1 (KIERNAN BUSINESS PARK SOUTH)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

Special Taxes applicable to each Assessor's Parcel in Community Facilities District No. 2012-1 (Kiernan Business Park South) 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. 2012-1, 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. 2012-1 unless a separate Rate and Method of Apportionment of Special Tax is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Acre" or "Acreage" means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable Final Map or other Subdivision Map.

"Administration Component" means the portion of the Maximum One-Time Facilities Special Tax that is for administrative costs incurred by the City throughout the term of the One-Time Facilities Special Tax including, but not limited to, costs associated with the preparation and oversight of reimbursement agreements, accounting, and tracking of credits. For Original Parcels, the Administration Component is shown in Attachment 1 to this RMA. Beginning in January 2013 and each January thereafter, the Administration Component shall be adjusted annually by the greater of: (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available; or (ii) four percent (4.0%). Each annual adjustment of the Administration Component shall become effective on January 1 of the calendar year for which the annual adjustment was made.

"Administrative Expenses" means any or all of the following: expenses incurred by the City in carrying out its duties with respect to CFD No. 2012-1, 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 Tax.

“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 for 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 Facilities” or **“Authorized Facility”** means those facilities that are authorized to be funded by CFD No. 2012-1, including land purchases for right-of-way and a storm drainage basin, and any other land that is acquired to construct an Authorized Facility.

“Authorized Services” means those services that are authorized to be funded by CFD No. 2012-1.

“Base 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 not including the Administration Component. For Original Parcels, the Base Maximum One-Time Facilities Special Tax is shown in Attachment 1 to this RMA. Beginning in January 2013 and each January thereafter, the Base Maximum One-Time Facilities Special Tax shall be adjusted annually by the greater of: (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available; or (ii) four percent (4.0%). Each annual adjustment of the Base Maximum One-Time Facilities Special Tax shall become effective on January 1 of the calendar year for which the annual adjustment was made.

“Base Year” means the year in which Authorized Facilities dedicated by a Builder/Developer were accepted by the City. The Administrator shall keep track of the Base Year for each Authorized Facility the City accepts.

“Building Permit” means a permit issued by the City’s Building Department for construction, reconstruction, or expansion of a vertical building structure, or for construction of the foundation of such structure.

“Builder/Developer” means a person or entity that is a property owner, builder, or developer of any Parcel or Parcels within CFD No. 2012-1.

“**CFD**” or “**CFD No. 2012-1**” means the City of Modesto Community Facilities District No. 2012-1 (Kiernan Business Park South).

“**CFD Formation**” means the date on which the Resolution of Formation to form CFD No. 2012-1 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. 2012-1.

“**County**” means the County of Stanislaus.

“**Credit/Reimbursement Amount**” means the Authorized Facilities costs that have been paid in advance by a Builder/Developer (including land dedications for which the Builder/Developer will receive credits and/or reimbursements) and have not yet been reimbursed to that Builder/Developer through one of the following: (i) the application of Special Tax Credits (as defined below) or (ii) payments to the Builder/Developer from One-Time Facilities Special Taxes collected from other Builders/Developers in the CFD. The Credit/Reimbursement Amount outstanding at any point in time will be determined pursuant to Section D below.

“**Developed Property**” means, in any Fiscal Year, all Parcels for which one or more of the following events have occurred: (i) a Building Permit was issued prior to June 30 of the preceding Fiscal Year; or (ii) the City has accepted improvements, infrastructure, or public facilities that were constructed as a condition of development of the Parcel (not including the acceptance of land by the City for public right-of-ways that will be a site for future improvements, infrastructure, or public facilities) and were constructed, or paid to be constructed, by the owner of such Parcel. Notwithstanding the foregoing, the Parcel identified at CFD Formation as APN 078-018-036 shall not be classified as Developed Property until such time as a connection to the City’s storm drainage system occurs, and it shall be at the discretion of the City to determine whether or not such a connection has occurred. In addition, a Parcel that had an existing building, or had a Building Permit issued, prior to CFD Formation shall not be classified as Developed Property until such time as a new Building Permit is issued for the Parcel that creates a new vertical structure or structures if such new structures do not simply support or represent an addition to the building that occupied the Parcel or had a Building Permit issued prior to CFD Formation.

“**Final Map**” means a final map, parcel 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.

“**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 Section C below.

“Maximum CFD Maintenance Cost” means \$80,053 in Fiscal Year 2012-13 dollars, and includes the estimated annual cost of Administrative Expenses. Beginning in January 2013 and each January thereafter, the Maximum CFD Maintenance Cost Tax shall be adjusted annually by the greater of: (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available; or (ii) four percent (4.0%). Each annual adjustment of the Maximum CFD Maintenance Cost shall become effective on July 1 of the calendar year for which the annual adjustment was made.

“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, which is equal to the sum of the Base Maximum One-Time Facilities Special Tax and the Administration Component for the Parcel. For Original Parcels, the Maximum One-Time Facilities Special Tax is shown in Attachment 1 to this RMA. Notwithstanding the foregoing, the City may allow adjustments to the Maximum One-Time Facilities Special Tax assigned in Attachment 1 if all of the following occur: (i) there are changes in the Net Taxable Acreage estimates for Original Parcels, (ii) based on those changes, the City concludes that a redistribution of the Maximum One-Time Facilities Special Tax is appropriate, and (iii) written confirmation is received from the owner of each Parcel that will be affected by the redistribution. Once all these items have occurred, the Administrator shall prepare a new Attachment 1 which shall henceforth be the operative RMA for purposes of calculating the Maximum One-Time Facilities Special Tax. For all other Parcels, the Maximum One-Time Facilities Special Tax is determined in accordance with Section C below.

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

“Net Taxable Acre” or **“Net Taxable Acreage”** means the total gross Acreage within a Final Map or Parcel less road right-of-ways and property that is identified 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 a subdivision, the Administrator shall calculate the Net Taxable Acreage of such Parcels by identifying the Acreage of the Parcel and (i) adding a portion of the acreage of any 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 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 at 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 Building Permit being issued for new construction on Taxable Property.

“Original Parcel” means any of the Assessor’s Parcels that were included in the CFD at the time of CFD Formation, as identified in Attachment 1 to this RMA. A Parcel that was created from the subdivision of an Original Parcel and is being further subdivided shall also be considered an Original Parcel for purposes of determining the Maximum Special Taxes pursuant to Section C.

“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.

“Public Property” means any property within the boundaries of CFD No. 2012-1 that is owned by the federal government, State of California, County, City, or other public agency.

“RMA” means this Rate and Method of Apportionment of Special Tax.

“Special Tax Credit” means a waiver of the creditable portion of the Base One-Time Facilities Special Tax that would otherwise be due from a Parcel in the CFD if the Builder/Developer of that Parcel did not have an outstanding Credit/Reimbursement Amount.

“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, tentative map, or other map recorded with the County and/or approved by the City that results in the subdivision of a Parcel or a change in the quantity or type of proposed land uses.

“Taxable Property” means all of the Assessor’s Parcels within the boundaries of CFD No. 2012-1 which are not exempt from the Special Taxes pursuant to law or Section G below.

“Taxable Public Property” means, in any Fiscal Year, all Parcels of Public Property within CFD No. 2012-1 that: (i) based on a tentative map or other Subdivision Map, were expected to be Taxable Property; and (ii) based on this expectation, Maximum Special Taxes were assigned to the Parcels in a prior Fiscal Year. However, if Parcels designated as Public Property based on a tentative map or other Subdivision Map are relocated, the new Public Property will again become exempt. If such relocation occurs, the Acreage previously designated as Public Property will become Taxable Property and the Acreage that becomes Public Property will not be taxed. This trading of Acres of Public Property will be permitted to the extent that there is no net loss in Maximum Special Tax revenues.

“Undeveloped Property” means, in any Fiscal Year, all Parcels of Taxable Property within CFD No. 2012-1 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. 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 for each Parcel; and (iii) the Annual Maintenance Special Tax Requirement. In addition, the Administrator shall update Attachment 1 to this RMA pursuant to Section C as Original Parcels are subdivided.

In any Fiscal Year, if it is determined that (i) a Final Map for a portion of property in the CFD 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 Final Map was recorded, the Assessor does not yet recognize the new Parcels created by the Final Map, and (iii) one or more of the newly-created Parcels meets the definition of Developed Property, the Administrator shall calculate the Special Taxes for the property affected by recordation of the Final Map by determining the Special Taxes that apply separately to each newly-created Parcel, then applying the sum of the individual Special Taxes to the Parcel that was subdivided by recordation of the Final Map.

C. CALCULATING MAXIMUM SPECIAL TAXES

The Administrator shall use the procedures set forth below to calculate the Maximum Special Taxes for each Parcel in CFD No. 2012-1 in each Fiscal Year, including the Maximum One-Time Facilities Special Tax and the Maximum Annual Maintenance Special Tax.

1. Maximum One-Time Facilities Special Tax

The Maximum One-Time Facilities Special Tax for each Original Parcel in CFD No. 2012-1 at the time of CFD Formation is shown in Attachment 1 to this RMA. Each time a Subdivision Map is approved within the CFD or when Parcels are otherwise subdivided or reconfigured, the Administrator shall reallocate the Maximum One-Time Facilities Special Tax assigned to each Original Parcel to the newly-created Parcel(s) within the Subdivision Map as follows:

- Step 1.* For any given point in time, calculate the Base Maximum One-Time Facilities Tax and the Administration Component applicable to the Original Parcel being subdivided.
- Step 2.* Determine the Net Taxable Acreage of each Parcel created by the approval of the Subdivision Map.
- Step 3.* Sum the Net Taxable Acreage from Step 2 for all newly-created Parcels to determine the total Net Taxable Acreage resulting from the subdivision of the Original Parcel.
- Step 4.* For each newly-created Parcel, divide the Net Taxable Acreage determined in Step 2 by the total Net Taxable Acreage of the Original Parcel determined in Step 3 to calculate a percentage.
- Step 5.* For each newly-created Parcel, multiply the percentage calculated in Step 4 by the amounts calculated in Step 1 to determine the Base Maximum One-Time Facilities Special Tax and Administration Component to be allocated to each newly-created Parcel.

- Step 6.* For each newly-created Parcel, add the Base Maximum One-Time Facilities Special Tax and the Administration Component calculated in Step 5 to determine the Maximum One-Time Facilities Special Tax. Attachment 1 of this RMA will be updated by the Administrator each time an Original Parcel is subdivided to show the Base Maximum One-Time Facilities Special Tax, the Administration Component, and the Maximum One-Time Facilities Special Tax for each newly-created Parcel.

Under no circumstances shall the sum of the Maximum One-Time Facilities Special Tax for all Parcels created by the subdivision or reconfiguration of an Original Parcel ever be less than the Maximum One-Time Facilities Special Tax of the Original Parcel.

2. Annual Maintenance Special Tax

Each Fiscal Year, the Maximum Annual Maintenance Special Tax shall be determined for each Parcel of Developed Property using the following methodology:

- Step 1.* For any Fiscal Year, calculate the total Maximum CFD Maintenance Cost.
- Step 2.* Determine the Net Taxable Acreage of all Parcels of Developed Property.
- Step 3.* Divide the Net Taxable Acreage of each Parcel of Developed Property by the total Net Taxable Acreage of all Parcels of Developed Property calculated in Step 2 to obtain a percentage for each Parcel.
- Step 4.* Multiply the percentage calculated in Step 3 by the Maximum CFD Maintenance Cost in Step 1 to determine the Maximum Annual Maintenance Special Tax for each Parcel of Developed Property for the then-current Fiscal Year.

D. IMPLEMENTATION OF CREDIT/REIMBURSEMENT PROGRAM

Certain Builders/Developers may be required to construct, pay for, or provide Authorized Facilities that are ultimately intended to be funded from One-Time Facilities Special Tax revenues. The City shall implement a Special Tax Credit and reimbursement program, so that Builders/Developers that construct, pay for, or provide Authorized Facilities will receive a credit against their Base Maximum One-Time Facilities Special Tax and/or be reimbursed for Authorized Facilities costs, if revenues are available.

At the request of the landowners at the time this RMA was prepared and CFD No. 2012-1 was formed, all credits and reimbursements to Builders/Developers who construct, pay for, or provide Authorized Facilities shall be based on the actual cost of those Authorized Facilities, with the exception of right-of-way and storm drainage basin land costs, which shall be reimbursed at fair market value at the time of dedication, as determined by the City. Pursuant to this request, if the cost of the Authorized Facility constructed, paid for, or provided is less than the Builder/Developer's Base Maximum One-Time Facilities Special Tax, the Builder/Developer shall receive a Special Tax Credit against their Base Maximum One-Time Facilities Special Tax equal to the actual cost of the Authorized Facility constructed, paid for, or provided, and the remaining Base Maximum One-Time Facilities Special Tax shall be paid by the Builder/Developer in addition to the full Administration Component.

Alternatively, if the cost of the Authorized Facility constructed, paid for, or provided exceeds the Builder's/Developer's Base Maximum One-Time Facilities Special Tax, the Builder/Developer will qualify for a Special Tax Credit and/or a reimbursement from the collection of future One-Time Facilities Special Taxes, as set forth below; the Builder/Developer must still pay the full Administration Component. Notwithstanding the foregoing, there is no guarantee that future One-Time Facilities Special Taxes will be available to reimburse the Builder/Developer. All Credit/Reimbursement Amounts shall be determined by the City based on evidence of costs provided to the City by the Builder/Developer.

The landowners at the time this RMA was prepared and CFD No. 2012-1 was formed also requested that a Builder/Developer not receive any Special Tax Credits if other Builders/Developers have unpaid Credit/Reimbursement Amounts outstanding that have a higher priority for reimbursement. In other words, any outstanding Credit/Reimbursement Amounts for Builders/Developers that have a higher reimbursement priority shall be fully paid prior to Special Tax Credits being applied to a Builder/Developer with a lower reimbursement priority.

The following steps shall be applied to implement the credit/reimbursement program summarized above:

1. On an Ongoing Basis

- a. In January 2013 and each January thereafter, the Administrator shall escalate the Maximum One-Time Facilities Special Tax assigned to each Parcel and the Credit/Reimbursement Amount outstanding for any Builder/Developer 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 shall become effective on January 1 of the calendar year for which the annual adjustment was made.
- b. The City shall determine whether One-Time Facilities Special Tax revenues are available to reimburse Builders/Developers that have an outstanding Credit/Reimbursement Amount. If such revenues are available, the City shall pay

reimbursements on a “first-incurred/first-paid” basis, as determined by the Base Year for each Authorized Facility accepted by the City. Once the Builder/Developer with first priority is fully reimbursed, the Builder/Developer with second priority will be able to take Special Tax Credits against their One-Time Facilities Special Tax and, if a Credit/Reimbursement Amount is still outstanding, be paid such outstanding Credit/Reimbursement amount if and when One-Time Facilities Special Tax revenues are available. Such reimbursement shall continue until the earlier of (i) the date on which all outstanding Credit/Reimbursement Amounts are paid, or (ii) the date on which no One-Time Facilities Special Tax revenues are available to pay outstanding Credit/Reimbursement Amounts and no additional One-Time Facilities Special Tax revenues are anticipated to be received by the City. There is no guarantee that all Credit/Reimbursement Amounts will be paid to Builders/Developers.

2. At any time that Authorized Facilities are accepted by the City

The Administrator shall apply the following steps each time Authorized Facilities are dedicated to the City and the City accepts such dedication(s):

- Step 1.* Determine the total cost of Authorized Facilities accepted by the City. This total cost shall be the Credit/Reimbursement Amount applicable to the Builder/Developer that dedicated the Authorized Facilities.
- Step 2.* Identify and record the Base Year for the Authorized Facilities and determine priority for the Builder’s/Developer’s Credit/Reimbursement Amount relative to outstanding Credit/Reimbursement Amounts owed to other Builders/Developers.
- Step 3.* Beginning in the calendar year that commences after the Base Year, the Administrator shall escalate the Credit/Reimbursement Amount determined in Step 1 each year as outlined in Section D.1 above. If a Builder/Developer constructed, paid for, or provided Authorized Facilities with different Base Years, the Credit/Reimbursement Amount shall be escalated taking the different Base Years into account.

3. Prior to issuance of a Building Permit

When a Builder/Developer requests issuance of a Building Permit, the Administrator shall determine if the Builder/Developer has an outstanding Credit/Reimbursement Amount and apply the appropriate subsection below to determine the Credit/Reimbursement Amount and remaining One-Time Facilities Special Taxes (if any) for the Builder/Developer:

- a. **A Credit/Reimbursement Amount is outstanding for the Builder/Developer requesting issuance of a Building Permit, and the Builder/Developer has first priority with respect to their Credit/Reimbursement Amount.**

For any Fiscal Year, the Administrator shall apply the following steps to determine the Maximum One-Time Facilities Special Tax, if any, that is due from the subject Parcel(s):

Step 1. Identify the Base Maximum One-Time Facilities Special Tax that would have been paid by the Parcel(s) if no Credit/Reimbursement Amount were outstanding.

Step 2. *If the Base Maximum One-Time Facilities Special Tax determined in Step 1 is less than the outstanding Credit/Reimbursement Amount for the Builder/Developer, the Administration Component shall be collected and the Builder/Developer shall be given a Special Tax Credit against the Base Maximum One-Time Facilities Special Tax for that Parcel(s). After the Special Tax Credit has been calculated, the Administrator shall subtract the aggregate amount of such Special Tax Credits from the outstanding Credit/Reimbursement Amount for the Builder/Developer, and the Builder/Developer shall qualify for reimbursement of the remaining Credit/Reimbursement Amount to the extent One-Time Facilities Special Tax revenues are available.*

If the Base Maximum One-Time Facilities Special Tax is greater than the outstanding Credit/Reimbursement Amount for the Builder/Developer, the Administrator shall subtract the outstanding Credit/Reimbursement Amount from the Base Maximum One-Time Facilities Special Tax to determine the net amount of the Base Maximum One-Time Facilities Special Tax that must be paid by the Builder/Developer. In addition, the Builder/Developer must pay the full Administration Component assigned to the Parcel(s) for which the Building Permit is being issued. The Administrator shall update the CFD records to reflect a zero Credit/Reimbursement Amount for that Builder/Developer.

- b. **A Credit/Reimbursement Amount is outstanding for the Builder/Developer requesting issuance of a Building Permit, and the Builder/Developer does not have first priority with respect to their Credit/Reimbursement Amount.**

For any Fiscal Year, the Administrator shall apply the following steps to determine the Maximum One-Time Facilities Special Tax, if any, that is due from the subject Parcel(s):

- Step 1.* Identify the Base Maximum One-Time Facilities Special Tax that would have been paid by the Parcel(s) if no Credit/Reimbursement Amount were outstanding.
- Step 2.* Identify the aggregate outstanding Credit/Reimbursement Amounts that have a higher priority than the amount due the Builder/Developer requesting issuance of a Building Permit.
- Step 3.* *If the Base Maximum One-Time Facilities Special Tax determined in Step 1 is less than the Credit/Reimbursement Amounts that are due other Builders/Developers as determined in Step 2, the Base Maximum One-Time Facilities Special Tax and the Administration Component shall be collected from the Builder/Developer requesting issuance of a Building Permit. The Base One-Time Facilities Special Tax collected shall be used to reimburse Builders/Developers with higher reimbursement priority, and the Administration Component collected shall be retained by the City. The Builder/Developer requesting issuance of a Building Permit shall then qualify for a reimbursement of their entire Credit/Reimbursement Amount and be placed in order of priority behind any remaining Builders/Developers that still have outstanding Credit/Reimbursement Amounts.*

If the Base Maximum One-Time Facilities Special Tax determined in Step 1 is greater than the Credit/Reimbursement Amounts that are due all other Builders/Developers as determined in Step 2, the Administration Component and the amount of the aggregate Credit/Reimbursement Amounts that are due other Builder/Developers shall be collected from the Builder/Developer requesting issuance of a Building Permit. The outstanding Credit/Reimbursement Amounts due all other Builder/Developers shall be subtracted from the Base Maximum One-Time Facilities Special Tax to determine the net amount of the Base Maximum One-Time Facilities Special Tax that must be paid by the Builder/Developer. Using this net amount of the Base Maximum One-Time Facilities Special Tax as the starting point, the steps in Section D.3.a shall be applied to determine the remaining One-Time Facilities Special Tax and/or outstanding Credit/Reimbursement amount, if any, applicable to the Builder/Developer requesting issuance of a Building Permit.

c. No Credit/Reimbursement Amount is outstanding for the Builder/Developer requesting issuance of a Building Permit

If no Credit/Reimbursement Amount is outstanding for the Builder/Developer requesting issuance of a Building Permit, then the Maximum One-Time Facilities Special Tax as calculated pursuant to Section C.1 above shall be due and payable to the City.

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. 2012-1 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 that Fiscal Year. 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;

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 on Taxable Property within CFD No. 2012-1, and shall be immediately delinquent if not so paid.

The Annual Maintenance Special Tax for CFD No. 2012-1 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 will continue to be levied and collected unless and until the City determines that the Annual Maintenance Special Tax no longer needs to be levied to pay for Authorized Services and Administrative Expenses.

G. EXEMPTIONS

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

Special Taxes shall not be levied on Parcels that are owned by a public utility for an unmanned facility or on Parcels that are subject to an easement that precludes any other use on the Parcels. In addition, no Annual Maintenance Special Tax shall be levied on any Parcel of Undeveloped Property.

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 apportioning the Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City's discretion. Interpretations may be made by the City by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment of Special Tax.

I. ENFORCEMENT

All delinquent Annual Maintenance Special Taxes billed off the County tax roll shall be subject to an immediate 10% penalty plus interest charges of 1.5% as of the first day of the month after the delinquency date and on the first day of each month thereafter. Any such delinquent Special Taxes shall, at the City's discretion, be placed on the next secured property tax roll. The amount placed on the roll shall include the 10% penalty and the interest charges through the following January 1. This shall not prevent the City from simultaneously pursuing the delinquency by an action on a contract of guarantee against a third party who promised to pay the taxes, or from assigning such right of action to the property owner or other appropriate party.

ATTACHMENT 1

City of Modesto Community Facilities District No. 2012-1 (Kiernan Business Park South) Maximum One-Time Facilities Special Tax at CFD Formation

Assessor's Parcel Number (Original Parcels) /1	Net Taxable Acreage	Base Maximum One- Time Facilities Special Tax /2	Administration Component /2	Maximum One-Time Facilities Special Tax
078-018-021 (1)	6.87	\$1,351,942	\$14,502	\$1,366,444
078-018-021 (2)	8.32	\$1,803,001	\$17,563	\$1,820,564
078-018-027	14.29	\$2,948,137	\$30,166	\$2,978,303
078-018-031 /3	14.00	\$3,035,561	\$29,553	\$3,065,114
078-018-035	9.96	\$2,233,405	\$26,556	\$2,259,961
078-018-036	2.62	\$0	\$0	\$0
Total		\$11,372,045	\$118,341	\$11,490,386

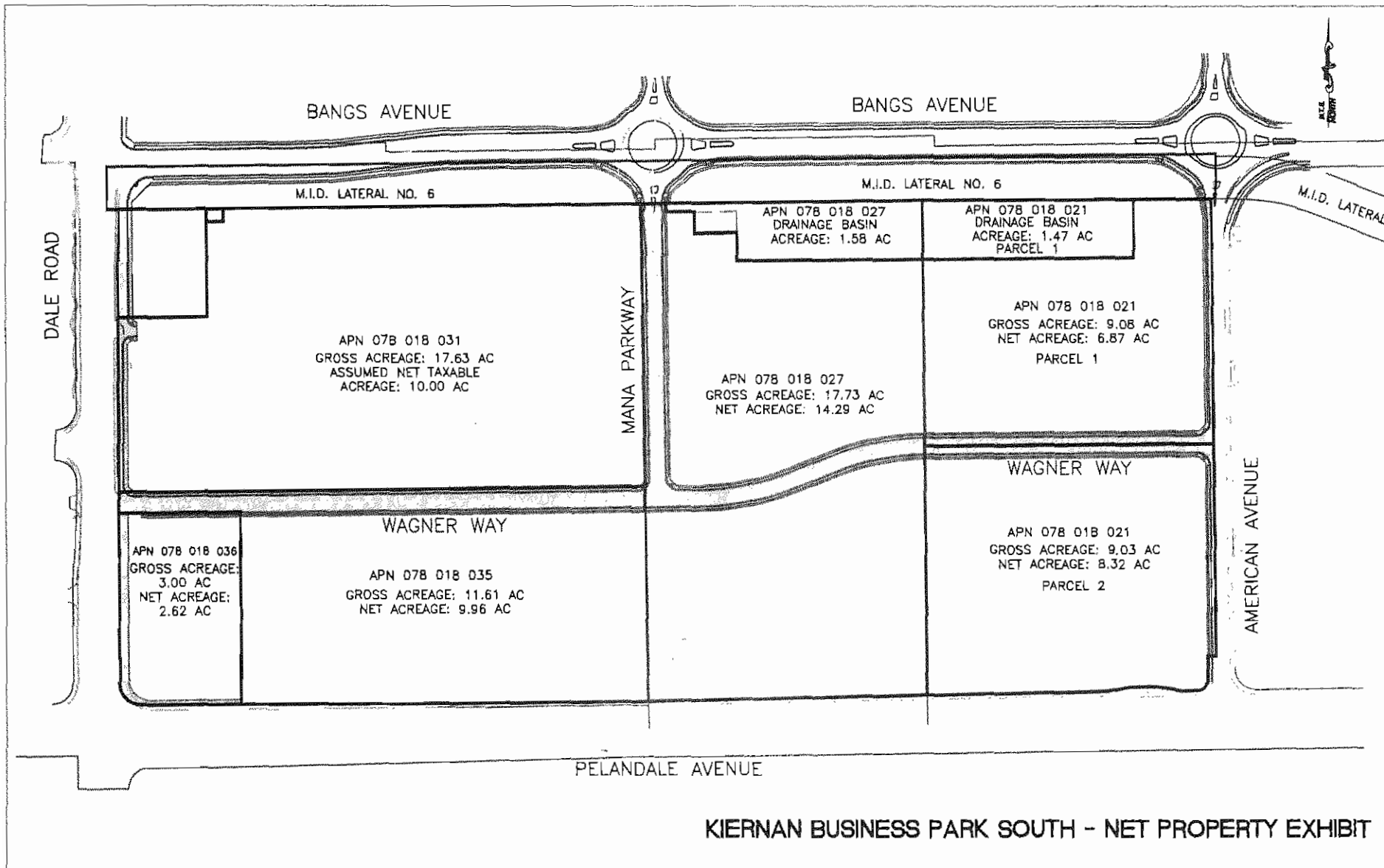
/1 At the time of CFD Formation, APN 078-018-021 was anticipated to be subdivided into two separate parcels based on a preliminary parcel map submitted to the City. Attachment 2 to this RMA shows the geographic locations of APN 078-018-021 (1) and APN 078-018-021 (2) based on this preliminary parcel map. The Maximum One-Time Facilities Special Taxes shown above for these two Parcels were calculated based on this preliminary parcel map.

/2 Represents the Base Maximum One-Time Facilities Special Tax and the Administration Component at the time of CFD Formation. Beginning in January 2013 and each January thereafter, the Base Maximum One-Time Facilities Special Tax and the Administration Component shall be adjusted annually by the greater of: (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available; or (ii) four percent (4.0%). Each annual adjustment of the Base Maximum One-Time Facilities Special Tax and the Administration Component shall become effective on January 1 of the calendar year for which the annual adjustment was made.

/3 At the time of CFD Formation, APN 078-018-031 was not included in the CFD. This Parcel may or may not annex to the CFD at a future date, and it will not pay its Maximum One-Time Facilities Special Tax until such time as it annexes to the CFD and a Building Permit is issued for construction on the Parcel.

ATTACHMENT 2

**City of Modesto Community Facilities District No. 2012-1
(Kiernan Business Park South)
Identification of Original Parcels
at CFD Formation**



KIERNAN BUSINESS PARK SOUTH - NET PROPERTY EXHIBIT

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-113**

RESOLUTION AMENDING THE POSITION ALLOCATION FOR THE PUBLIC WORKS DEPARTMENT AS ADOPTED BY THE CITY COUNCIL AS PART OF THE FY 2011-2012 BUDGET TO ELIMINATE ONE DEPUTY DIRECTOR OF PUBLIC WORKS POSITION, AND ONE SENIOR ADMINISTRATIVE OFFICE ASSISTANT (CONFIDENTIAL) POSITION IN COST CENTER 53010, PUBLIC WORKS TRANSPORTATION, AND ADD ONE EXECUTIVE ASSISTANT POSITION IN COST CENTER 51010, PUBLIC WORKS ADMINISTRATION

WHEREAS, in 2009, the Public Works Department was divided into two departments, and

WHEREAS, the existing position allocation for Executive Assistant was moved to the new Utility Planning and Projects Department, and

WHEREAS, the Public Works Director position was vacant at that time and no Executive Assistant allocation was created, and

WHEREAS, once the Director's position was filled, temporary arrangements were made for the Senior Administrative Office Assistant (Confidential) in Transportation Administration to provide support to the Director in an out-of-class assignment, and

WHEREAS, this was made possible due to the vacant Deputy Director position in Transportation Services, and

WHEREAS, with the proposed elimination of the Deputy Director position, there is no longer a need for the Senior Administrative Office Assistant (Confidential) to staff that position, and

WHEREAS, the recommendation to allocate an Executive Assistant position to support the Director in Public Works will complete the process of dividing the two departments and allocating the appropriate support staff, and

WHEREAS, the Senior Administrative Office Assistant position is filled and will remain funded through June 30, 2012; therefore, no cost savings will be realized in FY 2011/12, and

WHEREAS, these positions are funded through Cost Distribution agreements to the subordinate divisions and funds that benefit from the services of department administration, and

WHEREAS, adding an Executive Assistant position allocation in Public Works Administration will cost approximately \$17,396 in FY 2011/12 and \$69,584 beginning FY 2012/13, and

WHEREAS, this position will be funded through Cost Distribution agreements, charging the total to the subordinate divisions that benefit from the services of department administration,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto that it hereby approves amending the Position Allocation for the Public Works Department as adopted by the City Council as part of the FY 2011-2012 budget to eliminate one Deputy Director of Public Works position, and one Senior Administrative Office Assistant (Confidential) position in Cost Center 53010, Public Works Transportation, and add one Executive Assistant position in Cost Center 51010, Public Works.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-114**

**RESOLUTION AUTHORIZING SUBMISSION OF THE CITY'S FISCAL YEAR
2011 - 2012 TRANSPORTATION DEVELOPMENT ACT TRANSIT CLAIM –
REVISION #1 TO THE STANISLAUS COUNCIL OF GOVERNMENTS IN THE
AMOUNT OF \$8,268,602**

WHEREAS, the greatest portion of the City's funding for the Transit Service Program is made available under the Transportation Development Act (TDA), which includes Local Transportation Fund (LTF) funds and State Transit Assistance (STA) funds, and

WHEREAS, the Stanislaus Council of Governments (StanCOG) has informed the Finance Department that LTF funds have been apportioned by the State to StanCOG for allocation to public transit agencies pursuant to Articles 4 and 8 of Chapter 4 of the California Public Utilities Code (PUC), and

WHEREAS the City prepared its original TDA claim for Fiscal Year 2011-2012 pursuant to these sections of the California PUC and the City Council adopted it by Resolution 2011-428, and

WHEREAS, StanCOG reduced the original allocation of STA funds to the City by \$312,918, and

WHEREAS, StanCOG requested the City to submit a revised claim based on the new STA amount allocated, and

WHEREAS, the City has prepared a revised TDA claim for Fiscal Year 2011-2012 as requested by StanCOG, and

WHEREAS, the City's Transit TDA Claim for Fiscal Year 2011-2012 is \$8,268,602, and

WHEREAS, the total Transit Operating Budget for Fiscal Year 2011-2012 is \$14,773,997, and

WHEREAS, Council action authorizing submission of the Claim is required by StanCOG pursuant to Section 99261 of the California PUC before any TDA funding can be released to the City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves submission of the Fiscal Year 2011-2012 Transportation Development Act Transit Claim -- Revision #1 to StanCOG in the amount of \$8,268,602.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Council members: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Council members: None

ABSENT: Council members: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-115**

RESOLUTION APPROVING SUBMITTAL OF THREE GRANT APPLICATIONS TO THE CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS) REQUESTING \$5,838,246 IN FY 2010-11 FUNDS UNDER THE PUBLIC TRANSPORTATION MODERNIZATION, IMPROVEMENT AND SERVICE ENHANCEMENT ACCOUNT (PTMISEA) FOR TRANSIT CAPITAL PROJECTS AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL GRANT APPLICATION AND GRANT AGREEMENT DOCUMENTS

WHEREAS, the Caltrans administered Public Transportation Modernization, Improvement, and Services Enhancement Account (PTMISEA) was a part of the comprehensive transportation bond investment package approved by the voters as Proposition 1B in the November 7, 2006 general election, and

WHEREAS, Senate Bill 88 (SB 88), enabling legislation for PTMISEA, was signed by the Governor and chaptered into law on August 24, 2007, and

WHEREAS, in Fiscal Year 2010-11 a total of \$1,499,648,863 was appropriated state-wide to PTMISEA, and

WHEREAS, the Stanislaus Council of Governments (StanCOG) is the designated recipient for regional funds under GC 8879.55 (a)(2), and

WHEREAS, the StanCOG Policy Board passed a resolution February 15, 2012, designating \$5,198,241 of the Fiscal Year 2011-11 regional PTMISEA funds to the City of Modesto for transit capital projects, and

WHEREAS, the City of Modesto is the designated recipient for \$640,005 in Fiscal Year 2010-11 local PTMISEA funds under GC 8879.55 (a)(3) resulting in a total PTMISEA regional and local allocation of \$5,838,246 for Fiscal Year 2010-11.

WHEREAS, the City of Modesto has identified three (3) projects as priorities for Fiscal Year 2010-11 PTMISEA funding, and

WHEREAS, refurbishing a total of thirty (30) 1998, 2001 and 2003 fixed route buses; purchasing magnetic stripe units to install on existing fareboxes; and, upgrading its existing automatic vehicle location system to improve real-time passenger information are the City of Modesto's three (3) priority PTMISEA projects.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes submittal of three (3) grant applications to Caltrans requesting \$5,838,246 in Fiscal Year 2010-11 PTMISEA funds for transit capital projects

BE IT FURTHER RESOLVED that the City Manager, is authorized to execute all necessary grant documents with the California Emergency Management Agency on behalf of the City of Modesto.

BE IT FURTHER RESOLVED that the City Manager may designate the Director of Public Works to execute all grant application and grant agreement documents.

BE IT FURTHER RESOLVED that the City Manager may designate the Transit Manager to execute all grant application and grant agreement documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-116**

**RESOLUTION APPROVING SUBMITTAL OF TWO GRANT APPLICATIONS
TO THE CALIFORNIA EMERGENCY MANAGEMENT AGENCY
REQUESTING \$438,032 IN FY 2010-11 FUNDS AND \$438,032 IN FY 2011-12
FUNDS UNDER THE CALIFORNIA TRANSIT SECURITY GRANT PROGRAM
FOR TRANSIT SECURITY PROJECTS AND AUTHORIZING THE CITY
MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL GRANT APPLICATION
AND GRANT AGREEMENT DOCUMENTS**

WHEREAS, the Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act of 2006 was approved by the voters as Proposition 1B in the November 7, 2006, general election, and

WHEREAS, Senate Bill 88 (SB 88), enabling legislation for the Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act of 2006, was signed by the Governor and chaptered into law on August 24, 2007, and

WHEREAS, SB 88 created the California Transit Assistance Funds administered by the California Emergency Management Agency, and

WHEREAS, in Fiscal Year 2010-11 a total of \$60,000,000 was appropriated to the California Transit Assistance Fund, and

WHEREAS, in Fiscal Year 2011-12 a total of \$60,000,000 was appropriated to the California Transit Assistance Fund, and

WHEREAS, the Stanislaus Council of Governments (StanCOG) is the designated recipient for regional funds under GC 8879.58 (a)(2), and

WHEREAS, the StanCOG Policy Board passed a resolution on February 15, 2012, designating \$412,426 of the Fiscal Year 2011-11 regional funds for the City of Modesto for transit security projects, and

WHEREAS, the StanCOG Policy Board passed a resolution on February 15, 2012, designating \$412,426 of the Fiscal Year 2011-12 regional funds for the City of Modesto for transit security projects, and

WHEREAS, the City of Modesto is the designated recipient for \$25,606 in Fiscal Year 2010-11 local funds under GC 8879.58 (a)(3) resulting in a total allocation of \$438,032 for Fiscal Year 2010-11.

WHEREAS, the City of Modesto is the designated recipient for \$25,606 in Fiscal Year 2011-12 local funds under GC 8879.58 (a)(3) resulting in a total allocation of \$438,032 Fiscal Year 2011-12.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes submittal of two (2) grant applications to the California Emergency Management Agency requesting California Transit Assistance Funds for transit security projects - one (1) application for \$438,032 in Fiscal Year 2010-11 funds and one (1) application for \$438,032 in Fiscal Year 2011-12 funds.

BE IT FURTHER RESOLVED that the City Manager is authorized to execute all necessary grant documents with the California Emergency Management Agency on behalf of the City of Modesto.

BE IT FURTHER RESOLVED that the City Manager may designate the Director of Public Works to execute all grant application and grant agreement documents.

BE IT FURTHER RESOLVED that the City Manager may designate the Transit Manager to execute all grant application and grant agreement documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-117**

RESOLUTION APPROVING A SECOND AMENDMENT TO AGREEMENT WITH CAROLLO ENGINEERS, INC. (FORMERLY CAROLLO ENGINEERS, P.C.) FOR FINAL DESIGN SERVICES FOR THE PHASE 2 BIOLOGICAL NUTRIENT REMOVAL/TERTIARY TREATMENT FACILITY PROJECT IN THE AMOUNT OF \$64,465, FOR A MAXIMUM TOTAL AGREEMENT AMOUNT OF \$6,065,486, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE SECOND AMENDMENT TO AGREEMENT

WHEREAS, in April 2008, the Central Valley Regional Water Quality Control Board (RWQCB) adopted a new National Pollutant Discharge Elimination System (NPDES) permit for the City of Modesto with stricter limits to the City's treated wastewater discharge into the San Joaquin River, and

WHEREAS, these limits were not in the original draft permit, and were not accounted for in the Wastewater Master Plan (WWMP) that was adopted in March 2007, and

WHEREAS, this new permit required the City to meet these discharge requirements by April 25, 2013, and

WHEREAS, if the City did not comply with these new discharge requirements, it would be subject to Mandatory Minimum Penalties (MMPs) and potential third-party lawsuits, and

WHEREAS, on June 23, 2009, by Resolution No. 2009-271, the City Council approved an agreement with Carollo Engineers, P.C. (Carollo) to prepare the final project design of this project, and

WHEREAS, in order to meet the April 2013 compliance date, the design agreement is based on an expedited design and construction schedule, and final design was originally expected to be completed by March 2010, and

WHEREAS, on September 1, 2009, City staff requested a 33-month compliance extension to its NPDES permit to allow a longer implementation schedule for the Phase 2 Tertiary Project and to reduce the impact on rates, and

WHEREAS, on March 18, 2010, the RWQCB granted the City an extension of the compliance date to February 2016, and

WHEREAS, the compliance extension has allowed the City to reasonably revise its design and construction schedule, and

WHEREAS, on December 14, 2010, by Resolution No. 2010-521, the City Council approved dedicating sewer service charges to payment of any and all CWSRF financing, and

WHEREAS, based on the preliminary design engineer's cost estimate, the City applied for a \$130 million loan for the Phase 2 Project, and

WHEREAS, on October 4th, 2011 the City received an initial Project Finance Agreement (State Revolving Fund Project No. C-06-5175-210, Agreement No. 11-825-550) from the SWRCB, which essentially commits the CWSRF loan to the City, and

WHEREAS, the design of the Phase 2 Project has been completed and City staff began advertising for construction bids on November 8, 2011, and

WHEREAS, on December 6, 2011, by Resolution No. 2011-457, the City Council approved an Amendment to Agreement with Carollo Engineers, Inc. (formerly Carollo Engineers, P.C.) to complete the final design services for Phase 2 Project, and

WHEREAS, the City received 8 bids for the Phase 2 Project, which opened January 27, 2012, and

WHEREAS, the City has recently completed its review of the bid and supporting documentation, and has determined the low bidder followed and met the requirements of the project specifications, and

WHEREAS, as a result, the low bidder has been deemed a responsible bidder and its bid responsive, and

WHEREAS, City staff is currently collecting all required forms and documentation in preparation of a CWSRF Approval of Award (AoA) package for SWRCB review and approval, and

WHEREAS, after receiving the AoA package, the SWRCB can take from 30 days, up to 120 days, to review and submit a final Financing Agreement to the City, and

WHEREAS, this second amendment for \$64,465 will include the preparation of a conformed set of plans and specifications, which was not included in the original agreement with Carollo, and

WHEREAS, the conformed set will incorporate all changes in the specifications and drawings made through addenda issued during bidding period, and

WHEREAS, the proposed task was originally to be included with the Engineering Services During Construction (ESDC) contract with Carollo, as Task 1.1., which is expected to be awarded with the Phase 2 Project construction contract in early summer 2012, and

WHEREAS, staff recommends taking advantage of the lengthy SWRCB review period and requesting this additional service to prepare the conformed bid documents prior to the start of the Phase 2 Project's construction, and

WHEREAS, this task, and its equivalent costs, will be deleted from the upcoming Carollo ESDC agreement, and

WHEREAS, staff is recommending approval of this second amendment to cover the additional scope of work that is beyond the original final design agreement, and

WHEREAS, the following list summarizes the changes and additional work by Carollo that is necessary to complete the design beyond what has been approved and budgeted for the project: 1) Preparation of Conformed Documents for Construction, and

WHEREAS, City staff does not have the staffing level or subject matter expertise to provide final design services for Phase 2 Project, and current workload levels do not provide for timely in-house solutions/responses, and

WHEREAS, City staff recommends approving a second amendment to agreement with Carollo for final design services for Phase 2 Project that is beyond the original final design Agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Second Amendment to Agreement with Carollo Engineers, Inc. (formerly Carollo Engineers, P.C.) for final design services for Phase 2 Biological Nutrient Removal/Tertiary Treatment Facility project, in an amount not to exceed \$64,465.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-118**

RESOLUTION APPROVING A FIRST AMENDMENT TO THE MASTER AGREEMENT FOR AUDITING SERVICES BETWEEN THE CITY OF MODESTO AND MOSS-ADAMS, LLP; AND AUTHORIZING THE MAYOR, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO AGREEMENT

WHEREAS, Section 900 of the Modesto City Charter provides that the City Auditor shall be appointed by and serve at the pleasure of the City Council of the City of Modesto, and

WHEREAS, the City Council desires to amend the Master Agreement for auditing services with the firm of Moss-Adams, LLP extending the term of the Agreement from February 1, 2012 to June 30, 2013, and

WHEREAS, the compensation amount needs to be amended to include an additional amount not to exceed \$150,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to the Master Agreement for auditing services with Moss-Adams, LLP.

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

BE IT FURTHER RESOLVED that the City Manager is hereby directed to prepare all necessary budget amendments to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Gunderson, Lopez, Mayor Marsh

NOES: Councilmembers: Geer, Muratore

ABSENT: Councilmembers: None

ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:


SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-119**

**RESOLUTION APPROVING THE UPDATED GUIDELINES TO THE CITY'S
NEIGHBORHOOD STABILIZATION PROGRAM 2 HOMEBUYER'S
PROGRAM**

WHEREAS, in January 2010, the Department of Housing and Urban Development (HUD) awarded the City of Modesto \$25 million in Neighborhood Stabilization Program 2 (NSP2) funds, and

WHEREAS, of the \$25 million, \$10.5 million was allocated for the acquisition and rehabilitation of residences, and the City of Modesto set up a Homebuyer's Program, and

WHEREAS, in the NSP2 program, 26 foreclosed homes are designated for resale to qualified buyers with incomes at 50-120% of the area median income (AMI), and

WHEREAS, by regulation, the sales price of the home cannot be higher than the lower of either 1) the amount of NSP2 funds used to purchase and rehab the home, or 2) the second appraisal which is done after the rehab is completed, and

WHEREAS, over the course of the last year, HUD revised its NSP program income policy and issued an updated guidance, indicating that the local jurisdiction generating program income can be reinvested in an NSP eligible activity, and

WHEREAS, the City of Modesto is updating its NSP2 Homebuyer's Program guidelines in an effort to be able to recycle the income from this program, and

WHEREAS, the updated guidelines have been reviewed and approved by the Citizens' Housing and Community Development Committee and the Housing Rehabilitation Loan Committee,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves updating the guidelines to the City's Neighborhood Stabilization Program 2 Homebuyer's Program.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March, 2012, by Councilmember Lopez, who moved its adoption, with motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-120**

**RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF MODESTO, THE HOUSING AUTHORITY OF THE
COUNTY OF STANISLAUS AND STANISLAUS COUNTY AFFORDABLE
HOUSING CORPORATION; AND AUTHORIZING THE CITY MANAGER, OR
HIS DESIGNEE, TO EXECUTE THE MEMORANDUM OF UNDERSTANDING**

WHEREAS, on June 24, 2008, City Council, by Resolution No. 2008-364, approved the allocation of \$713,162 in HOME funds to Stanislaus County Affordable Housing Corporation (STANCO) for the Meadow Glen apartments project, located at 605 E. Coolidge Avenue, Modesto, and

WHEREAS, the acquisition and development of this property will result in 32 housing units, and

WHEREAS, based on the funding availability and deadlines to complete this project, staff presented a proposal to STANCO to transfer this project to the Housing Authority of the County of Stanislaus (HACS) for the NSP2 Emancipated Foster and Homeless Youth Program (EFY&HYP), and

WHEREAS, STANCO's Board approved the transfer of this project to the HACS on April 19, 2011,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Memorandum of Understanding between the City of Modesto, the Housing Authority of the County of Stanislaus and Stanislaus County Affordable Housing Corporation for the development of the property located at 605 E. Coolidge Avenue, Modesto.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March, 2012, by Councilmember Burnside, who moved its adoption, with motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-121**

RESOLUTION APPROVING A HOME LOAN ASSUMPTION FOR THE 605 E. COOLIDGE AVENUE, MODESTO PROJECT TO TRANSFER THE 605 E. COOLIDGE AVENUE PROPERTY AND THE HOME LOAN FROM STANCO TO THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS FOR THE CONSTRUCTION OF AFFORDABLE HOUSING UNITS FOR THE NSP2 EMANCIPATED FOSTER AND HOMELESS YOUTH PROGRAM; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENTS AND RELATED DOCUMENTS

WHEREAS, on June 24, 2008, the City Council, by Resolution No. 2008-364, approved the allocation of HOME funds to STANCO for Meadow Glen apartments in the amount of \$713,162, and

WHEREAS, the acquisition and development of 605 E. Coolidge Avenue, Modesto (Meadow Glen apartments) property will result in 32 housing units, and

WHEREAS, a technical amendment was noticed on October 24, 2011, proposing to change the Eligible Use B (purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such homes and properties) and establish Eligible Use E (redevelop demolished or vacant properties as housing) to develop housing for EFY&HYP, and

WHEREAS, the STANCO Board approved the transfer of this project to the HACS on April 19, 2011, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a HOME loan assumption for the 605 E. Coolidge Avenue, Modesto (Meadow Glen apartments) project from STANCO to the HACS for the redevelopment of affordable housing units for the NSP2 EFY&HYP.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March, 2012, by Councilmember Burnside, who moved its adoption, with motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-122**

RESOLUTION APPROVING A NEIGHBORHOOD STABILIZATION PROGRAM 2 LOAN TO THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS IN THE AMOUNT OF \$4.8 MILLION FOR THE CONSTRUCTION OF A 32 UNIT HOUSING PROJECT FOR EMANCIPATED FOSTER YOUTH AND HOMELESS YOUTH PROGRAM, ALSO KNOWN AS MEADOW GLEN APARTMENTS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENTS AND RELATED DOCUMENTS

WHEREAS, of the \$25 million in NSP2 funding, \$6 million has been set-aside to be used for the purchase and rehabilitation of properties to house Emancipated Foster and Homeless Youth (EFY&HYP) ages 18 to 28, and

WHEREAS, 75% of this funding will serve youth at 50% or below the area median income and the remaining funds will target youth at 80% and below, and

WHEREAS, 32 permanent supportive housing units will be developed to house EFY&HY, and

WHEREAS, a technical amendment was noticed on October 24, 2011, proposing to change the eligible use B, acquisition and rehabilitation, and establish eligible use E, redevelop demolished or redevelop vacant properties as housing, to develop housing for EFY&HYP, and

WHEREAS, the STANCO Board approved the transfer of this project to the HACS on April 19, 2011,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Neighborhood Stabilization Program 2 loan to the Housing Authority of the County of Stanislaus in the amount of \$4.8 million for the construction of a 32 unit housing project for Emancipated Foster Youth and Homeless Youth Program (EFY&HYP), also known as Meadow Glen apartments.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March, 2012, by Councilmember Burnside, who moved its adoption, with motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 
STEPHANIE LOPEZ, City/Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-123**

**RESOLUTION APPROVING AN AGREEMENT WITH HARRIS &
ASSOCIATES, INC. FOR CONSTRUCTION MANAGEMENT SERVICES FOR
THE CARPENTER ROAD BRIDGE SEISMIC RETROFIT PROJECT IN AN
AMOUNT NOT TO EXCEED \$1,086,406 FOR THE IDENTIFIED SCOPE OF
SERVICES AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE,
TO EXECUTE THE AGREEMENT**

WHEREAS, the existing Carpenter Road Bridge was studied, under the direction of the State of California, Department of Transportation (Caltrans), through the Local Agency Seismic Retrofit Program., and

WHEREAS, the study determined that the bridge structure was seismically deficient and in need of retrofit, and

WHEREAS, due to the complexity of this project and amount of staff hours to support construction, a construction management firm is required for management and inspection of this project, and

WHEREAS, staff utilized Administrative Directive 3.1, Selection Procedures for Professional Consultants, and

WHEREAS, staff recommends an agreement with Harris & Associates, as the City does not have the staffing level or subject matter expertise to perform construction management and inspection services for the following: construction administration, processing and tracking of submittals and requests for information, coordination associated with inspections, coordination with City staff, documentation of daily and weekly field activities, and project closeout for the Carpenter Road Bridge Project, and current workload levels do not provide for timely in-house solutions/responses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Harris & Associates for construction management services for the Carpenter Road Bridge Seismic Retrofit project in an amount not to exceed \$1,086,406 for the identified scope of services.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

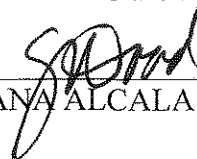
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-124**

RESOLUTION APPROVING AN AMENDMENT TO THE SUBSTANTIAL AMENDMENT TO THE CONSOLIDATED PLAN 2008 ACTION PLAN FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT – RECOVERY PLAN TO REALLOCATE FUNDING TO THE AIRPORT NEIGHBORHOOD COMMUNITY CENTER PROJECT IN PREPARATION FOR GRANT CLOSE-OUT; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO THE SUBSTANTIAL AMENDMENT AND ALL RELATED DOCUMENTS

WHEREAS, the City of Modesto receives several Federal grants from the United States Department of Housing and Urban Development (HUD) and allocates those funds to various eligible activities, and

WHEREAS, the City Council, on June 2, 2009, by Resolution No. 2009-237, approved the Substantial Amendment to the Consolidated Plan 2008 Action Plan for the Community Development Block Grant - Recovery (CDBG-R), and

WHEREAS, the City of Modesto is required to amend its approved plan through a substantial amendment process whenever it makes one of the following decisions: to make a change in its allocation priorities or a change in the method of distribution of funds; to carry out an activity using funds from any program covered by the plan not previously described in the plan; and to change the purpose, scope, location, or beneficiaries of an activity, and

WHEREAS, staff has proposed an amendment to the CDBG-R as set forth in **Exhibit A**, attached hereto and incorporated herein by reference, and

WHEREAS, notice has been duly given to the community of the proposed amendment to the CDBG-R Plan, and to provide a comment period, which began March 10, 2012 and ends on March 27, 2012, and

WHEREAS, this amendment allocates funding to the existing Airport Neighborhood Community Center Project in preparation for CDBG-R grant close-out, and

WHEREAS, the Citizens' Housing and Community Development Committee (CH&CDC) reviewed staff's proposed amendment of CDBG-R prior to City Council review, and

WHEREAS, a duly noticed public hearing was held by the City Council on March 27, 2012, at 5:30 PM in the Tenth Street Place Chambers, located at 1010 Tenth Street to consider approval of the proposed amendment to the CDBG-R Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an amendment to the Substantial Amendment to the Consolidated Plan 2008 Action Plan for the Community Development Block Grant - Recovery Plan.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th of March, 2012, by Councilmember Lopez, who moved its adoption, with motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill, Muratore

ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:


SUSANA ALCALA WOOD, City Attorney

CDBG-R Substantial Amendment

Amended CDBG-R Allocations

1. Senior Citizens Center Energy Efficiency Improvement Project (\$273,814)
2. Low-Income Owner-Occupant Energy Efficiency Improvement Project (\$200,000)
3. Airport Neighborhood Economic Development Project (\$94,762)
4. Administration (\$13,173)
5. Airport Neighborhood Community Center Project (\$50,000)

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-125**

RESOLUTION AMENDING THE FY 2011/2012 CAPITAL IMPROVEMENT PROGRAM BUDGET IN THE AMOUNT OF \$50,000 FOR THE AIRPORT NEIGHBORHOOD COMMUNITY CENTER, CIP #100698 TO APPROPRIATE REALLOCATED CDBG-R REVENUE RECEIVED FOR THIS PROJECT; AND AUTHORIZING THE FINANCE DIRECTOR, OR HER DESIGNEE, TO TAKE THE NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION

WHEREAS, the City of Modesto receives several Federal grants from the United States Department of Housing and Urban Development (HUD) and allocates those funds to various eligible activities, and

WHEREAS, the City Council, on June 2, 2009, by Resolution No. 2009-237, approved the Substantial Amendment to the Consolidated Plan 2008 Action Plan for the Community Development Block Grant - Recovery (CDBG-R), and

WHEREAS, the City of Modesto is required to amend its approved plan through a substantial amendment process whenever it makes one of the following decisions: to make a change in its allocation priorities or a change in the method of distribution of funds; to carry out an activity using funds from any program covered by the plan not previously described in the plan; and to change the purpose, scope, location, or beneficiaries of an activity, and

WHEREAS, staff has proposed an amendment to the CDBG-R as set forth in **Exhibit A**, attached hereto and incorporated herein by reference, and

WHEREAS, notice has been duly given to the community of the proposed amendment to the CDBG-R, and to provide a comment period, which began March 10, 2012, and ends on March 27, 2012, and

WHEREAS, this amendment allocates funding to the existing Airport Neighborhood Community Center Project in preparation for CDBG-R grant close-out, and

WHEREAS, the Citizens' Housing and Community Development Committee reviewed staff's proposed amendment of CDBG-R prior to City Council review, and

WHEREAS, a duly noticed public hearing was held by the City Council on March 27, 2012, at 5:30 PM in the Tenth Street Place Chambers, located at 1010 Tenth Street to consider approval of the proposed amendment to CDBG-R,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the FY 2011/2012 Capital Improvement Program budget in the amount of \$50,000 to appropriate reallocated revenue to the Airport Neighborhood Community Center, CIP #100698,

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th of March, 2012, by Councilmember Lopez, who moved its adoption, with motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill, Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

CDBG-R Substantial Amendment

Amended CDBG-R Allocations

1. Senior Citizens Center Energy Efficiency Improvement Project (\$273,814)
2. Low-Income Owner-Occupant Energy Efficiency Improvement Project (\$200,000)
3. Airport Neighborhood Economic Development Project (\$94,762)
4. Administration (\$13,173)
5. Airport Neighborhood Community Center Project (\$50,000)

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-126**

RESOLUTION APPROVING SUBMITTAL OF GRANT APPLICATIONS TO THE CALIFORNIA DEPARTMENT OF TRANSPORTATION, DIVISION OF TRANSPORTATION PLANNING, IN THE AMOUNT OF \$550,000 FROM THE COMMUNITY-BASED TRANSPORTATION PLANNING GRANT PROGRAM; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL NECESSARY GRANT DOCUMENTS

WHEREAS, on December 7, 2010, the City Council, by Resolution No. 2010-495, accepted the U.S. HUD-EPA-DOT Smart Valley Places grant, which provides funding for amendments to the Urban Area General Plan land use and circulation elements, and

WHEREAS, additional grant funding is needed in order to prepare planning documents, such as corridor studies, to implement the amended General Plan, and

WHEREAS, the California Department of Transportation (Caltrans) has the authority to award grants of financial assistance for transportation planning projects, and

WHEREAS, grants for Caltrans local assistance funds would impose certain obligations on the City of Modesto, such as invoicing, quarterly reporting, timely completion, and a local match of ten percent (10%) of the grant award, and

WHEREAS, a public meeting was held on March 27, 2012, at 5:30 p.m., in the Tenth Street Place Chambers located, at 1010 Tenth Street, Modesto, California, at which submittal of the grant applications was considered by the Council of the City of Modesto,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves submittal of applications on behalf of the City of Modesto to Caltrans for Community-Based Transportation Planning Grant funds for corridor studies in the amount of \$550,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute and file the quarterly reports and other documents Caltrans requires for awarding a local assistance grant.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all necessary grant documents with Caltrans 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 27th day of March, 2012, by Councilmember Geer, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-127**

RESOLUTION ACCEPTING THE FISCAL YEAR 2010-2011 ANNUAL AUDIT REPORTS FOR THE CITY OF MODESTO, ITS COMMUNITY FACILITIES DISTRICTS, AND VARIOUS JOINT POWERS AGENCIES AND GRANT PROGRAMS

WHEREAS, pursuant to Section 1306 of the Charter of the City of Modesto, the City Council shall employ an independent certified public accountant who, at least annually, shall audit the books and records of the City of Modesto, and submit a final audit and report to the City Council as soon as practicable after the end of the fiscal year, and

WHEREAS, the accounting firm of Brown and Armstrong has completed their audit of the City's financial statements for the fiscal year ended June 30, 2011, and has provided its opinion on these financial statements based on that audit, and

WHEREAS, the independent auditors also audited the financial statements of nine Community Facilities Districts and various Joint Powers Agencies and grant programs, as required by their respective enabling legislations, and for which the City of Modesto serves as the financial administrator,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Fiscal Year 2010-2011 annual audit reports for the City of Modesto, its Community Facilities Districts, and various Joint Powers Agencies and grant programs, as listed on **Exhibit A**, which is incorporated by reference herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of March 2012, by Councilmember Muratore, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-**

**RESOLUTION ACCEPTING THE FISCAL YEAR 2010-2011
ANNUAL AUDIT REPORTS**

EXHIBIT A

City of Modesto:

1. Comprehensive Annual Financial Report
2. Memorandum of Internal Controls and Required Communications
3. Single Audit Report
4. Community Facilities District Number 1998-2 (Carver-Bangs/Pelandale-Snyder)
5. Community Facilities District Number 2002 (Coffee-Claratina)
6. Community Facilities District Number 1998-1 (Enterprise Business Park)
7. Community Facilities District Number 2003-1 (Fairview Village)
8. Community Facilities District Number 2007-2 (Kiernan Business Park West)
9. Community Facilities District Number 1997-1 (North Beyer Park)
10. Community Facilities District Number 2002-1 (Northpointe)
11. Community Facilities District Number 2004-1 (Village One #2)
12. Community Facilities District Number 1996-1 (Village One)

Other Agencies and grant programs:

13. Stanislaus Drug Enforcement Agency (SDEA)
14. Stanislaus Drug Enforcement Agency (SDEA) Single Audit Report
15. Abandoned Vehicle Abatement (AVA)
16. Modesto Redevelopment Agency (RDA)
17. Transportation Development Agency (TDA)
18. Industrial Fire Joint Powers Agency
19. Tuolumne River Regional Park (TRRP)

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-128**

A RESOLUTION APPROVING A NEW CAPITAL IMPROVEMENT PROGRAM (CIP) ACCOUNT FOR THE PROJECT TITLED, "VILLAGE ONE CENTRAL BASIN EROSION CONTROL," WITH A TOTAL ESTIMATED PROJECT COST OF \$125,000

WHEREAS, the Village One Central Storm Drain Basin was constructed during the summer of 2002 with the removal of 75,000 cubic yards of material, and

WHEREAS, it was expected that native grasses and vegetation would grow on the side slopes to prevent erosion, and

WHEREAS, natural vegetation has not grown on the slopes due to herbicides and preemergents that have been sprayed on the slopes over the last 10 years and the slopes have eroded to the point that a significant maintenance effort is needed, and

WHEREAS, City staff recommends approving a new Capital Improvement Program Account for the project titled "Village One Central Basin Erosion Control",

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a new Capital Improvement Program Account for the project titled "Village One Central Basin Erosion Control."

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of April, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-129**

**A RESOLUTION AMENDING THE FISCAL YEAR 2011-12 CAPITAL
IMPROVEMENT PROGRAM BUDGET FOR THE VILLAGE ONE CENTRAL
BASIN CONTROL PROJECT AND APPROPRIATING \$125,000 FROM CFD
NO. 2004-1 (VILLAGE ONE #2) FUND 3290-14719 TO CIP PROJECT # 100700**

WHEREAS, the Village One Central Storm Drain Basin was constructed during the summer of 2002 with the removal of 75,000 cubic yards of material, and

WHEREAS, it was expected that native grasses and vegetation would grow on the side slopes to prevent erosion, and

WHEREAS, natural vegetation had not grown on the slopes due to herbicides and pre-emergents that had been sprayed on the slopes over the last 10 years and the slopes had eroded to the point that a significant maintenance effort was needed, and

WHEREAS, the Council of the City of Modesto approved a new Capital Improvement Program Account for the project titled “Village One Central Basin Erosion Control”, and

WHEREAS, the Fiscal Year 2011-2012 Capital Improvement Program budget must be amended to appropriate \$125,000 from CFD No. 2004-1 (Village One #2) Fund 3290-14719 to CIP Project # 100700,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2011-2012 Capital Improvement Program budget to appropriate \$125,000 from CFD No. 2004-1 (Village One #2) Fund 3290-14719 to CIP Project # 100700.

BE IT FURTHER RESOLVED that the Finance Director, or her 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 3rd day of April, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-130**

A RESOLUTION DECLARING AS SURPLUS FROM MARCH 1, 2012 THROUGH FEBRUARY 28, 2013 THE FOLLOWING ITEMS: LOST, STOLEN, UNCLAIMED AND/OR SEIZED PROPERTY FROM THE POLICE DEPARTMENT, EXCESS PROPERTY ACCUMULATED BY THE CITY AND SURPLUS CITY VEHICLES AND EQUIPMENT AND AUTHORIZING THE PURCHASING DIVISION TO SELL SAME BY SEALED BID, CONSIGNMENT, PUBLIC AUCTION, ONLINE AUCTION, ONLINE, AS SCRAP, OR DONATE TO AN ELIGIBLE NON-PROFIT 501(C)(3) ORGANIZATION

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

WHEREAS, the City's surplus items consist of: (1) lost, stolen, unclaimed and/or seized property from the Police Department, (2) excess property accumulated by the City, and (3) surplus City vehicles and equipment, and

WHEREAS, the Purchasing Division will sell surplus property through a land based auctioneer or through auction companies, or directly online, or through sealed bid and

WHEREAS, revenues from the sale of surplus Fleet vehicles/equipment are deposited into the Fleet Replacement Fund, 5410-53241, and

WHEREAS, all revenues received from the sale of non-rolling stock are either deposited in the originating fund or in the General Fund,

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

SECTION 1. The City Council in accordance with Section 801 of the City Charter and Section 2.7.06 of the Modesto Municipal Code hereby declares as surplus from March 1, 2012, through February 28, 2013, the property items set forth above.

SECTION 2. The City Manager, or the Purchasing Manager, acting as the City Manager's designated representative, is hereby authorized and directed to sell same by sealed bid, consignment, public auction, online auction, online or as scrap or to donate to an eligible non-profit 501(c)(3) organization.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of April, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-131**

**RESOLUTION APPROVING AN OFFICIAL MAP FOR THE ARCHWAY
COMMONS PROJECT**

WHEREAS, The City of Modesto and the Archway Commons developer, EAH, Inc., are in the final stages of pre-development work before construction can begin on an affordable housing project to add 76 units to the City of Modesto's housing stock and promote economic development in the region, and

WHEREAS, to ensure that the survey markers and the parcel boundaries are accurate and correct, the City of Modesto, in conjunction with EAH, Inc., ordered a survey and then created an "Official Map" for the parcel, and

WHEREAS, according to the California Government Code Section 66499.52(b), an official map can be recorded when, "In a city or county which has adopted the procedure prescribed herein, any surveyor or engineer, under the review of the city engineer or county surveyor, may prepare an official map to be filed for record pursuant to subdivisions (d) and (e) of Section 66499.35", and

WHEREAS, creating an official map was the most expedient manner to confirm from a field survey the land boundaries, which could affect building set-backs and easements in the construction phase of the project, and

WHEREAS, the map will be prepared in accordance with the map format specifications, and

WHEREAS, the official map includes an engineer's or surveyor's certificate stating that the map was prepared pursuant to the provisions of Government Code

Sections 66499.50 – 66499.58, and an approval certificate of the city engineer or county surveyor,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an official map for the Archway Commons Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of April, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-132**

RESOLUTION APPROVING AN AMENDMENT TO THE FISCAL YEAR 2011-2012 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FUND THE TRRP GATEWAY PHASE 1.3 TRAILS PROJECT IN THE AMOUNT OF \$550,000; AND AUTHORIZING THE FINANCE DIRECTOR, OR HER DESIGNEE, TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION

WHEREAS, the City of Modesto received grants from the Habitat Conservation Fund and federal government that total \$550,000 to further develop the Gateway Parcel in the Tuolumne River Regional Park (TRRP), and

WHEREAS, on August 8, 2006, the City Council, by Resolution No. 2006-504, approved the development of Phase 1.1 of the Gateway Parcel, and

WHEREAS, on September 4, 2007, the City Council, by Resolution No. 2007-527, approved the development of Phase 1.2 of the Gateway Parcel, and

WHEREAS, the City is now ready to continue the development of the Gateway Parcel by constructing a minor trail system in the Riparian Terraces area, and

WHEREAS, development of the Phase 1.3 Trails will provide direct access to the Tuolumne River for recreation activities, and

WHEREAS, the City of Modesto CIP Task Force has reviewed and approved this project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to the Fiscal Year 2011-2012 Capital Improvement Program budget in order to fund the TRRP Gateway Phase 1.3 Trails project in the amount of \$550,000.

BE IT FURTHER RESOLVED that the Finance Director, or her 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 3rd day of April, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote.

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-133**

A RESOLUTION APPROVING STANISLAUS COUNTY REGIONAL APPREHENSION TEAM MEMORANDUM OF UNDERSTANDING FOR PARTICIPATION IN THE POST RELEASE COMMUNITY SUPERVISION, ALONG WITH OTHER COUNTY-WIDE LAW ENFORCEMENT AGENCIES, TO LOCATE NON-COMPLIANT, NON-SERIOUS, NON-VIOLENT OFFENDERS UPON THEIR RELEASE FROM STATE PRISON; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE MEMORANDUM OF UNDERSTANDING

WHEREAS, on April 4, 2011, Governor Brown signed Assembly Bill 109 (AB 109), which made essential changes to California's correction system, and

WHEREAS, AB 109 realigned custodial and community supervision responsibility for non-serious, non-violent, and non-sex offenders, as well as supervision of lower level adult parolees returning from state prison sentences to counties, and

WHEREAS, starting October 1, 2011, any offender who was convicted of a non-serious, non-violent felony, and is not deemed a high risk sex offender will be placed on local supervision through the Probation Department upon their release from state prison, and

WHEREAS, when the Post Release Community Supervision offenders fail to report to their probation officer and their whereabouts are unknown, probation officers will request bench warrants from the court, and

WHEREAS, this Memorandum of Understanding (MOU) allows law enforcement agencies in Stanislaus County to combine resources and work cooperatively in locating noncompliant PRCS offenders in our county, and

WHEREAS, a Community Corrections Partnership Executive Committee will govern the affairs of the Regional Apprehension Team, and

WHEREAS, this Committee, comprised of the Chief Probation Officer (Chairperson), Stanislaus County Sheriff, Stanislaus County District Attorney, Stanislaus County Public Defender, Modesto Police Department Chief, Presiding Stanislaus County Superior Court Judge and the Director of the Stanislaus County Behavioral Health and Recover Services will meet on an as needed basis to review team operations and will provide direction, guidance and oversight, and

WHEREAS, the Stanislaus County Regional Apprehension Team will be staffed by personnel referred by the participating law enforcement agencies, and

WHEREAS, the Probation Department will take the lead in organizing and coordinating county operations, including notification to the agencies when and where apprehension operations will be taking place, and

WHEREAS, the Probation Department will notify the agencies on how many officers will be needed for each operations, and

WHEREAS, each participating agency agrees to hold harmless all other participating agencies, and

WHEREAS, the Adult Division Director of the Stanislaus County Probation Department will be responsible for implementing a reporting system for tracking apprehension team activity and resource utilization, and

WHEREAS, the reporting system will serve as the basis for quarterly reports to the Community Corrections Partnership Executive Committee, as well as to ensure an accountability of personnel and resources, and

WHEREAS, this MOU will be effective until June 30, 2014,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Stanislaus County Regional Apprehension Team Memorandum of Understanding for participation in the Post Release Community Supervision.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of April, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-134**

**A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH
VBN ARCHITECTS FOR ARCHITECTURAL AND FINAL DESIGN SERVICES
FOR THE BUS MAINTENANCE FACILITY PROJECT IN AN AMOUNT NOT
TO EXCEED \$780,008; AND AUTHORIZING THE CITY MANAGER, OR HIS
DESIGNEE, TO EXECUTE THE AMENDMENT**

WHEREAS, on October 13, 2009, by Resolution No. 2009-493, the City Council approved an agreement with VBN Architects to perform Architectural and Final Design Services for the Bus Maintenance Facility in the not to exceed amount of \$716,112, and

WHEREAS, on January 23, 2012, City Staff submitted a budget augmentation for additional funding in the amount of \$63,896, to a not to exceed total of \$780,008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to Agreement between the City of Modesto and VBN Architects to perform Architectural and Final Design Services for the Bus Maintenance Facility in the not to exceed amount of \$780,008.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of April, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh


NOES: Councilmembers: None

ABSENT: Councilmembers: Burnside

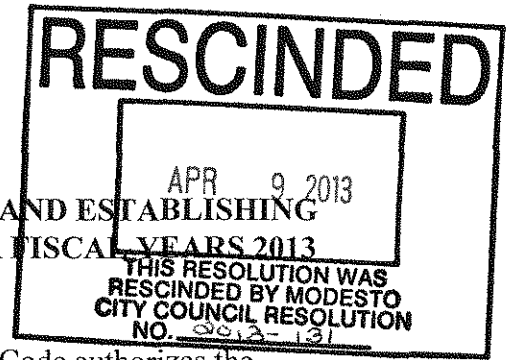
ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-135



A RESOLUTION RESCINDING RESOLUTION 2010-222 AND ESTABLISHING FEES FOR THE PROVISION OF SEWER SERVICE FOR FISCAL YEARS 2013 THROUGH 2017

WHEREAS, Section 11-6.09 of the Modesto Municipal Code authorizes the Council to establish sewer service charges from time to time by resolution, and

WHEREAS, the Council has previously established sewer service charges, and

WHEREAS, Proposition 218 was passed in November of 1996 and became effective with respect to sewer rates on July 1, 1997, and

WHEREAS, on July 24, 2007, the Council held a public hearing pursuant to Proposition 218 with respect to adjustment of sewer rates, and

WHEREAS, notices of a sewer rate adjustment and public hearing were mailed on June 8, 2007 to sewer customers, and

WHEREAS, insufficient protests were made to defeat imposition of the sewer rate adjustments resulting in increases in some cases, and

WHEREAS, on July 24, 2007, the City Council, by Resolution No. 2007-463, established maximum wastewater rates beginning August 1, 2007, and updated each July 1st through the year 2011, and

WHEREAS, the Final Master Environmental Impact Report for the Waste Water Master Plan was completed (State Clearing House No. 2006052076) and adopted by the City Council on March 13, 2007 by Resolution No. 2007-178, and

WHEREAS, on May 25, 2010, the City Council, by Resolution No. 2010-222, rescinded all previous sewer fee resolutions and adopted a new five-year rate plan for

Fiscal Years 2011-2015, and

WHEREAS, the report titled, "2012 Evaluation of Wastewater Rates," analysis shows that the projected costs and revenues are tracking reasonably close to what was projected in the 2011 report, and

WHEREAS, this report also shows that it would be possible to implement alternative rate plans primarily due to the following factors:

- Relatively stable customer characteristics and discharges
- Operating costs - reduced inflation assumptions for FY 2013 and FY 2014
- Capital program - assumed the same reduced program
- Debt financing - State Revolving Fund (SRF) financing has received preliminary approval, and

WHEREAS, staff has reviewed the Capital Improvement Program (CIP) and operations budgets of the Wastewater Enterprise Fund for both the current and upcoming fiscal years with the goal of minimizing any rate increase proposals for FY 2013 and beyond, and

WHEREAS, in order to maintain an adequate debt coverage ratio and operating reserves, a series of rate increases will be required, and

WHEREAS, these series of rate increases do not exceed the maximum wastewater rates allowed by City Council Resolution No. 2007-463, and

WHEREAS, on February 27, 2012, the Finance Committee recommended that City Council adopt a series of wastewater rate increases, shown as Scenario 3 in the "2012 Evaluation of Wastewater Rates" report,

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

SECTION 1. DEFINITIONS. Unless the context requires a different meaning, for the purposes of this resolution the definitions set forth in Section 5-6.103 of Chapter 6 of Title 5 of the Modesto Municipal Code entitled "DEFINITIONS" shall apply.

1. Director: The City officer(s) or designee(s) in charge of utilities.
2. Monthly account charge: A monthly fee charged to every sewer account to pay the actual fixed sewer system costs not allocable to sewer flow and strength components.
3. Person. Any individual, partnership, corporation or other legal entity whatsoever applying for or receiving City sewer service.

SECTION 2. SEWER SERVICE CHARGES FOR RESIDENTIAL SERVICE.

Each person receiving residential sewer service shall pay a sewer service charge to the City in accordance with the following rates:

- (a) The maximum monthly sewer service charges for dwelling units, mobile homes and mobile home spaces in mobile home parks shall be as follows:

	Year 1	Year 2	Year 3	Year 4	Year 5
Maximum Residential Rates	1-Jul-12	1-Jul-13	1-Jul-14	1-Jul-15	1-Jul-16
Monthly Account Charge (\$/Account)	\$3.93	\$4.17	\$4.43	\$4.62	\$4.68
<i>plus Dwelling Unit Charge (\$/Dwelling Unit)</i>					
Single Family Residential, Mobile Home on a lot	\$24.74	\$26.47	\$28.32	\$29.74	\$30.16
Multiple Family (2-4 Dwelling Units), one additional Dwelling Unit or Mobile Home on a lot	\$21.23	\$22.72	\$24.31	\$25.52	\$25.88
Apartments (5 or more Dwelling Units), Mobile Home Space in a Mobile Home Park	\$16.11	\$17.24	\$18.45	\$19.37	\$19.64

SECTION 3. SEWER SERVICE CHARGES FOR COMMERCIAL SERVICE.

Each person receiving commercial sewer service shall pay a maximum sewer service charge to the City in accordance with the following rates:

- (a) Commercial users shall be grouped according to Biochemical Oxygen Demand (hereinafter referred to as BOD) and Total Suspended Solids (hereinafter referred to as TSS) strength characteristics and shall pay sewer

service charges based on the quantity of water used, and the waste strength characteristics measured in milligrams per liter (hereinafter referred to as mg/l). The Director shall determine the waste strength characteristics of commercial users and assign them to one of the following commercial users groups:

Maximum Commercial Rates	Year 1	Year 2	Year 3	Year 4	Year 5
	1-Jul-12	1-Jul-13	1-Jul-14	1-Jul-15	1-Jul-16
Monthly Account Charge (\$/Account)	\$3.93	\$4.17	\$4.43	\$4.62	\$4.68
<i>plus Quantity Charge (\$/100 cubic feet)</i>					
Group 1-BOD + TSS is 400 mg/l or less	\$2.10	\$2.24	\$2.40	\$2.52	\$2.56
Group 2-BOD + TSS is 401 mg/l to 900 mg/l	\$2.58	\$2.76	\$2.95	\$3.10	\$3.14
Group 3-BOD + TSS is 901 mg/l to 1,400 mg/l	\$3.07	\$3.29	\$3.52	\$3.69	\$3.74
Group 4-BOD + TSS is 1,401 mg/l or more	\$3.65	\$3.90	\$4.18	\$4.39	\$4.45

- (b) Commercial users shall have all water used on the premises metered in order to determine the users' sewer service charges.
 - (1) Commercial users on a public water system other than the City's shall obtain a metered water service from the water purveyor and shall pay the sewer service charge which would be made were such water from the City's water system.
 - (2) Commercial users receiving any water from a private source shall allow the City to furnish, install and maintain a water meter with the user paying for the cost of the meter and installation. The user shall pay the sewer service charge which would be made were such water from the City's water system. Authorization shall be granted to City from user to install, read and maintain said meter by user executing an agreement on a form furnished by the Director.
- (c) In the case of existing meters which are under the ownership of users, the City will assume responsibility for maintenance of such meters upon:
 - (1) Receipt of transfer of title from the owner in a form satisfactory to the Director, and
 - (2) Authorization being granted to City for reading and maintaining the meter as set forth in paragraph (b) above.
- (d) Schools, churches, assembly halls and similar facilities shall be considered Group 1.

SECTION 4. SEWER SERVICE CHARGES FOR INDUSTRIAL SERVICE.

Each person receiving industrial sewer service shall pay a maximum sewer service charge to the City in accordance with the following rates:

- (a) The monthly sewer service charges for industrial users shall be at the following rate of per million gallons of total flow.

Maximum Industrial (Major and Minor) Rates	Year 1	Year 2	Year 3	Year 4	Year 5
	1-Jul-12	1-Jul-13	1-Jul-14	1-Jul-15	1-Jul-16
Monthly Account Charge (\$/Account)	\$3.93	\$4.17	\$4.43	\$4.62	\$4.68
<i>plus Quantity Charges (these three components are additive)</i>					
Flow Charge (\$/Million gallons)	\$2,284	\$2,443	\$2,614	\$2,745	\$2,783
BOD Charge (\$/1,000 lbs)	\$113	\$121	\$130	\$136	\$138
TSS Charge (\$/1,000 lbs)	\$198	\$212	\$227	\$238	\$241

- (1) If the Industry has an effluent meter for industrial flow measurement and a sanitary sewage meter, the total flow shall be the sum of the metered flows.

Sanitary Sewage Flow: If Industry has an unmetered connection for disposal of sanitary sewage, the estimated volume may be established by the Director. The estimated volume shall be based on the number and type of plumbing fixture units contributing to the system along with any other flow information available which indicates the total volume of sanitary sewage.

- (2) In the absence of an effluent meter, an influent meter shall be used, and total flow shall be based upon the influent meter reading.
- (3) The BOD and TSS charges for industrial and sanitary discharges shall be based on the measured or estimated BOD and TSS for each type of flow.

SECTION 5. FLOW ESTIMATES. The Director will estimate flow where he/she determines metered flow measurements are unreliable.

SECTION 6. SEWER SERVICE CHARGES FOR DUMPING OF SEPTIC WASTE AT THE SEWAGE TREATMENT PLANT

Charge	Year 1	Year 2	Year 3	Year 4	Year 5
	1-Jul-12	1-Jul-13	1-Jul-14	1-Jul-15	1-Jul-16
Flow charge per 1,000 gallons	\$59.72	\$63.90	\$68.37	\$72	\$73

SECTION 7. INFLATOR INDEX AND REASSESSMENT OF COST OF SERVICE. The cost of service set forth above shall be re-examined not less than every four years by professionals competent in the field. Such professionals shall provide a report to the City updating both the fixed and volume based costs as appropriate and as recommended to the Council by the Director and Director of Finance. Beginning on July 1, 2017 and annually thereafter, the Director of Finance with the concurrence of the Director, shall have the authority to adjust the above rates by an amount not to exceed the not-seasonally-adjusted annual percentage increase in the April Consumer Price Index (CPI) for Urban Wage Earners and Clerical Workers for the San Francisco CMSA that is currently prepared by the Department of Finance.

SECTION 8. SULFIDE CORROSION CHARGES. Any wastewater discharge which exceeds 0.5 parts per million of sulfides shall pay a sulfide corrosion charge, an impact fee, determined on a case-by-case basis as follows:

- (a) The projected accelerated corrosion of collection system pipes and pump stations will be calculated based on the EPA Pomeroy Model for Sulfide Corrosion (EPA Design Manual, EPA/625/1-85-018, Section 2.5.2.1 - Corrosion Predictive Model).
- (b) The sulfide corrosion charge will then be calculated based on the actual pipes and pump stations, up to the Water Quality Control Plant Headworks, impacted by the discharge, and on the current estimates of replacement costs and the time value of money.
- (c) Discharges of sulfide above 0.5 ppm shall also not have a pH lower than 7.
- (d) The discharger may request that the sulfide charge be recalculated each year, if the amount of sulfide discharged is documented as having changed significantly from the previous year. The discharger may elect to receive

the billing for this service charge on an annual or monthly basis. No prepayment discount will apply.

- (e) This service charge is an impact fee based on sulfide crown corrosion of collection system pipes and pumping facilities. It is not intended to compensate the City for increased corrosion or odor generation in the Water Quality Control Plant. It is not intended to liquidate the responsibility of a party whose wastewater discharge escapes from the collection system causing soil or groundwater contamination. Discharge of concentrated sulfides under the provisions of this section constitutes acceptance of these terms.

SECTION 9. SEWAGE TREATMENT FOR OUTSIDE PUBLIC AGENCIES.

Pursuant to agreements approved from time to time by the City Council and the City Attorney (as to form), other public agencies will own and operate, and the City of Modesto will accept and treat sewage collected from, sewer systems external to the City and City's Sewer District No. 1.

SECTION 10. EFFECTIVE DATE. This resolution shall go into effect and be in full force and operation on and after July 1, 2012.

SECTION 11. RESCINDING PRIOR RESOLUTIONS. All previous sewer fees resolutions are hereby rescinded effective July 1, 2012.

SECTION 12. ANNUAL REVIEW OF ADOPTED RATE INCREASES. The City Council shall conduct a review of each adopted sewer rate increase prior to its implementation. Said review shall be completed by the City Council at least sixty days in advance of the new sewer rate becoming effective. The rates shown in this resolution shall be implemented on the dates shown unless City Council takes action otherwise.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of April, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh


NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-136**

RESOLUTION FINDING THAT THE FOLLOWING SUBSEQUENT PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 2007072023): REPEALING TITLE 10 OF THE MODESTO MUNICIPAL CODE RELATING TO THE ZONING REGULATIONS IN ITS ENTIRETY AND REENACTING A NEW TITLE 10 FOR A COMPREHENSIVE MAINTENANCE UPDATE OF THE ZONING REGULATIONS (CITY OF MODESTO)

WHEREAS, on October 14, 2008, the City Council of the City of Modesto certified the Final Master Environmental Impact Report (“Master EIR”) (SCH No. 2007072023) for the Modesto Urban Area General Plan, and

WHEREAS, City of Modesto has proposed repealing Title 10 of the Modesto Municipal Code in its entirety and reenacting a new Title 10 for a comprehensive maintenance update of the Zoning Regulations, and

WHEREAS, pursuant to Section 21157.1 of the Public Resources Code, the City of Modesto’s Community & Economic Development Department prepared an Environmental Assessment Initial Study EA/C&ED 2012-02 (“Initial Study”) which analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report, and

WHEREAS, in accordance with CEQA guidelines beginning on March 14, 2012, the City caused to be published a 20-day notice of the City’s intent to make a finding that the subsequent project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on April 3, 2012, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed repealing Title 10 of the Modesto Municipal Code in its entirety and reenacting a new Title 10 for a comprehensive maintenance update of the Zoning Regulations, a copy of which is **attached** hereto as **Exhibit "A"**, and incorporated herein by reference, and based on substantial evidence in the Initial Study makes the following findings:

1. An Initial Study was prepared by the City of Modesto that analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report.
2. The subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158 of the Public Resources Code, that was not identified in the Master EIR.
3. No new or additional mitigation measures or alternatives are required.
4. The subsequent project is within the scope of the project covered by the Master EIR.
5. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of April, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

Initial Study

EA/C&ED 2012-02

City of Modesto

**Finding of Conformance to
General Plan Master EIR:**

**Initial Study Environmental Checklist
C&ED No. 2012-02**

For the proposed:

**Zoning Code Amendment
CODE-10-003
Comprehensive Maintenance Update**

**Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division**

February 6, 2012

(Intentional Blank Page)

City of Modesto

Master EIR Initial Study Environmental Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master Environmental Impact Report ("Master EIR" or "MEIR"). This Initial Study Environmental Checklist ("Initial Study") is used in determining whether the Zoning Code Amendment, a comprehensive maintenance update, is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 2007072023) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformance.

A subsequent project is "within the scope" of the Master EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and
2. no new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. [Public Resources Code Section 21158(d)]

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (CEQA Guidelines Section 15384)

II. PROJECT DESCRIPTION

- A. Title: Zoning Code Amendment, a comprehensive maintenance update
- B. Address or Location: City of Modesto. The Zoning Code applies to the entire City of Modesto.
- C. Applicant: City of Modesto, 1010 Tenth Street, Modesto, CA 95353
- D. City Contact Person: Paul Liu

Project Manager: Paul Liu
Department: Community and Economic Development
Phone Number: 209 577 5267
E-mail address: pliu@modestogov.com

- E. Current General Plan Designation(s): Not Applicable
- F. Current Zoning Classification(s): Not Applicable
- G. Surrounding Land Uses:
North: Not Applicable
South: Not Applicable
East: Not Applicable
West: Not Applicable

- H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

This is a comprehensive maintenance update that will modernize and reformat the Zoning Code. The proposed code amendment will not result in major changes to land use requirements and development standards. A summary of this effort includes:

1. Review and update of permitted and conditional land uses. Convert land use provisions from a text format to a table format.
2. Review and update of development standards. Convert standards from a text format to a table format.
3. Review and update of administrative and procedural provisions and provide a new authoritative table.

A summary of the changes is provided in the attached table.

- I. Other Public Agencies Whose Approval is Required:

None

III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. **Within the Scope** - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. All of the following statements are found to be true:
- A. The subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158 of the Public Resources Code, that was not identified in the Master EIR.
 - B. No new or additional mitigation measures or alternatives are required.
 - C. The subsequent project is within the scope of the project covered by the Master EIR.
 - D. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.
2. **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following statements are all found to be true:
- A. The subsequent project is within the scope of the project covered by the Master EIR.
 - B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

- C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

3. **Focused EIR Required-** On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. All of the following statements are found to be true:

- A. The subsequent project is within the scope of the project covered by the Master EIR.
- B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.
- C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

Paul Liu

Project Manager

Senior Planner

Title

1-27-12

Date

4. Within the Scope Analysis of this Document:

The Master EIR allows projects to be found within the scope of the MEIR if certain criteria are met. If the following statements are found to be true for all 21 impact categories included in this Initial Study, then the proposed project is addressed by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

	YES	NO
(1) The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(2) City policies which reduce, avoid, or mitigate environmental effects will continue to be in effect and, therefore, would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template. Project impacts would be mitigated to a less-than-significant level using MEIR mitigations only.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(3) Federal, State, regional, and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(4) No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(5) The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(6) Development within the project will comply with all appropriate mitigation measures contained and enumerated in the 2008 General Plan Master EIR.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Discussion:

- (1) The Zoning Code Amendment is not a development project. The City of Modesto will be the lead agency and no other agency has approval authority over development projects in the City that uses the Zoning Code.
- (2) No modifications to the Urban Area General Plan are proposed as part of this project. No significant impacts are expected to occur beyond those identified in the Urban Area General Plan Master EIR and all relevant mitigations/policies will be applied.
- (3) The proposed project does not include changes to federal, state, regional, or county regulations.
- (4) There is no new information regarding the presence of significant resources.
- (5) The Zoning Code Amendment is not a development project.
- (6) The Zoning Code Amendment is not a development project.

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed Sections 1 through 21 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any "no" response must be explained.

		YES	NO
(1)	Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(2)	This project is described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings:		
(a)	No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(b)	No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(c)	Policies remain in effect which require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Discussion:

- (1) The Master EIR was certified in October 2008.
- (2 a) No substantial changes to the circumstances have occurred since the Master EIR was certified.
- (2 b) No new information has become available that would affect the adequacy of the Master EIR.
- (2 c) Mitigations and policies in the Master EIR will be applied to new development as anticipated when the Master EIR was certified.

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, discloses whether the proposed project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is "within the scope" of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR. Adoption of the findings specified in Section III.1, above after completion of the Initial Study fulfills the City's obligation in that situation.

All environmental effects cited reflect 2025 conditions resulting from the Urban Area General Plan, as identified in the Master EIR.

The environmental impact analysis in the Master EIR for the Urban Area General Plan is organized in twenty-one subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of reference, the sections are numbered in the same order as the analyses in Chapter V.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable traffic and circulation impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Increased automobile traffic will result in roadway segments (see MEIR on Table 1-7, pages V-1-32 to V-1-34) operating at LOS D, Modesto's significance threshold for automobile traffic, or lower (LOS E or F).

Effect: The substantial increase in traffic relative to the existing load and capacity of the street system will cause, either individually or cumulatively, the violation of automobile service standards established by StanCOG's Congestion Management Plan for designated roads and highways.

Effect: A substantial increase in automobile vehicle miles traveled and automobile vehicle hours of travel and a decrease in average automobile vehicle speed (see MEIR Table 1-6, page V-1-31).

Cumulative Impacts

Effect: Potential for growth inducement or acceleration of development resulting from highway and local road projects.

Effect: Substantial increase in traffic in relation to the existing traffic load and capacity of the street system, including a violation, either individually or cumulatively, of an automobile LOS standard established by the Congestion Management Plan for designated roads and highways.

Effect: Increased demand for capacity-enhancing alterations to existing roads or automobile traffic reduction.

Other impact categories affected by Traffic and Circulation are addressed throughout this Initial Study (see also Section 2, Degradation of Air Quality; Section 3, Generation of Noise; Section 7 Loss of Sensitive Wildlife and Plant Habitat; Section 8, Disturbance of Archaeological/Historic Sites; Section 14 Increased Demand for Fire Services; Section 18, Energy; Section 19, Visual Resources; Section 20, Land Use and Planning, and Section 21, Climate Change).

b. Master EIR and/or New Mitigation Measures Applied to the Project

Traffic and Circulation mitigation measures pertinent to this project are found on MEIR pages V-1-9 through V-1-28. All mitigation measures appropriate to the project, including any new measures, will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigations measures from the Master EIR that will be applied to this project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-1.B of the Master EIR provides analysis of Traffic and Circulation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
1. TRAFFIC AND CIRCULATION				
1) The proposed project exceeds traffic generation assumptions in the Master EIR for the site by 100 trips or more and City Engineering and Transportation staff has determined that the project would have additional potentially significant project-specific effects that are not avoided or reduced by the Master EIR's mitigation measures.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would cause additional roadway segments in the General Plan area to exceed LOS D and/or cause additional violations of standards in the Congestion Management Plan, and/or cause an increase in automobile vehicle miles or vehicle hours of travel or a decrease in automobile travel speed, as compared to the impacts disclosed in the Master EIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project would cause emergency response times to exceed acceptable standards established by the Fire Department, as compared to impacts disclosed in the Master EIR (see Section 14, Increased Demand for Fire Services).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5) The proposed project would result in less parking than required by the Municipal Code or as determined by staff.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6) The proposed project would conflict with adopted policies, plans, or programs that support alternative transportation, including, but not limited to the Regional Transportation Plan, the Sustainable Communities Strategy, the Bicycle Action Plan, and so on.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
7) The proposed project would result in an increase in automobile vehicle miles traveled on a per capita basis, in excess of that considered in the Urban Area General Plan MEIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed project is a comprehensive maintenance update that will modernize and reformat the Zoning Code. However, the proposed project will not result in major changes to land use requirements and development standards and will have no effect on traffic generation assumptions.
- (2) The project will have no effect on the level of service standard established by the county congestion management.
- (3) The project will have no effect on traffic and circulation issues.
- (4) The project will have no effect on emergency response time.
- (5) There are some minor changes to the parking requirements proposed with this project. For example, the amendment clarifies parking requirements for certain uses such as banquet halls and outdoor dining where the current code is silent. Residential vehicle parking requirements will be deleted for residential projects with private streets or common driveways. Parking requirements for multiple family projects will be based on number of bedrooms instead of number of units. The project will have a less than significant effect on parking requirements.
- (6) The project will have no effect on alternative transportation policies.
- (7) The project will have no effect on automobile vehicle miles traveled.

2. DEGRADATION OF AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable air quality impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Expected automobile traffic will result in increased operational emissions of reactive organic gases (ROG) and oxides of nitrogen (NO_x) (see MEIR Table 2-8, page V-2-27).

Effect: Expected automobile traffic will result in increased emissions of particulate matter 10 microns or less (PM₁₀) and 2.5 microns or less in diameter (PM_{2.5}) (see MEIR Table 2-8, page V-2-27).

Effect: Expected automobile traffic will result in increased carbon monoxide (CO) levels in the project area (see MEIR Table 2-7, page V-2-26, and Table 2-8, page V-2-27).

Cumulative Impacts

The Master EIR indicates the same impacts identified as direct impacts above will contribute to regional impacts on air quality for the criteria pollutants ROG, NO_x, PM₁₀, and PM_{2.5}.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Air quality mitigation measure(s) pertinent to the proposed project are found on pages V-2-13 through V-2-24 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigations measures from the Master EIR that will be applied to this project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-2.B of the Master EIR is the analysis of air quality impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
2. DEGRADATION OF AIR QUALITY				
1) The proposed project exceeds the project-level emissions thresholds established for CO, ROG, NO _x , PM ₁₀ , and PM _{2.5} by the San Joaquin Valley Air Pollution Control District (SJVAPCD) and is not consistent with the development assumptions for the project site, as established in the Urban Area General Plan and Master EIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project does not incorporate the best management practices established by the SJVAPCD for CO, ROG, NO _x , PM ₁₀ , and PM _{2.5} .	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project does not comply with the air quality policies in the Modesto Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
4) The proposed project would expose sensitive receptors to pollutant concentrations in excess of those expected to occur as a result of implementation of the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5) The proposed project would create objectionable odors affecting a substantial number of people.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed project is a comprehensive maintenance update that will modernize and reformat the Zoning Code. However, the proposed project will not result in major changes to land use requirements and development standards and will have no effect on emissions thresholds.
- (2) The project will have no effect on best management practices established by the SJVAPCD.
- (3) The project will have no effect on air quality policies.
- (4) The project will have no effect on sensitive receptors.
- (5) The project will not result in the creation of objectionable odors.

3. GENERATION OF NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable noise impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Future automobile traffic noise levels and roadway construction and maintenance activities resulting from development of the Urban Area General Plan will exceed the City’s noise thresholds at various locations, but particularly in areas adjacent to heavily traveled roadways (see MEIR Table 3-3, page V-3-10, and Figure VII-2 and Table 3-6, pages V-3-18 and V-3-19).

Effect: Expected noise from airport operations and airport construction projects may expose up to 468 dwellings and three churches to noise levels of 65 dB CNEL and up to eight dwellings to noise levels of 70 dB CNEL.

Effect: Expose noise-sensitive land uses to noise from the construction of bicycle and transit projects.

Effect: Expose noise-sensitive land uses to noise from freight and passenger rail operations.

Cumulative Impacts

Effect: Traffic from development in the City of Modesto would, when combined with traffic from new development in the County and other cities, contribute to a cumulative increase in roadside noise levels on major roads and highways throughout Stanislaus County.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-11 through V-3-15 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigations measures from the Master EIR that will be applied to this project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-3.B of the MEIR discloses noise impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of the proposed project's effects are based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3. GENERATION OF NOISE				
1) The proposed project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project will not comply with the noise policies of, or otherwise be inconsistent with, the Modesto Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project will result in an increase in ambient noise levels in the project vicinity above those disclosed in the Master EIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels disclosed in the Master EIR implementation of the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed project is a comprehensive maintenance update that will modernize and reformat the Zoning Code. However, the proposed project will not result in major changes to land use requirements and development standards and will have no effect on noise level standards.
- (2) The project will have no effect on noise policies.
- (3) The project will not result in an increase of ambient noise levels.
- (4) The project will not result in a temporary or periodic increase of ambient noise levels.

4. EFFECTS ON AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on agricultural lands expected after application of mitigations/policies:

Direct Impacts

Effect: Between 1995 and 2025, development of the Urban Area General Plan may convert up to approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area to urban uses.

Effect: Approximately 1,200 acres of urban development along a 28.5-mile boundary 350 feet wide between urban and agricultural uses could be affected by continued agricultural operations, including noise, dust, and chemical overspray or drift.

Cumulative Impacts

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County, accounting for the conversion of as much as approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area from 1995 to 2025.

b. Master EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural land mitigation measures pertinent to the proposed project are found on pages V-4-6 to and V-4-8 of the Master EIR. All mitigation measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigations measures from the Master EIR that will be applied to this project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-4.B of the Master EIR discloses the impacts resulting from the implementation of the Urban Area General Plan on agricultural lands. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
4. EFFECTS ON AGRICULTURAL LANDS				
1) The proposed project is inconsistent with the Urban Area General Plan's policies relating to agricultural land.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project will either directly or indirectly result in the development of land outside the 2008 Urban Area General Plan's planning area boundary.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project will conflict with existing zoning for agricultural use, or there is an existing Williamson Act contract on the project site.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project will involve other changes in the existing environment not anticipated in the Master EIR which, due to their location or nature, could result in conversion of farmland to non-agricultural use.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed project is a comprehensive maintenance update that will modernize and reformat the Zoning Code. However, the proposed project will not result in major changes to land use requirements and development standards and will have no effect on agricultural land policies.
- (2) The project will have no effect on development outside the Modesto planning area.
- (3) The project will have no effect on land zoned for agricultural use or with Williamson Act contract.
- (4) The project will have no effect on the conversion of farmland to non-agricultural use.

5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on long-term water supplies expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts have been disclosed in the Master EIR.

Cumulative Impacts

Effect: Operational yields of the Modesto and Turlock subbasins, both of which underlie the City of Modesto, are unknown, although the City is participating in a study with the United States Geological Survey in order to quantify the operational yields of both subbasins. Groundwater withdrawals from both basins by the City, when combined with other users' withdrawals, may result in overdrafting both subbasins.

Effect: Despite available options, during drought years, significant water shortages are forecast for the San Joaquin River basin, which includes both the Modesto and Turlock subbasins, by 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Water supply mitigation measures pertinent to the proposed project are found on pages V-5-6 through V-5-12 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the Master EIR that will be applied to this project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-5.B of the Master EIR discloses impacts on long-term water supplies resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES				
1) The proposed project is inconsistent with water supply policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) Water demand for the proposed project will exceed estimates for similar projects or for development on the project site anticipated in the Urban Area General Plan or sufficient water supplies are not otherwise available to serve the project from existing entitlements and resources.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would deplete groundwater supplies to a greater degree than anticipated in the Urban Area General Plan or would interfere with groundwater recharge.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed project is a comprehensive maintenance update that will modernize and reformat the Zoning Code. However, the proposed project will not result in major changes to land use requirements and development standards and will have no effect on the water supply.
- (2) The project will have no effect on water demand.
- (3) The project will have no effect on groundwater supply.

6. INCREASED DEMAND FOR SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on sanitary sewer services after application of mitigations/policies:

Direct Impacts

Effect: Development resulting from implementation of the Urban Area General Plan will require substantial new sewage treatment and disposal capacity, treatment plant improvements, sewer mains and collection lines, and pump stations. The Wastewater Master Plan anticipates the need for these facilities and its EIR evaluates the impact of developing those facilities. Potential impacts include degradation of water quality through erosion and chemical releases; localized flooding; construction noise; exposure of construction workers and the public to hazardous materials; and on the habitat of the elderberry longhorn beetle, burrowing owl, and Swainson’s hawk, as well as certain other regulated habitats. All of these impacts are mitigated to a less-than-significant level.

Additional impacts that are not mitigated to a less-than-significant level include loss of farmland cause by construction of the Phase IA tertiary treatment facility at the Jennings Road Secondary Treatment Facility, an increase in pollutant loads from increased wastewater flows to the San Joaquin River, and an increase in noise and criteria air pollutants due to construction activities, including traffic.

Cumulative Impacts

Effect: No additional cumulative impacts were identified in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Sewer service mitigation measures pertinent to the proposed project are found on pages V-6-3 through V-6-8 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigations measures from the Master EIR that will be applied to this project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-6.B of the Master EIR discloses impacts on the Increased Demand for Sanitary Sewer Service resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
6. INCREASED DEMAND FOR SANITARY SEWER SERVICES				
1) The proposed project is inconsistent with wastewater supply policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project will generate sewage flows greater than those anticipated in the Urban Area General Plan for the project site.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed project is a comprehensive maintenance update that will modernize and reformat the Zoning Code. However, the proposed project will not result in major changes to land use requirements and development standards and will have no effect on the wastewater policies.
- (2) The project will have no effect on sewage flows.
- (3) The project will have no effect on wastewater capacity.

7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on sensitive wildlife and plant habitat expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant impacts on sensitive wildlife and plan habitat are expected to occur with the application of the policies contained in the Urban Area General Plan.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will contribute to the cumulative impact of habitat loss in the San Joaquin Valley. Requiring density development than has occurred in the past or that is expected in the future would minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Wildlife and plant habitat mitigation measures pertinent to the proposed project are found on pages V-7-17 through V-7-24 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigations measures from the Master EIR that will be applied to this project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-7.B of the Master EIR discloses impacts on the Loss of Sensitive Wildlife and Plant Habitat resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT				
1) The project is inconsistent with the policies pertaining to the loss of sensitive wildlife and plant habitat contained in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on a candidate, sensitive, or special status species in excess of the impact disclosed in the Master EIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption, or other means, in excess of the impact disclosed in the Master EIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project would substantially interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6) The proposed project would conflict with provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed project is a comprehensive maintenance update that will modernize and reformat the Zoning Code. However, the proposed project will not result in major changes to land use requirements and development standards and will have no effect on wildlife and plant habitat policies.
- (2) The project will have no effect on a candidate, sensitive, or special status species in excess of the impact disclosed in the Master EIR.

- (3) The project will have no effect on federally protected wetlands.
- (4) The project will have no effect on native resident or migratory fish or wildlife species.
- (5) The project will have no effect on local policies or ordinances protecting biological resources.
- (6) The project will have no effect on local, regional, or state habitat conservation plan.

8. DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on archaeological/historical sites expected after application of mitigations/policies:

Direct Impacts

Effect: Modification resulting in a substantial adverse change in the significance of a historic resource or the demolition of a listed or eligible historic resource.

Effect: The modification or demolition of a structure more than 50 years in age may be significant.

Effect: Discovery of archaeological resources in areas outside of the riparian corridors, as a result of construction activities.

Effect: Construction in an area of high archaeological sensitivity.

Cumulative Impacts

Effect: No additional cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Archaeological or historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-16 through V-8-20 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

No mitigations measures from the Master EIR that will be applied to this project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-8.B of the MEIR discloses impacts on archaeological/historical resources resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
8. DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES				
1) The proposed project is inconsistent with the archaeological/historical resource policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would demolish a building eligible for listing as a historic resource or remove a landmark from the Modesto inventory.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would modify or demolish a structure more than 50 years in age.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed project is a comprehensive maintenance update that will modernize and reformat the Zoning Code. However, the proposed project will not result in major changes to land use requirements and development standards and will have no effect on archaeological/historical resource policies.
- (2) The project will have no effect on historical buildings or landmarks.
- (3) The project will have no effect on structures.
- (4) The project will have no effect on cultural resources.
- (5) The project will have no effect on biological resources.

9. INCREASED DEMAND FOR STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on storm drainage expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious surface area and associated increases in storm water runoff. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. This cumulative impact is considered significant and unavoidable.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Storm Drainage mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-9. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

No mitigation measures from the Master EIR that will be applied to this project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-9.B of the MEIR discloses impacts on the demand for storm drainage resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
9. INCREASED DEMAND FOR STORM DRAINAGE				
1) The proposed project is inconsistent with the storm drainage policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite, as compared to impacts anticipated to result from the Urban Area General Plan or create substantial unanticipated sources of polluted runoff.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project does not utilize Low Impact Development strategies to reduce runoff from the site and increase infiltration, resulting in no net increase in runoff before and after development.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed project is a comprehensive maintenance update that will modernize and reformat the Zoning Code. However, the proposed project will not result in major changes to land use requirements and development standards and will have no effect on storm drainage policies.
- (2) The project will have no effect on surface runoff.
- (3) The project will have no effect on Low Impact Development strategies to reduce runoff.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on flooding and water quality expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Flooding and Water Quality mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-10-6 through V-10-9 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

No mitigations measures from the Master EIR that will be applied to this project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-10.B of the Master EIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
10. FLOODING AND WATER QUALITY				
1) The proposed project is inconsistent with the flooding and water quality policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would place more housing within a 100-year flood hazard zone than assumed in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project would place structure within a 100-year flood hazard area so that they would impede or redirect floodwater or would substantially alter the existing on-site drainage pattern or a watercourse, in such a way as to cause flooding on- or offsite.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5) The proposed project does not comply with Modesto's Guidance Manual for New Development Storm Water Quality Control Measures.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6) The proposed project would violate water quality standards or waste discharge requirements.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
7) The proposed project would substantially alter the existing drainage pattern of the site or area or a watercourse in a manner that would result in substantial erosion or siltation on- or offsite in excess of the assumptions of the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
8) The proposed project would create or contribute runoff, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff, not expected as part of Urban Area General Plan implementation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed project is a comprehensive maintenance update that will modernize and reformat the Zoning Code. However, the proposed project will not result in major changes to land use requirements and development standards and will have no effect on flooding and water quality policies.
- (2) The project will have no effect on federal Clean Water Act or the State Porter-Cologne Act.
- (3) The project will not result in more housing within a 100-year flood hazard zone.
- (4) The project will have no effect on flooding.
- (5) The project will have no effect on Modesto's Guidance Manual for New Development Storm Water Quality Control Measures.
- (6) The project will have no effect on water quality standards or waste discharge requirements.
- (7) The project will have no effect on existing drainage pattern of the site or area or a watercourse in a manner that would result in substantial erosion or siltation.
- (8) The project will have no effect on runoff.

11. INCREASED DEMAND FOR PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on parks and open space expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Parks and open space mitigation measures pertinent to the proposed project are found on pages V-11-3 through V-11-9 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

No mitigations measures from the Master EIR that will be applied to this project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-11.B of the MEIR discloses impacts of the Urban Area General Plan on parks and open space. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
11. INCREASED DEMAND FOR PARKS AND OPEN SPACE				
1) The proposed project is inconsistent with the parks and open space policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would eliminate parks or open space.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would cause an increase in the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility in question would occur or be accelerated or the proposed project would include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed project is a comprehensive maintenance update that will modernize and reformat the Zoning Code. However, the proposed project will not result in major changes to land use requirements and development standards and will have no effect on parks and open space policies.
- (2) The project will have no effect on parks and open space.
- (3) The project will have no effect on parks and recreation facilities.

12. INCREASED DEMAND FOR SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on school facilities expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR. By statute, the impact of new students is considered to be mitigated below a level of significance by payment of school impact fees and the exercise of any or all of the financing options set out in Government Code Section 65997.

Cumulative Impacts

Effect: Similar to direct impacts of implementation of the Urban Area General Plan, no residual significant direct impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. As long these polices are applied to all subsequent projects, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995).

The following schools mitigation measures on pages V-12-5 through V-12-7 of the Master EIR are pertinent to the proposed project. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigations measures from the Master EIR that will be applied to this project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-12.B of the Master EIR discloses impacts resulting from implementation of the Urban Area General Plan associated with increased demand for schools. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
12. INCREASED DEMAND FOR SCHOOLS				
1) The proposed project is inconsistent with the policies relating to schools in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which state that compliance results in less-than-significant impacts on schools.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed project is a comprehensive maintenance update that will modernize and reformat the Zoning Code. However, the proposed project will not result in major changes to land use requirements and development standards and will have no effect on school policies.
- (2) The project will have no effect on SB 50/Proposition 1A funding provisions.

13. INCREASED DEMAND FOR POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on police services expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Police services mitigation measures pertinent to the proposed project are found on pages V-13-2 through V-13-5 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigations measures from the Master EIR that will be applied to this project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-13.B of the Master EIR discloses impacts on police services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
13. INCREASED DEMAND FOR POLICE SERVICES				
1) The proposed project is inconsistent with policies relating to police services in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed project is a comprehensive maintenance update that will modernize and reformat the Zoning Code. However, the proposed project will not result in major changes to land use requirements and development standards and will have no effect to police policies.
- (2) The project will not result in the need for more police facilities.

14. INCREASED DEMAND FOR FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on fire services expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-4 through V-14-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigations measures from the Master EIR that will be applied to this project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-14.B of the Master EIR discloses impacts on fire services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
14. INCREASED DEMAND FOR FIRE SERVICES				
1) The proposed project is inconsistent with the fire service policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3) The proposed project, based upon substantial evidence, would cause the erosion or elimination of fire protection services in adjoining fire protection districts.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed project is a comprehensive maintenance update that will modernize and reformat the Zoning Code. However, the proposed project will not result in major changes to land use requirements and development standards and will have no effect on fire service policies.
- (2) The project will not result in the need for more fire service facilities.
- (3) The project will have no effect on fire protection services in adjoining fire protection districts.

15. GENERATION OF SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on solid waste expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Solid waste mitigation measures pertinent to the proposed project are found on pages V-15-4 through V-15-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigations measures from the Master EIR that will be applied to this project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-15.B of the Master EIR discloses solid waste impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
15. GENERATION OF SOLID WASTE				
1) The project is inconsistent with the solid waste policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The County is unable to expand its solid waste disposal capacity, as expected, causing all new development to result in cumulative impacts on the County's disposal capacity.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed project is a comprehensive maintenance update that will modernize and reformat the Zoning Code. However, the proposed project will not result in major changes to land use requirements and development standards and will have no effect on solid waste policies.
- (2) The project will have no effect on the County solid waste facility.

16. GENERATION OF HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts regarding hazardous materials expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Hazardous materials mitigation measures pertinent to the proposed project are found on pages V-16-8 through V-16-13 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigations measures from the Master EIR that will be applied to this project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-16.B of the Master EIR discloses impacts on hazardous materials resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
16. GENERATION OF HAZARDOUS MATERIALS				
1) The project is inconsistent with the hazardous materials policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project would be constructed on a contaminated site not known to the State of California as of March 2008.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed project is a comprehensive maintenance update that will modernize and reformat the Zoning Code. However, the proposed project will not result in major changes to land use requirements and development standards and will have no effect on hazardous materials policies
- (2) The project will not result in emitting hazardous emissions or handling hazardous materials.
- (3) The project will not result in locating projects on hazardous materials sites.
- (4) The project will not result in locating projects on contaminated sites.

17. GEOLOGY, SOILS, AND MINERAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts related to geology, soils, and mineral resources expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Geology, soils, and mineral resource mitigation measures pertinent to the proposed project are found on pages V-17-9 and V-17-10 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of the proposed project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigations measures from the Master EIR that will be applied to this project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-17.B of the Master EIR discloses geology, soils, and mineral resource impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
17. GEOLOGY, SOILS, AND MINERAL RESOURCES				
1) The project is inconsistent with policies relating to geology, soils, and mineral resources contained in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would expose people or structures to potential substantial adverse effects including the risk of loss, injury, or death involving fault rupture, strong seismic activity; location on an expansive soil; result in the loss of topsoil; location on soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater; result in the loss of known mineral resources that would be of value to the region and the state; or result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed project is a comprehensive maintenance update that will modernize and reformat the Zoning Code. However, the proposed project will not result in major changes to land use requirements and development standards and will have no effect on geology, soils, and mineral resources policies.
- (2) The project will not result in exposing people or structure to seismic activities, location on expansive soils, or loss of mineral resources.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to energy expected after application of mitigations/policies:

Direct Impacts

Effect: Continued development in the Planned Urbanizing Area would have an impact on available energy supplies. Energy consumption likely would increase substantially by 2025 as a result of implementation of the Urban Area General Plan.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on energy consumption.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following energy mitigation measures pertinent to the proposed project are found on pages V-18-2 through V-18-8 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigations measures from the Master EIR that will be applied to this project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
18. ENERGY				
1) The proposed project is inconsistent with policies relating to energy in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would result in energy consumption during construction, operation, maintenance, or removal that is more wasteful, inefficient, and unnecessary than assumed in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed project is a comprehensive maintenance update that will modernize and reformat the Zoning Code. However, the proposed project will not result in major changes to land use requirements and development standards and will have no effect on energy policies.
- (2) The project will not result in wasteful energy consumption during future construction activities.

19. EFFECTS ON VISUAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on visual resources expected after application of mitigations/policies:

Direct Impacts

Effect: New development in the Planned Urbanizing Area will occur in areas that are in agricultural production or are otherwise lightly developed, which could lead to the introduction of light and glare in areas that have little nighttime illumination.

Cumulative Impacts

Effect: No additional cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following visual resources mitigation measures pertinent to the proposed project are found on pages V-19-3 and V-19-4 in the Master EIR. All mitigation measures appropriate to the proposed project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigations measures from the Master EIR that will be applied to this project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
19. EFFECTS ON VISUAL RESOURCES				
1) The proposed project is inconsistent with policies relating to visual resources in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would degrade views from riverside areas and parks to a greater degree than assumed in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3) The proposed project would degrade views of riverside areas from public roadways and nearby properties to a greater degree than assumed in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed project is a comprehensive maintenance update that will modernize and reformat the Zoning Code. However, the proposed project will not result in major changes to land use requirements and development standards and will have no effect on visual resources policies. The proposed code amendment will not affect scenic vistas, scenic resources, or light and glare.
- (2) The project will have no effect on views from riverside areas and parks.
- (3) The project will have no effect on views of riverside areas from public roadways and nearby properties.

20. LAND USE AND PLANNING

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to land use and planning expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following land use and planning mitigation measures pertinent to the proposed project are found on pages V-20-6 through V-20-17 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigations measures from the Master EIR that will be applied to this project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-20.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on land use and planning. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
20. LAND USE AND PLANNING				
1) The proposed project is inconsistent with land use and planning policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2) The proposed project contains elements that would physically divide an established community in a way not assumed in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project conflicts with a land use plan, policy or regulation established for the purpose of avoiding or mitigating an environmental impact by an agency that has jurisdiction over the proposed project.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project conflicts with an applicable habitat conservation plan or natural community conservation plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed project is a comprehensive maintenance update that will modernize and reformat the Zoning Code. However, the proposed project will not result in major changes to land use requirements and development standards and the changes are consistent land use and planning policies.
- (2) The project will not result in the physical division of an established community.
- (3) The project will have no effect on a land use plan, policy or regulation established for the purpose of avoiding or mitigating an environmental impact.
- (4) The project will have no effect on applicable habitat conservation plan or natural community conservation plan.

21. CLIMATE CHANGE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to climate change expected after application of mitigations/policies:

Direct Impacts

Effect: Impacts resulting from implementation of the Urban Area General Plan are not substantial enough to result in a significant direct impact on climate change, as disclosed in the Master EIR.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on climate change.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following climate change mitigation measures pertinent to the proposed project are found on pages V-21-7 through V-21-10 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigations measures from the Master EIR that will be applied to this project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on climate change. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
21. CLIMATE CHANGE				
1) The proposed project is inconsistent with policies relating to climate change in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
2) The proposed project would result in average automobile trip lengths or CO ₂ emissions higher than those assumed in the Master EIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would conflict with the Sustainable Communities Strategy or Alternative Planning Strategy that the Air Resources Board has agreed will achieve the goals of AB 32.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed project is a comprehensive maintenance update that will modernize and reformat the Zoning Code. However, the proposed project will not result in major changes to land use requirements and development standards and will have no effect on climate change policies
- (2) The project will have no effect on automobile trip lengths or CO₂ emissions.
- (3) The project will have no effect on the Sustainable Communities Strategy or Alternative Planning Strategy.

V. MITIGATION MEASURES APPLIED TO THE PROPOSED PROJECT

If the Initial Study results in the determination that a Finding of Conformance can be adopted for the proposed project Section A below applies. If the Initial Study results in the determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration/EIR must be prepared for the project then Section B, below applies.

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to Public Resources Code Section 21157.1(c), in order for a Finding of Conformance to be made, all appropriate mitigation measures from the Master EIR shall be incorporated into the proposed project. Urban Area General Plan Policies/Master EIR mitigation measures shall be made part of the proposed project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan.

All applicable and appropriate mitigation measures have been applied to the project (see mitigation measures listed below).

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the significance criteria for each environmental impact category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against the significance criteria thresholds established in the Master EIR for all impact categories in this Initial Study.

A Mitigated Negative Declaration or Focused EIR shall be prepared for the project. The following additional project-specific mitigation measures listed below are necessary to reduce the identified new significant effect:

Traffic and Circulation:

N/A

Degradation of Air Quality:

N/A

Generation of Noise:

N/A

Effects on Agricultural Lands:

N/A

Increased Demand for Long-Term Water Supplies:

N/A

Increased Demand for Sanitary Sewer Services:

N/A

Loss of Sensitive Wildlife and Plant Habitat:

N/A

Disturbance of Archaeological/Historic Sites:

N/A

Increased Demand for Storm Drainage:

N/A

Flooding and Water Quality:

N/A

Increased Demand for Parks and Open Space:

N/A

Increased Demand for Schools:

N/A

Increased Demand for Police Services:

N/A

Increased Demand for Fire Services:

N/A

Generation of Solid Waste:

N/A

Generation of Hazardous Materials:

N/A

Geology, Soils, and Mineral Resources:

N/A

Energy:

N/A

Effects on Visual Resources:

N/A

Land Use and Planning:

N/A

Climate Change:

N/A

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-137**

**A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF DUKE
LEFFLER FROM THE BOARD OF BUILDING APPEALS**

WHEREAS, Duke Leffler was appointed a member of the Board of Building Appeals on December 13, 2011, and

WHEREAS, Duke Leffler has tendered his resignation from the Board of Building Appeals, and

NOW, THEREFORE, BE IT RESOLVED that the resignation of Duke Leffler from the Board of Building Appeals be, and hereby is accepted with regret.

BE IT FURTHER RESOLVED that the City Council of the City of Modesto, on its own behalf, and on behalf of the citizens of the City, hereby expresses its sincere appreciation to Duke Leffler for his service to the community.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-138**

**A RESOLUTION INITIATING PROCEEDINGS FOR THE FORMATION OF
LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2012-1, AND
DIRECTING THE PREPARATION AND FILING OF AN ENGINEER'S REPORT**

WHEREAS, the City Council of the City of Modesto ("City"), pursuant to the provisions of the Landscaping and Lighting Act of 1972, Division 15, Part 2 of the California Streets and Highways Code ("Act"), desires to initiate proceedings for the formation of a landscape maintenance district to be known and designated as CITY OF MODESTO, LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2012-1 ("District"), and to levy and collect annual assessments for the District commencing in fiscal year 2012/2013 to pay for the operation, maintenance, and servicing of landscape improvements, and appurtenant facilities related thereto, and

WHEREAS, pursuant to Chapter 2, Article 2 Section 22605 of the Act, the legislative body (the City Council) upon successful formation of the District, intends to concurrently detach the territory within the District from Landscape Maintenance Assessment District No. 1 and Landscape Maintenance Assessment District No. 2 ("LMAD No.1 and LMAD No. 2") and to dissolve said districts, and

WHEREAS, pursuant to Chapter 2, Article 1 Section 22585 of the Act, proceedings for the formation of an assessment district shall be initiated by resolution and that resolution shall generally describe the proposed improvements, describe the proposed assessment district and specify a distinctive designation for the district and order the engineer to prepare and file a report in accordance with Article 4 (commencing with Section 22565) of Chapter 1 of the Act, and

WHEREAS, the City has retained Willdan Financial Services (“Willdan”) for the purpose of assisting with the formation of the District, the establishment of annual assessments, and to prepare and file a report with the City Clerk concerning the formation of Landscape Maintenance Assessment District No. 2012-1 and the proposed annual levy of assessments in accordance with the Act and the provisions of the California Constitution Article XIIIID (the “Constitution”), and

WHEREAS, the residents of LMAD No. 1 and LMAD No. 2 have been informed and will have the opportunity to vote on the proposed new annual assessments (increased assessments) for the proposed District,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City proposes to form Landscape Maintenance Assessment District No. 2012-1, and to levy and collect annual assessments for the District commencing in fiscal year 2012/2013 to pay for the operation, maintenance, and servicing of local landscape improvements, and appurtenant facilities related thereto.

BE IT FURTHER RESOLVED that the District shall consist of the lots and parcels of land that will receive special benefits from the improvements and services to be provided which are within the residential subdivisions known as Dry Creek Meadows No’s 1-10, Creekwood Meadows and Yosemite Meadows No’s 1-3, which are generally located north of Yosemite Boulevard, east of McClure Road, west of Yosemite Meadows Drive and south of the M.I.D. Lateral No. 2. This territory is currently identified on the Stanislaus County Assessor’s Parcel Maps as all or portions of Book 079 Pages 002 through 024, 027 and 028, and incorporates within the boundaries of the District one thousand two hundred seventy-nine (1,279) single-family residential parcels, one (1)

school site (Bernard L Hughes Elementary School), one (1) park site (Creekwood Park) and one (1) public area/easement parcel.

BE IT FURTHER RESOLVED that the improvements for which the District is formed generally include, but are not limited to, the maintenance, operation and servicing of the local streetscape landscape improvements established in connection with development of the properties within the District, and which shall be maintained for the special benefit of those properties. The maintenance and servicing of the improvements generally include, but are not limited to, the materials, equipment, utilities, labor, and incidental expenses, including administrative expenses, required for annual operation, as well as the performance of periodic repairs and replacement activities as needed to provide for the growth, health, and beauty of trees, landscaping and the proper operation and functioning of related hardscapes, irrigation systems and drainage systems within the public right-of-ways and/or dedicated easements.

BE IT FURTHER RESOLVED that upon successful formation of the District, the City Council proposes the concurrent detachment of the parcels within the District from the existing LMAD No.1 and LMAD No. 2 and to dissolve said districts.

BE IT FURTHER RESOLVED that in the event the formation of the District and the proposed assessments are not approved, the assessments for LMAD No. 1 and LMAD No. 2 shall continue to be levied as approved.

BE IT FURTHER RESOLVED that Willdan is designated by this Council as the Engineer of Work for the formation of Landscape Maintenance Assessment District No. 2012-1, and is hereby directed to prepare and file with the City an Engineer's Report

concerning the formation of the District and the annual levy of assessments in accordance with the requirements of Chapter 1, Article 4 of the Act.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-139**

**RESOLUTION DIRECTING STAFF TO PREPARE AND FILE THE 2012-2013
ANNUAL ENGINEER'S REPORT FOR LANDSCAPE MAINTENANCE
ASSESSMENT DISTRICT NO. 1**

WHEREAS, Resolution No. 88-935 adopted by the Council of the City of Modesto on December 13, 1988, initiated proceedings for the formation of Landscape Assessment District No. 1 ("LMAD No. 1") for the purpose of administering the maintenance of landscaping in the public right-of-way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 1-6, and

WHEREAS, LMAD No. 1 was formed in accordance with the Landscaping and Lighting Act of 1972 (Streets and Highways Code Sections 22500 through 22679), and

WHEREAS, Section 22622 of the Streets and Highways Code requires the legislative body (the City Council) to adopt a resolution which shall generally describe any proposed new improvements or any substantial changes in existing improvements and direct staff to prepare and to file a report accordingly, and

WHEREAS, the annual assessment for LMAD No. 1 has remained the same since 1996, and

WHEREAS, the City has contracted with Willdan Financial Services, Inc. ("Willdan") to perform a thorough evaluation of both LMAD No.1 and Landscape Maintenance Assessment District No. 2 ("LMAD No. 2"), and

WHEREAS, Willdan recommends that the City pursue consolidation of LMAD No. 1 and LMAD No. 2, and

WHEREAS, a separate City Council agenda item is being processed concurrently to provide staff with the authorization to move forward with the consolidation of the LMAD No. 1 and LMAD No. 2, and

WHEREAS, the residents of LMAD No. 1 and LMAD No. 2 have been informed and will have the opportunity to vote on the consolidation and increase in the annual assessment, and

WHEREAS, in the event the consolidation and increase are defeated, the existing assessment for LMAD No. 1 will be levied and the current maintenance levels will continue, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the annual assessment for LMAD No. 1 has remained the same since 1996, and

BE IT FURTHER RESOLVED that the City has contracted with Willdan to perform a thorough evaluation of both LMAD No. 1 and LMAD No. 2, and

BE IT FURTHER RESOLVED that Willdan recommends the City pursue consolidation of LMAD No. 1 and LMAD No. 2, and

BE IT FURTHER RESOLVED that a separate City Council agenda item is being processed concurrently to provide staff with the authorization to move forward with the consolidation of LMAD No. 1 and LMAD No. 2, and

BE IT FURTHER RESOLVED, that the residents of LMAD No. 1 and LMAD No. 2 have been informed and will have the opportunity to vote on the consolidation and increase in the annual assessment, and

BE IT FURTHER RESOLVED, that in the event the consolidation and increase are defeated, the existing assessment for LMAD No. 1 will be levied and the current maintenance levels will continue, and

BE IT FURTHER RESOLVED that the Administrator of Infrastructure Financing Programs is designated by this Council as the Engineer of Work for LMAD No. 1, and is hereby directed to prepare and file an annual report in accordance with the provisions of the Landscaping and Lighting Act of 1972, as amended, (Streets and Highways Code Sections 22500 through 22679).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-140**

**RESOLUTION DIRECTING STAFF TO PREPARE AND FILE THE 2012-2013
ANNUAL ENGINEER'S REPORT FOR LANDSCAPE MAINTENANCE
ASSESSMENT DISTRICT NO. 2**

WHEREAS, Resolution No. 89-460, adopted by the Council of the City of Modesto on April 4, 1989, initiated proceedings for the formation of Landscape Maintenance Assessment District No. 2 ("LMAD No. 2") for the purpose of administering the maintenance of landscaping in the public right-of-way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 7-10, Creekwood Meadows Subdivision, and Yosemite Meadows Subdivisions Units 1 & 2, and

WHEREAS, LMAD No. 2 was formed in accordance with the Landscaping and Lighting Act of 1972 (Streets and Highways Code Sections 22500 through 22679), and

WHEREAS, Section 22622 of the Streets and Highways Code requires the legislative body (the City Council) to adopt a resolution which shall generally describe any proposed new improvements or any substantial changes in existing improvements and direct staff to prepare and to file a report accordingly, and

WHEREAS, the annual assessment for LMAD No. 2 has gradually increased since July 2000, and

WHEREAS, the City has contracted with Willdan Financial Services ("Willdan") to perform a thorough evaluation of both Landscape Maintenance Assessment District No. 1 ("LMAD No. 1") and LMAD No. 2, and

WHEREAS, Willdan recommends that the City pursue consolidation of LMAD No. 1 and LMAD No. 2, and

WHEREAS, a separate City Council agenda item is being processed concurrently to provide staff with the authorization to move forward with the consolidation of LMAD No. 1 and LMAD No. 2, and

WHEREAS, the residents of LMAD No. 1 and LMAD No. 2 have been informed and will have the opportunity to vote on the consolidation and increase in the annual assessment, and

WHEREAS, in the event the consolidation and increase are defeated, the existing assessment for LMAD No. 2 will be levied and the current maintenance levels will continue, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the annual assessment for LMAD No. 2 has gradually increased since July 2000, and

BE IT FURTHER RESOLVED that the City has contracted with Willdan to perform a thorough evaluation of both LMAD No. 1 and LMAD No. 2, and

BE IT FURTHER RESOLVED, that Willdan recommends the City pursue consolidation of LMAD No. 1 and LMAD No. 2, and

BE IT FURTHER RESOLVED, that a separate City Council agenda item is being processed concurrently to provide staff with the authorization to move forward with the consolidation of LMAD No. 1 and LMAD No. 2, and

BE IT FURTHER RESOLVED, that the residents of LMAD No. 1 and LMAD No. 2 have been informed and will have the opportunity to vote on the consolidation and increase in the annual assessment, and

BE IT FURTHER RESOLVED, that in the event the consolidation and increase are defeated, the existing assessment for LMAD No. 2 will be levied, and

BE IT FURTHER RESOLVED, that the Administrator of Infrastructure Financing Programs is designated by this City Council as the Engineer of Work for LMAD No. 2, and is hereby directed to prepare and file an annual report in accordance with the provisions of the Landscaping and Lighting Act of 1972, as amended, (Streets and Highways Code Sections 22500 through 22679).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Gill, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-141**

**A RESOLUTION WAIVING THE CONSTRUCTION COST INDEX ANNUAL
INFLATIONARY ADJUSTMENT FOR THE 2011 CAPITAL FACILITIES FEES
PROGRAM FOR FISCAL YEAR 2012-2013**

WHEREAS, the City Council of the City of Modesto has adopted Modesto Municipal Code Section 8-1.904 et seq., creating and establishing the authority for imposing and charging capital facilities fees (CFF), and

WHEREAS, the current capital facilities fees are set forth in Resolution No. 2003-309 as amended and restated by Resolution Nos. 2006-055, 2010-272, and 2011-105, and

WHEREAS, the current CFF Policies and Procedures (Policies and Procedures) are set forth in Resolution No. 2008-070, and

WHEREAS, according to Section 3C of the Policies and Procedures the CFF shall be automatically adjusted annually for all land use categories according to the annual change in the San Francisco Bay Area News Record Construction Cost Index through the month of December of the year preceding each inflation adjustment, and

WHEREAS, the construction cost index (CCI) inflation adjustment scheduled for the upcoming fiscal year is 0.9%, and

WHEREAS, the nation, State of California, and City of Modesto have been faced with unprecedented economic circumstances, and

WHEREAS, increasing the fee will not benefit the City of Modesto, and

WHEREAS, staff has recommended the 0.9% CCI be waived this year,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the CFF annual inflationary adjustment for fiscal year 2012-2013 be waived.

BE IT FURTHER RESOLVED that the current 2011 CFF Program rate shall remain in effect through June 30, 2013.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-142**

**RESOLUTION APPROVING THE SHACKELFORD LANDSCAPE AND
LIGHTING DISTRICT TRANSFER AGREEMENT BETWEEN THE COUNTY
OF STANISLAUS AND THE CITY OF MODESTO, AND AUTHORIZING THE
CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, on February 22, 2012, the Stanislaus County Local Agency Formation Commission (“LAFCO”) approved the annexation of approximately 153 acres of real property, known as the Shackelford Annexation, to the City as delineated in LAFCO Resolution No. 2012-05, and

WHEREAS, following approval of the Shackelford Annexation by LAFCO, the City of Modesto (“CITY”) will have jurisdiction and control over the annexed territory, which includes all of the territory of the Shackelford Landscape and Lighting District (“SHACKLEFORD LLD”), and

WHEREAS, Section 22612 of the Streets and Highways Code provides that “if all of the territory of the district is included within one city by annexation or incorporation, the legislative body may transfer jurisdiction over the district to the city council of the city by a joint resolution”, and

WHEREAS, the County of Stanislaus (“COUNTY”) and CITY have mutually agreed upon the terms and conditions under which the transfer is to take place, and

WHEREAS, the CITY and COUNTY desire to execute the Shackelford Landscape and Lighting District Transfer Agreement (“AGREEMENT”),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Shackelford Landscape and Lighting District Transfer Agreement is hereby approved.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

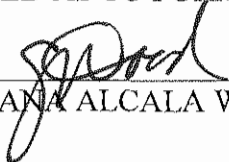
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-143**

**RESOLUTION APPROVING THE CREATION OF AN OPERATING FUND
AND BUDGET FOR THE SHACKELFORD LANDSCAPE AND LIGHTING
DISTRICT FOR FISCAL YEAR 2011-2012**

WHEREAS, on February 22, 2012, the Stanislaus County Local Agency Formation Commission (“LAFCO”) approved the annexation of approximately 153 acres of real property, known as the Shackelford Annexation, to the City of Modesto (“CITY”) as delineated in LAFCO Resolution No. 2012-05, and

WHEREAS, as a result of the Shackelford Annexation, the CITY will have jurisdiction and control over all of the annexed territory, and

WHEREAS, the Shackelford Annexation area includes the Shackelford Landscape and Lighting District (“SHACKELFORD LLD”), and

WHEREAS, on April 24, 2012, the City Council approved a transfer agreement between the County of Stanislaus (“COUNTY”) and CITY, giving full jurisdiction of the SHACKELFORD LLD to the CITY, and

WHEREAS, upon transfer of the SHACKELFORD LLD to the CITY, the CITY will assume full responsibility for its administration and maintenance for the remainder of Fiscal Year 2011-2012 and beyond, and

WHEREAS, upon transfer of the SHACKELFORD LLD to the CITY, the COUNTY will disburse the remaining fund balances for Fiscal Year 2011-2012, and any other reserves, to the CITY, and

WHEREAS, an operating fund and budget is needed for Fiscal Year 2011-2012 to continue paying for the administration and maintenance of the SHACKELFORD LLD,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the creation of an operating fund and budget for the Shackelford Landscape and Lighting District for Fiscal Year 2011-2012.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Finance Director, or her designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-144**

**RESOLUTION AMENDING THE FISCAL YEAR 2011-2012 OPERATING
BUDGET AND APPROPRIATING \$5,100 IN EXPENSE AND REVENUE TO
THE NEW SHACKELFORD LANDSCAPE AND LIGHTING DISTRICT FUND
FOR THE ADMINISTRATION AND MAINTENANCE OF THE
SHACKELFORD LANDSCAPE AND LIGHTING DISTRICT**

WHEREAS, on February 22, 2012, the Stanislaus County Local Agency Formation Commission (“LAFCO”) approved the annexation of approximately 153 acres of real property, known as the Shackelford Annexation, to the City of Modesto (“CITY”) as delineated in LAFCO Resolution No. 2012-05, and

WHEREAS, as a result of the Shackelford Annexation, the CITY will have jurisdiction and control over all of the annexed territory, and

WHEREAS, the Shackelford Annexation area includes the Shackelford Landscape and Lighting District (“SHACKELFORD LLD”), and

WHEREAS, on April 24, 2012, the City Council approved a transfer agreement between the County of Stanislaus (“COUNTY”) and CITY giving full jurisdiction of the SHACKELFORD LLD to the CITY, and

WHEREAS, upon transfer of the SHACKELFORD LLD to the CITY, the CITY will assume full responsibility for its administration and maintenance for the remainder of Fiscal Year 2011-2012 and beyond, and

WHEREAS, upon transfer of the SHACKELFORD LLD to the CITY, an operating fund and budget will be created for Fiscal Year 2011-2012 to continue paying for the administration and maintenance of the SHACKELFORD LLD, and

WHEREAS, upon transfer of the SHACKELFORD LLD to the CITY, the COUNTY will disburse the remaining fund balances for Fiscal Year 2011-2012 to the CITY, and

WHEREAS, upon receiving disbursements from the COUNTY, \$5,100 will be appropriated to the SHACKELFORD LLD's expense and revenue budget to pay for continued administration and maintenance for Fiscal Year 2011-2012,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes amending the Fiscal Year 2011-2012 operating budget to appropriate \$5,100 in expense and revenue budget to the new Shackelford Landscape and Lighting District fund.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Finance Director, or her designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

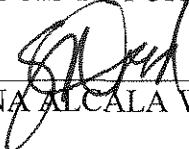
AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)
APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-145**

**RESOLUTION DIRECTING STAFF TO PREPARE AND FILE THE 2012-2013
ANNUAL ENGINEER'S REPORT FOR THE SHACKELFORD LANDSCAPE
AND LIGHTING DISTRICT**

WHEREAS, on June 29, 1999, the County of Stanislaus formed the Shackelford Landscape and Lighting District ("SHACKELFORD LLD") for the purpose of administering the maintaining seventy-seven (77) 200-watt high-pressure sodium streetlights, and

WHEREAS, the SHACKELFORD LLD was formed in accordance with the Landscaping and Lighting Act of 1972 (Streets and Highways Code Sections 22500 through 22679), and

WHEREAS, the SHACKELFORD LLD is comprised of approximately 153 acres, includes 496 lots with both residential and commercial development, and is bounded by Crows Landing on the west, E. Hatch Road on the south, Union Pacific Railroad on the east, and State Route 99 on the north, and

WHEREAS, on February 22, 2012, the Stanislaus County Local Agency Formation Commission ("LAFCO") approved the annexation of the Shackelford Area to the City of Modesto, and

WHEREAS, on April 24, 2012, the City Council approved the Shackelford Landscape and Lighting District Transfer Agreement between the County of Stanislaus and the City of Modesto, and

WHEREAS, Section 22622 of the Streets and Highways Code requires the legislative body (the City Council) to adopt a resolution which shall generally describe

any proposed new improvements or any substantial changes in existing improvements and direct staff to prepare and to file a report accordingly,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that there are no proposed new improvements or any substantial changes in existing improvements in SHACKELFORD LLD.

BE IT FURTHER RESOLVED that the Administrator of the Infrastructure Financing Programs is designated by this Council as the “Engineer of Work” for the SHACKELFORD LLD, and is hereby directed to prepare and file an annual report in accordance with the provisions of the Landscaping and Lighting Act of 1972, as amended, (Streets and Highways Code Sections 22500 through 22679).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-146**

RESOLUTION APPROVING (I) AN ADMINISTRATIVE ADDENDUM TO SECOND AMENDED AND RESTATED DISPOSITION AND DEVELOPMENT AGREEMENT FOR THE PROJECT KNOWN AS “ARCHWAY COMMONS”; (II) AN AFFORDABLE HOUSING COVENANT; NOTICE OF AFFORDABILITY RESTRICTIONS; A NOTE, GRANT DEED AND DEED OF TRUST FOR THE ARCHWAY COMMONS PROJECT, III) THIRD AMENDMENT TO THE HOME LOAN AGREEMENT, AMENDMENT TO PROMISSORY NOTE AND FIRST AMENDED REGULATORY AGREEMENT FOR THE HOUSING PROJECT KNOWN AS “ARCHWAY COMMONS AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO PREPARE AND EXECUTE ALL DOCUMENTS NECESSARY TO CARRY OUT THE OBLIGATIONS OF THE CITY, AND THE CITY AS THE SUCCESSOR HOUSING AGENCY

WHEREAS, the City Council, acting in its capacity as the successor agency to the Redevelopment Agency of the City of Modesto can authorize the City Manager to execute all documents necessary to carry out the obligations of the City, as the Successor Agency, under the Second Amended and Restated DDA between the Redevelopment Agency of the City of Modesto and EAH, Inc., AND

WHEREAS, the City and Developer desire to enter into an Addendum to acknowledge the transfer of the Agency’s obligations under the DDA to the City, and to clarify certain provisions of the DDA in light of the new procedures for disbursement of tax increment revenues to the successor agency to fund the remaining portion of the Agency Loan under the DDA, and.

WHEREAS, the City acknowledges that it currently has \$3,697,948.00 available in the Agency’s Low and Moderate Income Housing Fund to pay a portion of the development costs element of the Agency Loan, and

WHEREAS, this amount will be deposited into a construction draw account upon close of escrow for conveyance of the Site to the Developer, and

WHEREAS, the City agrees that the remaining balance of \$171,052.00 shall be deposited into the construction draw account by the latter to occur of July 1, 2012, or within ten (10) working days following receipt by the City of tax increment revenues from the Stanislaus County Auditor-Controller to pay the remaining balance of the Agency Loan, as identified in the approved ROPS, and

WEHREAS, the Addendum is not intended to amend or modify the terms of the DDA, but is intended merely clarify certain provisions contained in the DDA relating to timing for disbursement of a portion of the Agency Loan proceeds, and

WHEREAS, in the event of any inconsistency between the provisions of the DDA and the Addendum, the terms of the Addendum shall control, and

WHEREAS, pursuant to AB 26, the City, as the successor agency to the former Agency, adopted an initial Recognized Obligation Payment Schedule (“ROPS”) which included, among other enforceable obligations of the former Agency, the Agency’s remaining financial obligations under the DDA, and

WHEREAS, following dissolution of the Agency, property tax increments that would otherwise be allocated to the Agency are paid to the Stanislaus County Auditor-Controller, to be disbursed to the successor agency to make the payments listed in its ROPS,

WHEREAS, the Addendum is not intended to amend or modify the terms of the DDA, but is intended merely to clarify certain provisions contained in the DDA relating to timing for disbursement of a portion of the Agency Loan proceeds. In the event of any inconsistency between the provisions of the DDA and the Addendum, the terms of the Addendum shall control; and

WHEREAS, the City Council, acting in its capacity as the successor agency to the Redevelopment Agency of the City of Modesto ("Successor Agency"), can authorize the City Manager to execute all documents necessary to carry out the obligations of the City, as the Successor Agency, under the Second Amended and Restated Disposition and Development Agreement between the Redevelopment Agency of the City of Modesto and EAH, Inc,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Administrative Addendum to the Second Amended and Restated Disposition and Development Agreement for the project known as "Archway Commons."

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby approves an Affordable Housing Covenant; Notice of Affordability Restrictions; a Note, Grant Deed and Deed of Trust for the Archway Commons project.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby approves a Third Amendment to the HOME Loan Agreement, Amendment to Promissory Note and First Amended Regulatory Agreement for the housing project known as "Archway Commons,"

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager, or his designee, to execute all documents necessary to carry out the obligations of the City, and the City as the Successor Agency.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-147**

RESOLUTION APPROVING AN ASSIGNMENT, ASSUMPTION AND ESTOPPEL AGREEMENTS, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO PREPARE AND EXECUTE ANY AND ALL RELATED DOCUMENTS NECESSARY TO IMPLEMENT THE ASSIGNMENT, ASSUMPTION AND ESTOPPEL OF THE HOME LOAN DOCUMENTS AND OBLIGATIONS AND THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF MODESTO LOAN DOCUMENTS AND OBLIGATIONS

WHEREAS, on August 11, 2009, the City Council, by Resolution No. 2009-392, approved a HOME loan in the amount of \$1 million of the development of a 150-unit affordable housing project proposed by EAH, Inc. also referred to as Archway Commons, and

WHEREAS, since then, the HOME loan has been amended with new timelines for development and construction activities as the developer worked to secure tax credit financing, and

WHEREAS, the number of proposed units was reduced from 150 to 76 units, and

WHEREAS, the amendment to the HOME loan agreement will reflect the reduction of units to 76 affordable rental units, and

WHEREAS on February 22, 2011, by Resolution No. 01-2011 the Agency approved a Second Amended to the DDA for the proposed development of 76 units. The number of units was reduced from 102 to increase the final tie-breaker score for the 2011 round of housing tax credits. The Agency and Developer entered into a Second Amended and restated DDA which the Agency agreed to convey to the Developer certain property for construction of a multi-family residential complex of affordable rental housing and related improvements. A portion of these units are to be available at an

affordable rent to persons and families of very-low income levels. The Agency further agreed to provide the Developer with a loan in the amount not to exceed \$7,229,866.00.

WHEREAS, on September 28, 2011, the Developer was approved to receive a reservation of 2011 low-income housing tax credits, and

WHEREAS, the success was dependent, in part, on the 20 points received for project readiness, and

WHEREAS as part of the requirements to achieve the 20 readiness points, the applicant must be able to begin construction within 180 days of the Credit Reservation date was awarded by the Tax Credit Allocation Committee (TCAC), and

WHEREAS, the Developer was awarded \$835,354 in Federal 9% tax credits, and an allocation of \$2,784,513 in State Tax Credits based on investor's contributions the tax credit equity will result in an equity contribution of \$10,791,578, and

WHEREAS, on February 23, 2012, TCAC issued a 180-day deadline letter to meet readiness to proceed requirements, and

WHEREAS, TCAC requires documentation including a limited partnership agreement executed by the general partner and the investor providing the equity.

WHEREAS, EAH, Inc. has formed a limited Partnership known as Archway Commons I, L. P. a California limited partnership (Assignee) and EAH (Assignor) as its General Partner, and

WHEREAS, EAH, Inc is requesting the City approve an assignment to assign and delegate all of its rights titles and related obligations under the loan documents to transfer its interest in the property to assignee, and

WHEREAS, the assignee will assume all of the assignor's duties under the loan documents, and

WHEREAS, under the HOME loan agreement such assignment must be approved in writing by the City of Modesto.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Assignment, Assumption and Estoppel Agreements, and

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager or his designee to prepare and execute any and all related documents necessary to implement the assignment, assumption and estoppel of the HOME Loan documents and obligations and the and the Successor Agency to the Redevelopment Agency of the City of Modesto loan documents and obligations.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST:



STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-148**

RESOLUTION APPROVING A SUBORDINATION AGREEMENT WITH JP MORGAN CHASE BANK AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO PREPARE AND EXECUTE ANY AND ALL RELATED DOCUMENTS NECESSARY TO IMPLEMENT THE SUBORDINATION AGREEMENT

WHEREAS, on April 28, 2009, by Resolution No. 10-2009, the Redevelopment Agency (Agency) approved a Purchase Agreement for \$3.5 million to acquire three of the four parcels needed for the development of Archway Commons, and

WHEREAS, on April 28, 2009, by Resolution No. 11-2009, the Agency approved an Agreement to Negotiate Exclusive (ANE) and to appoint the Developer as the sole developer receiving Agency funding, and

WHEREAS, the approval of an ANE set the ground work to develop an agreement, and

WHEREAS, on August 11, 2009, by Resolution No. 2, the Agency approved an Amended and Restated Disposition and Development Agreement (DDA), and

WHEREAS, the Amended and Restated DDA outlined that the Agency would provide financial assistance to the Developer, in an amount not to exceed \$6,749,000, and of this amount, a predevelopment loan to not exceed the amount of \$900,000, a development loan to not exceed the amount \$1,869,900 and a property Sell Option or Ground Lease Option in the amount of \$3,980,000, and

WHEREAS, the Agency agreed to sell the property to the Developer in the amount of \$3,980,000 to be included in the total loan amount of \$6,749,000, and

WHEREAS, on February 26, 2010, the Developer became aware of a Tax Credit Regulation that states, "Not more than 125% of the total geographic apportionment of tax

credits may be allocated to any project(s) receiving credits under a given geographic set-aside”, and

WHEREAS, on March 23, 2010, the Agency approved a two-phased project consisting of a 102 units in phase one and the remaining 48 units to be completed in phase two, and

WHEREAS, on June 11, 2010, the Developer notified staff that their Tax Credit submittal for the March funding cycle was unsuccessful by the narrowest of margins (less than 2.5% points), and

WHEREAS, the Developer submitted a Tax Credit application for the 2011 second round low- income housing tax credit, and

WHEREAS, on September 28, 2011, the Developer was approved to receive a reservation of 2011 low-income housing tax credits, and

WHEREAS, the Developer was awarded \$835,354 in Federal 9% tax credits and, an allocation of \$2,784,513 in State Tax Credits, and

WHEREAS, based on investors contributions the tax credit equity will result in an equity contribution of \$10,791,578, and

WHEREAS on February 22, 2011, the Agency and Developer entered into a Second Amended and Restated DDA wherein the Agency agreed to convey to the Developer certain property for construction of a multi-family residential complex consisting of approximately 76 units of affordable rental housing and related improvements, a portion of which units are to be available at an affordable rent to persons and families of very-low income levels, and

WHEREAS, under the DDA, the Agency further agreed to provide the Developer with a loan in an amount not to exceed \$7,229,866.00 consisting of, a pre-construction loan in the amount of \$900,000.00 previously funded the Agency, \$2,460,866.00 to pay the purchase price for the Site Phase 1, and the remaining balance of \$3,869,000.00 to pay certain development and construction costs for the housing project, and

WHEREAS, pursuant to AB 26, the Agency adopted an Enforceable Obligations Payment Schedule which included the obligations under the DDA as an enforceable obligation, as defined in Health and Safety Code Section 34171(d)(1)(E), and

WHEREAS, pursuant to AB 26, on January 24, 2012, the City Council adopted Resolution No. 2012-40, electing to serve as the successor agency to the former Agency, and

WHEREAS, Resolution No. 2012-41, elected to retain the housing assets and functions previously performed by the Agency, and

WHEREAS, as of February 1, 2012, all rights, powers, duties and obligations of the Agency have been transferred to the City of Modesto as the successor agency, and

WHEREAS, unless otherwise specifically stated, all references to Agency in the DDA shall hereafter mean and refer to the City of Modesto, in its capacity as the housing successor agency to the former Redevelopment Agency of the City of Modesto, and

WHEREAS, pursuant to AB 26, the City, as the successor agency to the former Agency, adopted an initial Recognized Obligation Payment Schedule (“ROPS”) which included, among other enforceable obligations of the former Agency, the Agency’s remaining financial obligations under the DDA, and

WHEREAS, following dissolution of the Agency, property tax increments that would otherwise be allocated to the Agency are paid to the Stanislaus County Auditor-Controller, to be disbursed to the successor agency to make the payments listed in its ROPS, and

WHEREAS, the City and Developer desire to enter into an Addendum to acknowledge the transfer of the Agency's obligations under the DDA to the City, and to clarify certain provisions of the DDA in light of the new procedures for disbursement of tax increment revenues to the successor agency to fund the remaining portion of the Agency Loan under the DDA, and

WHEREAS, the City acknowledges that it currently has \$3,697,948.00 available in the Agency's Low and Moderate Income Housing Fund to pay a portion of the Development Costs element of the Agency Loan, and

WHEREAS, this amount will be deposited into a construction draw account upon close of escrow for conveyance of the Site to the Developer, and

WHEREAS, the City agrees that the remaining balance of \$171,052.00 shall be deposited into the construction draw account by the latter to occur on July 1, 2012, or within ten (10) working days following receipt by the City of tax increment revenues from the Stanislaus County Auditor-Controller to pay the remaining balance of the Agency Loan, as identified in the approved ROPS, and

WHEREAS, the Addendum is not intended to amend or modify the terms of the DDA, but is intended merely to clarify certain provisions contained in the DDA relating to timing for disbursement of a portion of the Agency Loan proceeds. In the event of any

inconsistency between the provisions of the DDA and the Addendum, the terms of the Addendum shall control; and

WHEREAS, on August 11, 2009, the City Council, by Resolution No. 2009-392, approved a HOME loan in the amount of \$1 million of the development of a 150-unit affordable housing project proposed by EAH, Inc. also referred to as Archway Commons, and

WHEREAS, since then, the HOME loan has been amended with new timelines for development and construction activities as the developer worked to secure tax credit financing, and

WHEREAS, the number of proposed units was reduced from 150 to 76 units, and

WHEREAS, the administrative amendment to the HOME loan agreement will reflect the reduction of units to 76 affordable rental units, and

WHEREAS, the City Council, acting in its capacity as the successor agency to the Redevelopment Agency of the City of Modesto ("Successor Agency"), can authorize the City Manager to execute all documents necessary to carry out the obligations of the City, as the Successor Agency, under the Second Amended and Restated Disposition and Development Agreement between the Redevelopment Agency of the City of Modesto and EAH, Inc,

WHEREAS, JP Morgan Chase Bank is requesting that the City, Archway Commons I L.P and JP Morgan Chase Bank enter into a Subordination Agreement, and

WHEREAS, in order to complete this financing process for this project the financial lending institution requires as a condition to provide the loan to be and remain at all times prior and superior to other loans, and

WHEREAS, the parties involved in these transactions acknowledge that the borrower will be required to enter into a regulatory agreement with the California Tax Credit Allocation Committee (TCAC), and

WHEREAS, if requested to do so, each lender will consent to and subordinate the lien or charge of the recorded items in its favor to the TCAC Regulatory Agreement on condition that the TCAC Regulatory Agreement includes provisions for termination thereof not later than three years after foreclosure (or deed in lieu of foreclosure) with respect to any recorded item which encumbers the Property, and is otherwise reasonably acceptable to each Lender.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto hereby approves a Subordination Agreement

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager, or his designee, to prepare and execute any and all related documents necessary to implement the subordination agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-149**

RESOLUTION ACCEPTING THE WORK BY ROSS F. CARROLL, INC., FOR THE "CONSTRUCTION OF RIGHT TURN LANES STREET IMPROVEMENTS" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER UPON RECEIPT OF APPROVED WARRANTY BOND, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING \$731,582

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the Construction of Right Turn Lanes Street Improvements project has been completed by Ross F. Carroll, Inc., in accordance with the contract agreement dated April 12, 2011,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Construction of Right Turn Lanes Street Improvements project is hereby accepted as complete from said contractor Ross F. Carroll, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder upon receipt of approved Warranty Bond, and that payment of amounts totaling \$731,582 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)
APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-150**

**RESOLUTION ACCEPTING THE WORK BY SRP COMPANY FOR THE
“COMMUNICATIONS TOWER CONSTRUCTION FOR JENNINGS ROAD
WASTEWATER TREATMENT FACILITIES” PROJECT AS COMPLETE,
AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION
WITH THE STANISLAUS COUNTY RECORDER UPON RECEIPT OF
APPROVED WARRANTY BOND, AND AUTHORIZING PAYMENT OF
AMOUNTS TOTALING \$122,922.43**

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the Communications Tower Construction for Jennings Road Wastewater Treatment Facilities project has been completed by SRP Company in accordance with the contract agreement dated March 22, 2011,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Communications Tower Construction for Jennings Road Wastewater Treatment Facilities project is hereby accepted as complete from said contractor SRP Company, that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder upon receipt of approved Warranty Bond, and that payment of amounts totaling \$122,922.43 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

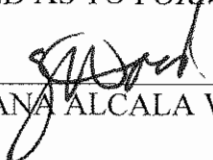
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-151**

**A RESOLUTION APPROVING THE INSTALLATION OF TWENTY FIVE (25)
HISTORICAL CRUISE ROUTE MARKERS IN DESIGNATED LOCATIONS
ALONG THE MODESTO HISTORIC GRAFFITI CRUISE ROUTE**

WHEREAS, on March 11, 2011, by Resolution No. 2011-066, the Council of the City of Modesto approved the designation of 10th and 11th Streets, between G and K Streets, and G and K Streets, between 10th and 11th Streets to be the Modesto Historic American Graffiti Cruise Route, and

WHEREAS, the Modesto Historic American Graffiti Cruise Route will be a walking tour that will provide residents and tourists with a history of cruising in Modesto made famous in the George Lucas film, “American Graffiti”, and

WHEREAS, the Modesto Historic American Graffiti Cruise Route will feature twenty five (25) different Historic Cruise Markers which tell the Modesto cruising history story in designated locations along the route, and

WHEREAS, the cost of designing and manufacturing the Historic Cruise Markers will be funded through private donations and sponsorships from local businesses, and

WHEREAS, the Historic Cruise Marker locations received review and approval from Planning and Traffic Operations Divisions staff of the Community and Economic Development Department, and

WHEREAS, Traffic Operations staff will install the Historic Cruise Markers at an approximate cost of \$125 per sign, and

WHEREAS, staff has confirmed that no encroachment permit is required for the installation of the markers,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the installation of twenty five (25) Historical Cruise Route Markers in designated locations along the Modesto Historic Graffiti Cruise Route.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-152**

**A RESOLUTION AMENDING RESOLUTION NO. 2011-066 TO CORRECT
THE ROUTE NAME FROM THE MODESTO HISTORIC AMERICAN
GRAFFITI CRUISE ROUTE TO MODESTO HISTORIC GRAFFITI CRUISE
ROUTE**

WHEREAS, on March 11, 2011, by Resolution 2011-066, the Council of the City of Modesto approved the designation of 10th and 11th Streets, between G and K Streets, and G and K Streets, between 10th and 11th Streets to be the Modesto Historic American Graffiti Cruise Route (Cruise Route), and

WHEREAS, the Cruise Route will be a walking tour that will provide residents and tourists with a history of cruising in Modesto made famous in the George Lucas film, “American Graffiti”, and

WHEREAS, the Cruise Route Committee recommend that “American” should be removed from Cruise Route’s official name,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending Resolution No. 2011-066 to correct the route name from Modesto Historic American Graffiti Cruise Route to Modesto Historic Graffiti Cruise Route.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-153**

RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE MARY E. GROGAN COMMUNITY PARK – PHASE I PROJECT, ACCEPTING THE BID, AND APPROVING AN AGREEMENT WITH GOODLAND LANDSCAPE CONSTRUCTION, INC. OF TRACY, CA, IN THE AMOUNT OF \$7,915,100.00 FOR THE MARY E. GROGAN COMMUNITY PARK – PHASE I PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Mary E. Grogan Community Park – Phase I Project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Mary E. Grogan Community Park – Phase I Project were opened at 11:00 a.m. on March 20, 2012, and later tabulated by the Director of Parks, Recreation and Neighborhoods for the consideration of the Council, and

WHEREAS, the Director of Parks, Recreation and Neighborhoods has recommended that the bid of \$7,915,100.00 received from Goodland Landscape Construction, Inc. for the project be accepted as the lowest responsible bid and the contract be awarded to Goodland Landscape Construction, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Mary E. Grogan Community Park – Phase I Project, accepts the bid of Goodland Landscape Construction, Inc. in the amount of \$7,915,100.00 for the project and awards Goodland Landscape Construction, Inc. the contract for the Mary E. Grogan Community Park – Phase I Project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-154**

RESOLUTION AMENDING THE FISCAL YEAR 2011-2012 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FULLY FUND THE MARY E. GROGAN COMMUNITY PARK – PHASE I PROJECT, AND AUTHORIZING THE FINANCE DIRECTOR, OR HER DESIGNEE, TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION

WHEREAS, a transfer is necessary in order to allocate additional funding of \$1,423,500.00 from the Village One Community Facilities District Fund in order to award this bid, and

WHEREAS, a budget adjustment is necessary in order to adjust the expense and revenue budgets in the Parks CIP Account 100288.PRN.Park Planning and Development (Mary E. Grogan Community Park) to use an additional \$1,280,960 from the Parks Capital Facilities Fee Fund Reserves in order to award this bid, and

WHEREAS, the Fiscal Year 2011-2012 Capital Improvement Program budget must be amended as shown in **Exhibit A**, which is incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2011-2012 Capital Improvement Program budget as shown in **Exhibit A**, which is attached hereto.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

1) An appropriation transfer is necessary from the Village One CFD in the amount of \$1,423,500.00 in order to fully fund the Construction of Mary E. Grogan Community Park – Phase I project. The CIP Task Force approved the allocation of the additional funding for this project at their April 3, 2012 meeting.

Transfers between Fiscal Year Cost Centers (Expense) and Projects (Revenue)

FROM												
MY	-	3200	-	73200	-	73460	-	00000	\$0	\$2,712,000	\$2,712,000	Establish Transfer from Fund 3200 to 100288
MY	-	3291	-	73291	-	73460	-	00000	\$0	\$3,452,320	\$3,452,320	Establish Transfer from Fund 3291 to 100288
MY	-	3290	-	73290	-	73460	-	100288	\$6,132,300	(\$4,740,820)	\$1,391,480	Decrease Transfer from Fund 3290 to 100288
TO												
MY	-	3460	-	39999	-	63200	-	100288	\$0	\$2,712,000	\$2,712,000	Establish Transfer from Fund 3200 to 100288
MY	-	3460	-	39999	-	63291	-	100288	\$0	\$3,452,320	\$3,452,320	Establish Transfer from Fund 3291 to 100288
MY	-	3460	-	39999	-	63290	-	100288	\$6,132,300	(\$4,740,820)	\$1,391,480	Decrease Transfer from Fund 3290 to 100288

2) In addition, a budget adjustment is necessary in order to allocate the expense and revenue budgets in the Parks CIP Account 100288.PRN.Park Planning and Development (Mary E. Grogan Community Park).

Revenues

MY	-	3460	-	39999	-	47005	-	100288	\$0	\$1,300	\$1,300	Miscellaneous Revenue
----	---	------	---	-------	---	-------	---	--------	-----	---------	---------	-----------------------

Expenses

FROM												
MY	-	100288	-	CA	-	Construction Admin		\$460,000	(\$64,245)	\$395,755		PRN.Park Planning and Development
MY	-	100288	-	CTGY	-	Contingency - CIP		\$460,000	(\$64,245)	\$395,755		PRN.Park Planning and Development
TO												
MY	-	100288	-	CON	-	Construction		\$6,495,339	\$2,569,761	\$9,065,100		PRN.Park Planning and Development
MY	-	100288	-	EDA	-	Eng/Design/Admin		\$716,761	\$263,239	\$980,000		PRN.Park Planning and Development
MY	-	100288	-	ENV	-	CIP - Environmental		\$123,750	\$1,250	\$125,000		PRN.Park Planning and Development

3) Additional funding of \$1,280,960 from Parks CFF will be used to provide for the additional project expenses.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-155**

**RESOLUTION APPROVING THE IMPLEMENTATION OF IMPROVEMENTS
FOR THE CITY OF MODESTO COST SHARE PROGRAM**

WHEREAS, the City of Modesto owns and maintains the sewer collection system, which includes sewer mains; and the property owner owns and is responsible for the maintenance and repair of the sewer lateral that delivers sewage from the residence to the sewer main, and

WHEREAS, the City of Modesto (City) Cost Share Program (CSP) was implemented on September 11, 1990, by Resolution #90-746, to assist property owners when repairing or replacing the private sewer line located within the public right-of-way (ROW), and was intended to offset the cost to the homeowner for the removal and replacement of city-owned street improvements (pavement, curb, sidewalks), and

WHEREAS, the CSP is funded by sewer rates and has a budget of \$100,000 annually that goes directly to property owners as reimbursements, and

WHEREAS, cost share reimbursements are limited to up to 50% of the lowest quoted cost for the repair within the City ROW, and

WHEREAS, the property owner is responsible for 50% of the cost of repair within the City ROW and 100% of the repair cost within the private property, and

WHEREAS, the CSP has been in service for 22 years and has successfully assisted many property owners in the repair of lower sewer laterals, and

WHEREAS, some issues have emerged over time that have made the program difficult for the property owner to access, and

WHEREAS, Nolte Associates, Inc. was retained to evaluate the current CSP and to make recommendations to improve the program and its accessibility to the customer, and

WHEREAS, Nolte's work included an examination of other community programs and consideration of alternative lower lateral repair policies, and

WHEREAS, Nolte Associates, Inc. found that historical participation in the CSP demonstrates that the City does provide a much-needed program to property owners, and

WHEREAS, over the last five years, an average of 40 property owners per year have received approximately \$1,800 in assistance from the program; however, it was not uncommon for applicants to experience a lengthy process that has been frustrating and added unnecessary time to the repairs, and

WHEREAS, a review of the concerns and a comparison with similar programs in other communities resulted in the suggested modifications to Modesto's CSP, and

WHEREAS, the suggested modifications for addressing these issues are summarized below:

- Implement more streamlined operating procedures for administration of the CSP.
- Develop guideline materials that are easy to understand to assist CSP Applicants and Contractors through the process.
- Modify Construction Standards and Municipal Code to be consistent with the intent and administration of the CSP.
- Establish unit prices for typical sewer lateral repair tasks to simplify the CSP and its administration.
- Develop and implement a loan program for the property owner's 50% share of work in the Public ROW, and

WHEREAS, modification of the existing CSP by streamlining procedures as indicated above will cost approximately \$68,000, and

WHEREAS, these streamlining improvements are consistent with the intent of the 1990 CSP policy, and

WHEREAS, an additional \$7,550 per year in program administration cost (\$4,500 for annual unit price updates and \$3,050 for third-party loan program administration) is also needed to fully implement the recommended modifications, and

WHEREAS, the CSP Program currently costs the City of Modesto \$134,425 in program administration and reimbursements and the additional annual costs will increase the program costs to \$141,975 annually,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the revised House Sewer Line Repair Cost Share Program for the City of Modesto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2012, by Councilmember Burnside, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-156**

**RESOLUTION AMENDING THE FISCAL YEAR 2011-12 WASTEWATER
OPERATING BUDGET IN THE AMOUNT OF \$68,000 IN ORDER TO FULLY
FUND THE ONE-TIME IMPROVEMENTS TO THE COST SHARE PROGRAM**

WHEREAS, the City of Modesto owns and maintains the sewer collection system, which includes sewer mains; and the property owner owns and is responsible for the maintenance and repair of the sewer lateral that delivers sewage from the residence to the sewer main, and

WHEREAS, the Cost Share Program (CSP) is funded by sewer rates and has a budget of \$100,000 annually that goes directly to property owners as reimbursements, and

WHEREAS, modification of the existing CSP by streamlining procedures as indicated above will cost approximately \$68,000, and these streamlining improvements are consistent with the intent of the 1990 CSP policy,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2011-2012 Wastewater Operation Budget in the amount of \$68,000 in Sewer Collections Account 4210-54212-53101 as shown in **Exhibit A** in order to fully fund the one-time improvements to the Cost Share Program.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2012, by Councilmember Burnside, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

An appropriation transfer in the amount of \$68,000 to Sewer Collections Account 4210-54212-53101 is necessary in order to fully fund the one-time Cost Share Program (CSP) improvements. These one-time improvements are:

Update CSP Guidance Documents	\$16,150
Develop Standard Operating Procedures for Administration of CSP	\$21,100
Establish Unit Cost for Lateral Replacement Components	\$13,750
Develop and Implement a Loan Option for CSP Participants	<u>\$17,000</u>
Total Cost	\$68,000

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-157**

RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE PURCHASE OF A THREE (3) REGENERATIVE-AIR HIGH-DUMP STREET SWEEPERS FOR THE PUBLIC WORKS DEPARTMENT, STREET SWEEPING DIVISION, THROUGH THE FLEET SERVICES DIVISION, TO MUNICIPAL MAINTENANCE EQUIPMENT, INC., SACRAMENTO, CA, FOR AN ESTIMATED TOTAL COST OF \$626,000

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, for the Fleet Services Division through various competitive processes, with the Purchasing Division coming back to Council for award authorization. The three (3) Regenerative-Air High-Dump Street Sweepers are included in the new vehicles and heavy equipment list authorized by the City Manager, and

WHEREAS, the Regenerative-Air High-Dump Street Sweepers were included in the FY 11/12 new vehicles and heavy equipment budget approved by Council on June 7, 2011 (No. 3550-C.S.), and

WHEREAS, these sweepers are replacing units that are at the end of their useful life and fall under the Air Resources Board (ARB) on-road diesel vehicle regulations. The ARB compliance program rules require that these Street Sweepers be retired, replaced or retrofitted to meet new air quality standards. A review of the options revealed that retrofitting these Street Sweepers will not meet the compliance criteria due to their operational profile. As a result the compliance program requires that the sweepers be replaced, and

WHEREAS, the Purchasing Division issued RFB No. 1112-27 for the purchase of three (3) Regenerative-Air High-Dump Street Sweepers to nine (9) prospective bidders, posted the bid on the City's website and formally advertised as required by law, and

WHEREAS, RFB's were formally opened in the City Clerk's office. Of the nine (9) prospective bidders, two (2) companies chose to respond. No local vendors can provide this type of equipment. Both companies provided responsive and responsible bids, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid for the purchase of three (3) Regenerative-Air High-Dump Street Sweepers to Municipal Maintenance Equipment, Inc., Sacramento, CA, for an estimated cost of \$626,000, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2011-12 in the following appropriation unit: 5410-53241-57003-000000-00000-00000, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. The award of bid for the purchase of three (3) Regenerative-Air High-Dump Street Sweepers to Municipal Maintenance, Inc., Sacramento, CA, for the Public Works Department, Street Sweeping Division, through the Fleet Services 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 for the purchase of three (3) Regenerative-Air High-Dump Street Sweepers for the Public Works Department, Street Sweeping

Division, through the Fleet Services Division to Municipal Maintenance Equipment, Inc., Sacramento, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase order for an estimated total cost of \$626,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-158**

RESOLUTION AUTHORIZING THE AWARD OF BIDS FOR THE PURCHASE OF CONCRETE AND CAST IRON BOXES COVERS AND FRAMES FOR THE DEPARTMENT OF PUBLIC WORKS, WATER DIVISION, TO FERGUSON WATERWORKS, MODESTO, CA AND PACE SUPPLY CORP., STOCKTON, CA, FOR A ONE-YEAR AGREEMENT WITH FOUR (4) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE PURCHASE AGREEMENTS FOR AN ESTIMATED ANNUAL COST OF \$175,000

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of concrete and cast iron boxes covers and frames, and

WHEREAS, the Purchasing Division issued RFB No. 1112-19 Concrete and Cast Iron Boxes Covers and Frames to seventeen (17) prospective bidders, eight (8) of which were local vendors, posted the bid on the City's website and formally advertised as required by law, and

WHEREAS, bids were formally opened in the City Clerk's Office. Three (3) companies chose to respond, one of which was a local vendor. All three (3) companies provided responsive and responsible bids, and

WHEREAS, Modesto Municipal Code 8-3.206 Support of Local Vendors (SLV) allows the lowest bid or quote submitted by a local business that is within five percent (5%) of the lowest bid, the opportunity to match the lowest bid price. Ferguson Waterworks, Modesto, CA qualified for SLV on a list of inventory items and agreed to match lowest bid price for those items, which represents an additional \$90,000 of product purchased annually through the local vendor, and

WHEREAS, based on providing lowest responsive and responsible bids, City staff recommends the award of bids for the purchase of concrete and cast iron boxes covers and frames to Ferguson Waterworks, Modesto, CA and Pace Supply Corp., Stockton, CA, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. The award of bids for the purchase of concrete and cast iron boxes covers and frames to Ferguson Waterworks, Modesto, CA and Pace Supply Corp., Stockton, CA, conforms to the Modesto Municipal Code, and

WHEREAS, funds shall be budgeted for the purchase of concrete and cast iron boxes covers and frames in Appropriation Units: 4100-55050-53150 and 4100-55080-53150,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bids for the purchase of concrete and cast iron boxes covers and frames for the Department of Public Works, Water Division, to Ferguson Waterworks, Modesto, CA and Pace Supply Corp., Stockton, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue purchase agreements for an estimated annual cost of \$175,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

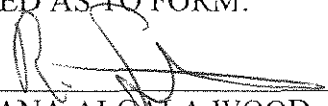
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-159**

**RESOLUTION APPROVING THE AGREEMENT FOR PARTICIPATION IN
THE STANISLAUS OPERATIONAL AREA ORGANIZATION; AND
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE
AGREEMENT**

WHEREAS, Senate Bill (SB) 1871 (Petris) resulted from the impact of the Oakland/Berkeley Hills Fire of 1991, and requires each County in California to formally organize as an “Operational Area” for the purposes of enhancing large-scale emergency management concepts and plans, and

WHEREAS, Government Code Article 9, Section 8605, establishes the authority of this “Operational Area” and provides the means for the appropriate parties, the County and all cities within the County, to form an “Operational Area Council” to coordinate and manage emergency management issues on behalf of the public and selected private agencies within Stanislaus County, and

WHEREAS, in June 1998, the City Council and Board of Supervisors adopted the initial “Agreement for the establishment and participation in the Stanislaus Operational Area Organization,” along with the other eight cities, and

WHEREAS, in April 2008, the Board of Supervisors adopted an ordinance that restructured the Disaster Council and Operational Area County which resulted in changes to the Operational Area Organizational Agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement for Participation in the Stanislaus Operational Area Organization.

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, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-160**

**A RESOLUTION APPROVING A MEMORANDUM OF AGREEMENT
BETWEEN THE COUNTY OF STANISLAUS AND THE CITY OF MODESTO
FOR THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT
(JAG) FORMULA PROGRAM FISCAL YEAR 2012 LOCAL SOLICITATION
AUTHORIZING A JOINT APPLICATION WITH THE COUNTY OF
STANISLAUS, AND AUTHORIZING THE CITY MANAGER, OR HIS
DESIGNEE, TO EXECUTE THE MEMORANDUM OF AGREEMENT**

WHEREAS, the allocation of Edward Byrne Memorial Justice Assistance Grant (JAG) is based on a formula of population and violent crime statistics, in combination with a minimum allocation to ensure that each state and territory received an appropriate share of funding, and

WHEREAS, the JAG Program allows states, tribes and local governments to support a broad range of activities to prevent and control crime based on their own local needs and conditions, and

WHEREAS, the City of Modesto Police Department is eligible to apply for \$108,818 and Stanislaus County is eligible for \$36,895, and

WHEREAS, the City of Modesto Police Department is considered a “disparate” under the terms of this grant because the City is eligible to receive one and one-half times more than a County (150% more than the County with concurrent jurisdiction), and

WHEREAS, the Modesto Police Department and Stanislaus County are required to submit a joint application for the total eligible allocation of \$145,713 and

WHEREAS, recommended distribution of the 2012 JAG funds are as follows:

Probation	\$ 10,054
Sheriff	\$ 26,841
Sheriff (Administrative Fee)	\$ 3,265
Modesto Police Department	\$105,553

WHEREAS, the City of Modesto will use its allocation to purchase personnel scheduling and tracking software program and personal video recording devices for patrol officers.

WHEREAS, there is no match required for this grant, and

WHEREAS, the awards are made in the first fiscal year of the appropriation and may be expended during the following three years for a total of four years, and

WHEREAS, Stanislaus County will be the fiscal agent for this grant, and

WHEREAS, the County will charge the City a three percent (3%) administrative fee in the amount of \$3,265 to cover the reporting costs associated with the grant, and

WHEREAS, the administrative fee reduces the City's total projected grant award to \$105,553 (\$108,818 less the 3% administrative fee of \$3,265), and

WHEREAS, the grant requires that a trust fund must be established for fund deposits, and funds cannot be commingled with funds from any other source, and

WHEREAS, the Memorandum of Agreement states that the City agrees to provide the County a quarterly financial and programmatic report not later than five calendar days after the end of the quarter, and

WHEREAS, grant requires a signed Memorandum of Agreement for the application,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Memorandum of Agreement between the County of Stanislaus and the City of Modesto for the Edward Byrne Memorial Justice Assistance Grant (JAG) Formula Program Fiscal Year 2012 Local Solicitation, authorizing a joint application with the County of Stanislaus.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the grant application upon award.


The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-161**

RESOLUTION APPROVING A SECOND AMENDMENT TO AGREEMENT WITH STANTEC CONSULTING SERVICES INC. (FORMERLY STANTEC CONSULTING INC.) FOR DESIGN SERVICES FOR THE SCENIC LIFT STATION PROJECT IN THE AMOUNT OF \$6,123, FOR A MAXIMUM TOTAL AGREEMENT AMOUNT OF \$179,367, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE SECOND AMENDMENT TO AGREEMENT

WHEREAS, the Scenic Lift Station, located at 2812 Scenic Bend, pumps wastewater under Dry Creek to the gravity pipeline near Lincoln Avenue, and

WHEREAS, the lift station was last upgraded in 1986, and

WHEREAS, the tributary area of the station includes Village I and the proposed Tivoli development, and

WHEREAS, as these developments build-out, the increased sewage flow will make the need for this lift station more critical, and

WHEREAS, on September 3, 2003, by Resolution No. 2003-521, the City Council approved an Agreement for Consultant Services with Stantec Consulting Inc. (Stantec) to design the rehabilitation of the Scenic Lift Station in the amount of \$64,170, and

WHEREAS, on July 24, 2007, by Resolution No. 2007-456, the City Council approved the Preliminary Design Report dated June 2007 as complete, and

WHEREAS, on February 26, 2008, by Resolution No. 2008-137, the City Council approved an agreement with Stantec to prepare a final project design for the Scenic Lift Station project in the amount of \$143,387, and

WHEREAS, on December 1, 2009, by Resolution No. 2009-565, the City Council approved an amendment to agreement with Stantec, for additional work which was identified during final design, in the amount of \$29,857, and

WHEREAS, total estimated cost for the final design portion of the project was \$173,244, and

WHEREAS, the completed final design was received September 1, 2010, but the construction was deferred due to budget constraints, and

WHEREAS, funds were recently allocated to fully fund this project and the City can now proceed with construction, and

WHEREAS, the Public Works Department requested minor modifications to the project, so it was necessary to have Stantec modify the final project bid documents, and

WHEREAS, these requested modifications could produce minor construction and future operational cost savings: 1) Bathroom: Removal of the water closet, hot water heater and the partition panel; 2) Bypass pumping: Provide pipe fittings and facilities; and 3) Pump specification: Modify to allow for an additional manufacturer; and 4) Modify the construction cost estimate as necessary for these items, and

WHEREAS, the agreement with Stantec needs to be amended to provide additional mechanical, electrical, and civil engineering, architectural design, and construction support for the completion of the plans and specifications, and

WHEREAS, City staff recommends approving a second amendment to agreement with Stantec Consulting Services Inc. (formerly Stantec Consulting Inc.) as the City does not have the staffing level or subject matter expertise to provide final design services for

the Scenic Lift Station project, and current workload levels do not provide for timely in-house solutions/responses, and

WHEREAS, given that the design changes are additional services, City staff recommends approving the requested Second Amendment to Agreement for Design Services in the amount of \$6,123,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a second amendment to agreement with Stantec Consulting Services Inc. for design services of Scenic Lift Station project in the amount of \$6,123 for additional services not included in the original agreement.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-162**

RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE WATER QUALITY CONTROL FACILITY OFFICE REMODEL PROJECT, ACCEPTING THE BID, AND APPROVING A CONTRACT WITH NETBUILDS OF MARYSVILLE, CALIFORNIA IN THE AMOUNT OF \$86,814, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Water Quality Control Facility Office Remodel project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Water Quality Control Facility Office Remodel project were opened at 11:00 a.m. on April 3, 2012, and later tabulated by the Director of Utility Planning & Projects for the consideration of the Council, and

WHEREAS, the Director of Utility Planning & Projects has recommended that the bid of \$86,814, received from Netbuilds of Marysville, California, be accepted as the lowest responsive and responsible bid and the contract be awarded to Netbuilds,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Water Quality Control Facility Office Remodel project, accepts the bid of Netbuilds of Marysville, California, in the amount of \$86,814, and awards Netbuilds the contract for the Water Quality Control Facility Office Remodel project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-163**

RESOLUTION ACCEPTING THE WORK BY BOND BLACKTOP, INC., FOR THE "2011 MICROSURFACING" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER UPON RECEIPT OF APPROVED WARRANTY BOND, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING \$953,119.33

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the 2011 Microsurfacing project has been completed by Bond Blacktop, Inc., in accordance with the contract agreement dated March 8, 2011,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2011 Microsurfacing project is hereby accepted as complete from said contractor Bond Blacktop, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder upon receipt of approved Warranty Bond, and that payment of amounts totaling \$953,119.33 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 1st day of May, 2012, by Councilmember Burnside, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

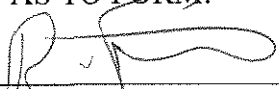
AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Lopez, Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)
APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-164**

A RESOLUTION AMENDING AND RESTATING RESOLUTION NO. 2007-287 TO ALLOW A CREDIT OF \$2,915 FOR PAST PAID UNCONNECTED SEWER CHARGES TOWARD WASTEWATER CAPACITY CHARGES FOR EXISTING UNCONNECTED RESIDENTIAL PROPERTIES CONNECTING TO THE SEWER SYSTEM , RESCINDING RESOLUTION NO. 2007-287, ITEM 5 OF RESOLUTION 2011-106, AND RESOLUTION NO. 2011-231

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 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, 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, and

WHEREAS, between 1969 and 2007, all dwelling units that were required to connect to the sewage system, but did not connect, were charged a current monthly sewer service charge and a monthly fee for inspections to "insure that the continued use of septic tanks does not cause a health hazard or nuisance", and

WHEREAS, Section 5-6.302 of the Modesto Municipal Code requires that properties must connect to the sewage system within five years of the system becoming available; however, there are no penalties or enforcement actions within the Code if they do not connect, and

WHEREAS, Resolution No. 2007-287 is amended below with respect to clean-up language in “ Definitions” and Section 4, and is reaffirmed and restated in every other respect, and

WHEREAS, a method of administration for a credit for past paid unconnected sewer charges towards Wastewater Capacity Charges should be specified, and

WHEREAS, there is a need for a policy to deal consistently with allowing a credit for past paid unconnected sewer charges towards Wastewater Capacity Charges for existing unconnected residential properties connecting to the sewer system, the City Council does amend and restate Resolution No. 2007-287 to rescind “Definitions” and Section 4 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 – This definition as stated in Resolution 2007-287 is hereby rescinded in its entirety, and a new and different definition is amended in its place, enacted, and set forth in full as follows:

The City officer(s) or designee(s) in charge of utilities.

Equivalent Dwelling Unit or EDU – A single family equivalent dwelling unit based upon standardized, estimated discharge characteristics of a typical single family dwelling of 290 gallons per day (gpd), 200 milligrams per liter (mg/L) of strength Five Day Biochemical Oxygen Demand (BOD), and 200 mg/L of Total Suspended Solids content (TSS).

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

MMC – Modesto Municipal Code.

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

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

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

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

SECTION 1. Capacity Charges

1. The Capacity Charge for an EDU on or after August 1, 2007, shall be \$4,876.00.
2. 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 a 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. Schedule of Charges

SCHEDULE OF CHARGES
FOR CONNECTION TO CITY WASTEWATER SYSTEM

MMC Reference	Name of Charge and Itemization	Charge
5-6.802	Subtrunk Extension Charge:	
	<u>Residential & Commercial</u>	\$645.00 per gross acre

The acreage used to determine wastewater subtrunk connection fees shall be as follows:

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

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

Notwithstanding anything to the contrary contained in Chapter 6 of Title V of the MMC 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. Section 4.2 of Resolution 2007-287 and Resolution 2011-106 No. 5 are hereby rescinded in its entirety, and a new and different subsection 2 is amended in its place, enacted, and set forth in full as follows:

The Director shall develop a schedule of estimated Flow, Strength, and Solids Content for new or modified connections which shall be reviewed annually by staff and the Finance Committee.

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 charge.

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. Section 4.6 of Resolution 2007-287 is hereby rescinded in its entirety, and a new and different subsection 6 is amended in its place, enacted, and set forth in full as follows:

The Director may 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 Charges components, additional Capacity Charges or refund of the variance shall result based on the entire variance.

9. Where the bond redemption charges 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. Inflation 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 by 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.

SECTION 6. Wastewater Capacity Charge Deferral Program for Existing Residential Units Seeking to Connect to the City's Wastewater Treatment System

1. Existing residential units connecting to the City's wastewater treatment system shall be required to pay ten percent (10%) of the wastewater capacity charge at the time of connection

2. Existing residential units connecting to the City's wastewater treatment system shall be required to pay the remaining ninety percent (90%) over a ten-year period with interest.

SECTION 7. Credit for Past Paid Unconnected Sewer Charges:

1. A credit in the amount of \$2,915 towards payment of the Wastewater Capacity Charge is available to all residential properties that paid sewer charges in the past but were not connected to the sewer. A list of the properties that fit this description is available in the City of Modesto Utility Planning and Projects Department.
2. This credit is not retroactive to any properties that may have paid a Wastewater Capacity Charge prior to Council approval of this credit on May 1, 2012.
3. If sufficient evidence is provided that a property paid sewer charges but was not previously connected, that property may be added to the list of eligible properties administratively by the Director.
4. Under the provisions of the Wastewater Deferral Program, 90% of the Wastewater Capacity Charge may be deferred. This is being increased to 100% of the remaining balance and administrative fees for these properties.
5. The credit can only be applied towards the payment of Wastewater Capacity Charges for previously unconnected residential properties that have paid sewer charges in the past. No refunds or credits towards monthly sewer charges will be allowed.
6. The credit is available to the current owner of the property regardless of who actually paid the sewer charges in the past.
7. If it is determined that a dwelling does not exist on a property shown on the list retained in the Utility Planning and Projects Department at the time of Council approval on May 1, 2012, the property shall be removed from the list and will not be eligible for the credit.

8. The credit shall be available for a period of three years from the date of Council approval, which is May 1, 2012. Unless further Council action is taken the credit shall not be available towards Wastewater Capacity Charges paid after April 30, 2015.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Marsh

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-165**

**A RESOLUTION ESTABLISHING CITY OF MODESTO COMMUNITY
FACILITIES NO. 2012-1 (KIERNAN BUSINESS PARK SOUTH),
AUTHORIZING THE LEVY OF SPECIAL TAXES THEREIN AND
ESTABLISHING AN ANNUAL APPROPRIATIONS LIMIT**

WHEREAS, on March 27, 2012, pursuant to petitions filed by all of the landowners within the proposed Community Facilities District (defined below) (the “Petitioners”) this City Council adopted a resolution (the “Resolution of Intention”) stating its intention to form City of Modesto Community Facilities District No. 2012-1 (Kiernan Business Park South) (the “Community Facilities District”) pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the “Act”), and

WHEREAS, a copy of the Resolution of Intention, setting forth a description of the proposed boundaries of the Community Facilities District, the facilities and services to be financed by the Community Facilities District and the rate and method of apportionment of special tax proposed to be levied within the Community Facilities District, is on file with the City Clerk and is incorporated herein by reference, and

WHEREAS, notice was published and mailed as required by law relative to the intention of the City to form the Community Facilities District, and

WHEREAS, there has been filed with the City Clerk a report containing a description of the facilities and services necessary to meet the needs of the Community Facilities District and an estimate of the cost of such facilities and services as required by Section 53321.5 of the Government Code (the “Report”), and

WHEREAS, the City Council has held a public hearing as required by law to determine whether it should proceed with the formation of the Community Facilities District and authorize the rate and method of apportionment of special taxes to be levied

within the Community Facilities District for the purposes described in the aforesaid resolution, and

WHEREAS, at said hearing all persons desiring to be heard on all matters pertaining to the formation of the Community Facilities District and the levy of special taxes to pay for the cost of the proposed Facilities and Incidental Expenses were heard, and a full and fair hearing was held, and

WHEREAS, at the public hearing evidence was presented to the City Council on the matters before it, and the proposed special taxes to be levied within the Community Facilities District was not precluded by a majority protest of the type described in Government Code Section 53324, and the City Council is sufficiently advised as to all matters relating to the formation of the Community Facilities District and the levy of the special taxes, and

WHEREAS, there have been fewer than twelve registered voters residing in the proposed boundaries of the Community Facilities District for the statutory period, and the qualified electors in the Community Facilities District are the landowners within the Community Facilities District, and

WHEREAS, on the basis of all of the foregoing, the City Council has determined at this time to proceed with the establishment of the Community Facilities District and to call an election therein to authorize (i) the levy of special taxes pursuant to the rate and method of apportionment of special tax, as set forth in **Attachment A** hereto, and (ii) the establishment of an appropriations limit for the Community Facilities District,

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

SECTION 1. The above recitals are true and correct.

SECTION 2. A community facilities district designated “City of Modesto Community Facilities District No. 2012-1 (Kiernan Business Park South)” is hereby established pursuant to the Act. The City Council hereby finds and determines that all prior proceedings taken with respect to the establishment of the Community Facilities District were valid and in conformity with the requirements of law, including the Act. This finding is made in accordance with the provisions of Section 53325.1(b) of the Act.

SECTION 3. The boundaries of the Community Facilities District and the proposed future annexation areas to the Community Facilities District are established as shown on the map designated “Boundary Map of Proposed City of Modesto Community Facilities District No. 2012-1 (Kiernan Business Park South),” which map is on file in the office of the City Clerk and, pursuant to Sections 3111 and 3113 of the Streets and Highways Code, was recorded in the Book of Maps of Assessment and Community Facilities Districts in the Office of the County Recorder of Stanislaus County in Book No. 5 AM, at Page 13, as Instrument No. 12-0028816-00.

Parcels within the future annexation areas shall be annexed to the Community Facilities District only with the unanimous approval of the owner or owners of each parcel or parcels at the time that parcel or those parcels are annexed, without any requirement for further public hearings or additional proceedings.

SECTION 4. The facilities authorized to be provided for the Community Facilities District are those identified as the “Facilities” in the recitals of this resolution and the services authorized to be paid for by the Community Facilities District are those set forth in Appendix A to the Resolution of Intention (the “Services”).

SECTION 5. It is the intention of the City Council, subject to the approval of the qualified electors of the Community Facilities District, to levy the proposed special taxes at the rates set forth in **Attachment A** hereto on all non-exempt property within the Community Facilities District sufficient to pay for (i) the Services, (ii) the Facilities, and (iii) the other Incidental Expenses, including the costs of forming the Community Facilities District and administering the levy and collection of the special tax and all other administrative costs of the special tax levy. The City expects to incur, and in certain cases has already incurred, incidental expenses in connection with the creation of the Community Facilities District, the levying and collecting of the special taxes, the provision of the Services, the completion and inspection of the Facilities and the annual administration of the Community Facilities District. The rate and method of apportionment of special tax is described in detail in **Attachment A** hereto and incorporated herein by this reference, and the City Council hereby finds that **Attachment A** contains sufficient detail to allow each landowner within the Community Facilities District to estimate the maximum amount that may be levied against each parcel. As described in greater detail in the Report, which is incorporated by reference herein, the special taxes are based generally on area of each parcel of real property within the Community Facilities District and, accordingly, is hereby determined to be reasonable. The annual facilities special tax shall be levied on each assessor's parcel for a period not to extend beyond fiscal year 2062-63. The special taxes are apportioned to each parcel on the foregoing basis pursuant to Section 53325.3 of the Act, and such special taxes are not on or based upon the ownership of real property. Under no circumstances shall the special taxes against any parcel used for private residential

purposes be increased by more than 10% as a consequence of delinquency or default by the owner of any other parcel or parcels within the Communities Facilities District.

The City's Administrator, Infrastructure Financing Programs, 1010 Tenth Street, Modesto, California 95353, telephone number (209) 577-5211, will be responsible for preparing annually, or authorizing a designee to prepare, a current roll of special tax levy obligations by assessor's parcel number and will be responsible for estimating future special tax levies pursuant to Section 53340.2 of the Act.

SECTION 6. In the event that a portion of the property within the Community Facilities District shall become for any reason exempt, wholly or partially, from the levy of the special taxes specified in **Attachment A**, the City Council shall, on behalf of the Community Facilities District, increase the levy (to the extent necessary and permitted by law and these proceedings) upon the remaining property within the Community Facilities District which is not exempt. The amount of the special taxes will be set in accordance with the rate and method of apportionment of special tax **attached** hereto as **Attachment A**.

SECTION 7. Upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the Streets and Highways Code, a continuing lien to secure each levy of the special taxes shall attach to all non-exempt real property in the Community Facilities District, and this lien shall continue in force and effect until the special tax obligation is either prepaid and permanently satisfied and the lien canceled in accordance with law or until collection of the special tax by the Community Facilities District ceases.

SECTION 8. It is hereby further determined that there will be no ad valorem property tax levied on property within the Community Facilities District for the exclusive

purpose of paying the principal of or interest on bonds or other indebtedness incurred to finance the construction of capital facilities which provide the same services to the territory of the Community Facilities District as are proposed to be provided by the Facilities to be financed by the Community Facilities District.

SECTION 9. The City may accept advances of funds or work-in-kind from any source, including, but not limited to, the Petitioners and other private persons or private entities, for any authorized purpose, including, but not limited to, paying any cost incurred by it in creating the Community Facilities District. The City may enter into an agreement with the person or entity advancing the funds or work-in-kind, to repay all or a portion of the funds advanced, or to reimburse the person or entity for the value, or cost, whichever is less, of the work-in-kind, as determined by the City, with or without interest.

SECTION 10. Written protests against the establishment of the Community Facilities District have not been filed by one-half or more registered voters within the boundaries of the Community Facilities District or by the property owners of one-half (1/2) or more of the area of land within the Community Facilities District. The City Council hereby finds that the proposed special taxes have not been precluded by a majority protest pursuant to Section 53324 of the Act.

SECTION 11. The annual appropriations limit (as defined in Section 8(h) of Article XIII B of the California Constitution) of the Community Facilities District is hereby established at \$20,000,000.

SECTION 12. An election is hereby called for the Community Facilities District on the propositions of levying the special taxes on the property within the Community

Facilities District and establishing the appropriations limit for the Community Facilities District pursuant to Section 53325.7 of the Act. The language of the proposition to be placed on the ballot is **attached** hereto as **Attachment B**.

SECTION 13. The date of the election for the Community Facilities District on the proposition of authorizing the levy of the special taxes and establishing the appropriations limit for the Community Facilities District shall be May 1, 2012. The City Clerk shall conduct the election. Except as otherwise provided by the Act, the election shall be conducted by personally delivered or mailed ballot and in accordance with the provisions of law regulating elections of the City insofar as such provisions are determined by the City Clerk to be applicable.

The City Council having found that there have been fewer than twelve persons registered to vote within the territory of the Community Facilities District for each of the ninety days preceding the close of the public hearing described above, pursuant to Section 53326 of the Government Code each landowner who is the owner of record on the date hereof or the authorized representative thereof shall have one vote for each acre or portion thereof that he or she owns within the Community Facilities District.

SECTION 14. The preparation of the Report is hereby ratified. The Report, as submitted, is hereby approved and is made a part of the record of the public hearing regarding the formation of the Community Facilities District, and is ordered to be kept on file with the transcript of these proceedings and open for public inspection.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh


NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

ATTACHMENT A

CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2012-1 (KIERNAN BUSINESS PARK SOUTH)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

Special Taxes applicable to each Assessor's Parcel in Community Facilities District No. 2012-1 (Kiernan Business Park South) 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. 2012-1, 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. 2012-1 unless a separate Rate and Method of Apportionment of Special Tax is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

“Acre” or “Acreage” means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable Final Map or other Subdivision Map.

“Administration Component” means the portion of the Maximum One-Time Facilities Special Tax that is for administrative costs incurred by the City throughout the term of the One-Time Facilities Special Tax including, but not limited to, costs associated with the preparation and oversight of reimbursement agreements, accounting, and tracking of credits. For Original Parcels, the Administration Component is shown in Attachment 1 to this RMA. Beginning in January 2013 and each January thereafter, the Administration Component shall be adjusted annually by the greater of: (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available; or (ii) four percent (4.0%). Each annual adjustment of the Administration Component shall become effective on January 1 of the calendar year for which the annual adjustment was made.

“Administrative Expenses” means any or all of the following: expenses incurred by the City in carrying out its duties with respect to CFD No. 2012-1, 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 Tax.

“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 for 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 Facilities” or **“Authorized Facility”** means those facilities that are authorized to be funded by CFD No. 2012-1, including land purchases for right-of-way and a storm drainage basin, and any other land that is acquired to construct an Authorized Facility.

“Authorized Services” means those services that are authorized to be funded by CFD No. 2012-1.

“Base 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 not including the Administration Component. For Original Parcels, the Base Maximum One-Time Facilities Special Tax is shown in Attachment 1 to this RMA. Beginning in January 2013 and each January thereafter, the Base Maximum One-Time Facilities Special Tax shall be adjusted annually by the greater of: (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available; or (ii) four percent (4.0%). Each annual adjustment of the Base Maximum One-Time Facilities Special Tax shall become effective on January 1 of the calendar year for which the annual adjustment was made.

“Base Year” means the year in which Authorized Facilities dedicated by a Builder/Developer were accepted by the City. The Administrator shall keep track of the Base Year for each Authorized Facility the City accepts.

“Building Permit” means a permit issued by the City’s Building Department for construction, reconstruction, or expansion of a vertical building structure, or for construction of the foundation of such structure.

“Builder/Developer” means a person or entity that is a property owner, builder, or developer of any Parcel or Parcels within CFD No. 2012-1.

“CFD” or **“CFD No. 2012-1”** means the City of Modesto Community Facilities District No. 2012-1 (Kiernan Business Park South).

“CFD Formation” means the date on which the Resolution of Formation to form CFD No. 2012-1 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. 2012-1.

“County” means the County of Stanislaus.

“Credit/Reimbursement Amount” means the Authorized Facilities costs that have been paid in advance by a Builder/Developer (including land dedications for which the Builder/Developer will receive credits and/or reimbursements) and have not yet been reimbursed to that Builder/Developer through one of the following: (i) the application of Special Tax Credits (as defined below) or (ii) payments to the Builder/Developer from One-Time Facilities Special Taxes collected from other Builders/Developers in the CFD. The Credit/Reimbursement Amount outstanding at any point in time will be determined pursuant to Section D below.

“Developed Property” means, in any Fiscal Year, all Parcels for which one or more of the following events have occurred: (i) a Building Permit was issued prior to June 30 of the preceding Fiscal Year; or (ii) the City has accepted improvements, infrastructure, or public facilities that were constructed as a condition of development of the Parcel (not including the acceptance of land by the City for public right-of-ways that will be a site for future improvements, infrastructure, or public facilities) and were constructed, or paid to be constructed, by the owner of such Parcel. Notwithstanding the foregoing, the Parcel identified at CFD Formation as APN 078-018-036 shall not be classified as Developed Property until such time as a connection to the City’s storm drainage system occurs, and it shall be at the discretion of the City to determine whether or not such a connection has occurred. In addition, a Parcel that had an existing building, or had a Building Permit issued, prior to CFD Formation shall not be classified as Developed Property until such time as a new Building Permit is issued for the Parcel that creates a new vertical structure or structures if such new structures do not simply support or represent an addition to the building that occupied the Parcel or had a Building Permit issued prior to CFD Formation.

“Final Map” means a final map, parcel 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.

“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 Section C below.

“Maximum CFD Maintenance Cost” means \$80,053 in Fiscal Year 2012-13 dollars, and includes the estimated annual cost of Administrative Expenses. Beginning in January 2013 and each January thereafter, the Maximum CFD Maintenance Cost Tax shall be adjusted annually by the greater of: (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is

discontinued or otherwise not available; or (ii) four percent (4.0%). Each annual adjustment of the Maximum CFD Maintenance Cost shall become effective on July 1 of the calendar year for which the annual adjustment was made.

“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, which is equal to the sum of the Base Maximum One-Time Facilities Special Tax and the Administration Component for the Parcel. For Original Parcels, the Maximum One-Time Facilities Special Tax is shown in Attachment 1 to this RMA. Notwithstanding the foregoing, the City may allow adjustments to the Maximum One-Time Facilities Special Tax assigned in Attachment 1 if all of the following occur: (i) there are changes in the Net Taxable Acreage estimates for Original Parcels, (ii) based on those changes, the City concludes that a redistribution of the Maximum One-Time Facilities Special Tax is appropriate, and (iii) written confirmation is received from the owner of each Parcel that will be affected by the redistribution. Once all these items have occurred, the Administrator shall prepare a new Attachment 1 which shall henceforth be the operative RMA for purposes of calculating the Maximum One-Time Facilities Special Tax. For all other Parcels, the Maximum One-Time Facilities Special Tax is determined in accordance with Section C below.

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

“Net Taxable Acre” or **“Net Taxable Acreage”** means the total gross Acreage within a Final Map or Parcel less road right-of-ways and property that is identified 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 a subdivision, the Administrator shall calculate the Net Taxable Acreage of such Parcels by identifying the Acreage of the Parcel and (i) adding a portion of the acreage of any 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 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 at 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 Building Permit being issued for new construction on Taxable Property.

“Original Parcel” means any of the Assessor’s Parcels that were included in the CFD at the time of CFD Formation, as identified in Attachment 1 to this RMA. A Parcel that was created from the subdivision of an Original Parcel and is being further subdivided shall also be considered an Original Parcel for purposes of determining the Maximum Special Taxes pursuant to Section C.

“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.

“**Public Property**” means any property within the boundaries of CFD No. 2012-1 that is owned by the federal government, State of California, County, City, or other public agency.

“**RMA**” means this Rate and Method of Apportionment of Special Tax.

“**Special Tax Credit**” means a waiver of the creditable portion of the Base One-Time Facilities Special Tax that would otherwise be due from a Parcel in the CFD if the Builder/Developer of that Parcel did not have an outstanding Credit/Reimbursement Amount.

“**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, tentative map, or other map recorded with the County and/or approved by the City that results in the subdivision of a Parcel or a change in the quantity or type of proposed land uses.

“**Taxable Property**” means all of the Assessor’s Parcels within the boundaries of CFD No. 2012-1 which are not exempt from the Special Taxes pursuant to law or Section G below.

“**Taxable Public Property**” means, in any Fiscal Year, all Parcels of Public Property within CFD No. 2012-1 that: (i) based on a tentative map or other Subdivision Map, were expected to be Taxable Property; and (ii) based on this expectation, Maximum Special Taxes were assigned to the Parcels in a prior Fiscal Year. However, if Parcels designated as Public Property based on a tentative map or other Subdivision Map are relocated, the new Public Property will again become exempt. If such relocation occurs, the Acreage previously designated as Public Property will become Taxable Property and the Acreage that becomes Public Property will not be taxed. This trading of Acres of Public Property will be permitted to the extent that there is no net loss in Maximum Special Tax revenues.

“**Undeveloped Property**” means, in any Fiscal Year, all Parcels of Taxable Property within CFD No. 2012-1 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. 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 for each Parcel; and (iii) the Annual Maintenance Special Tax Requirement. In addition, the Administrator shall update Attachment 1 to this RMA pursuant to Section C as Original Parcels are subdivided.

In any Fiscal Year, if it is determined that (i) a Final Map for a portion of property in the CFD 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 Final Map was recorded, the Assessor does not yet recognize the new Parcels created by the Final Map, and (iii) one or more of the newly-created Parcels meets the definition of Developed Property, the Administrator shall calculate the Special Taxes for the property affected by recordation of the Final Map by determining the Special

Taxes that apply separately to each newly-created Parcel, then applying the sum of the individual Special Taxes to the Parcel that was subdivided by recordation of the Final Map.

C. CALCULATING MAXIMUM SPECIAL TAXES

The Administrator shall use the procedures set forth below to calculate the Maximum Special Taxes for each Parcel in CFD No. 2012-1 in each Fiscal Year, including the Maximum One-Time Facilities Special Tax and the Maximum Annual Maintenance Special Tax.

1. Maximum One-Time Facilities Special Tax

The Maximum One-Time Facilities Special Tax for each Original Parcel in CFD No. 2012-1 at the time of CFD Formation is shown in Attachment 1 to this RMA. Each time a Subdivision Map is approved within the CFD or when Parcels are otherwise subdivided or reconfigured, the Administrator shall reallocate the Maximum One-Time Facilities Special Tax assigned to each Original Parcel to the newly-created Parcel(s) within the Subdivision Map as follows:

- Step 1.** For any given point in time, calculate the Base Maximum One-Time Facilities Tax and the Administration Component applicable to the Original Parcel being subdivided.
- Step 2.** Determine the Net Taxable Acreage of each Parcel created by the approval of the Subdivision Map.
- Step 3.** Sum the Net Taxable Acreage from Step 2 for all newly-created Parcels to determine the total Net Taxable Acreage resulting from the subdivision of the Original Parcel.
- Step 4.** For each newly-created Parcel, divide the Net Taxable Acreage determined in Step 2 by the total Net Taxable Acreage of the Original Parcel determined in Step 3 to calculate a percentage.
- Step 5.** For each newly-created Parcel, multiply the percentage calculated in Step 4 by the amounts calculated in Step 1 to determine the Base Maximum One-Time Facilities Special Tax and Administration Component to be allocated to each newly-created Parcel.
- Step 6.** For each newly-created Parcel, add the Base Maximum One-Time Facilities Special Tax and the Administration Component calculated in Step 5 to determine the Maximum One-Time Facilities Special Tax. Attachment 1 of this RMA will be updated by the Administrator each time an Original Parcel is subdivided to show the Base Maximum One-Time Facilities Special Tax, the Administration Component, and the Maximum One-Time Facilities Special Tax for each newly-created Parcel.

Under no circumstances shall the sum of the Maximum One-Time Facilities Special Tax for all Parcels created by the subdivision or reconfiguration of an

Original Parcel ever be less than the Maximum One-Time Facilities Special Tax of the Original Parcel.

2. Annual Maintenance Special Tax

Each Fiscal Year, the Maximum Annual Maintenance Special Tax shall be determined for each Parcel of Developed Property using the following methodology:

- Step 1.** For any Fiscal Year, calculate the total Maximum CFD Maintenance Cost.
- Step 2.** Determine the Net Taxable Acreage of all Parcels of Developed Property.
- Step 3.** Divide the Net Taxable Acreage of each Parcel of Developed Property by the total Net Taxable Acreage of all Parcels of Developed Property calculated in Step 2 to obtain a percentage for each Parcel.
- Step 4.** Multiply the percentage calculated in Step 3 by the Maximum CFD Maintenance Cost in Step 1 to determine the Maximum Annual Maintenance Special Tax for each Parcel of Developed Property for the then-current Fiscal Year.

D. IMPLEMENTATION OF CREDIT/REIMBURSEMENT PROGRAM

Certain Builders/Developers may be required to construct, pay for, or provide Authorized Facilities that are ultimately intended to be funded from One-Time Facilities Special Tax revenues. The City shall implement a Special Tax Credit and reimbursement program, so that Builders/Developers that construct, pay for or provide Authorized Facilities will receive a credit against their Base Maximum One-Time Facilities Special Tax and/or be reimbursed for Authorized Facilities costs, if revenues are available.

At the request of the landowners at the time this RMA was prepared and CFD No. 2012-1 was formed, all credits and reimbursements to Builders/Developers who construct, pay for, or provide Authorized Facilities shall be based on the actual cost of those Authorized Facilities, with the exception of right-of-way and storm drainage basin land costs, which shall be reimbursed at fair market value at the time of dedication, as determined by the City. Pursuant to this request, if the cost of the Authorized Facility constructed, paid for, or provided is less than the Builder/Developer's Base Maximum One-Time Facilities Special Tax, the Builder/Developer shall receive a Special Tax Credit against their Base Maximum One-Time Facilities Special Tax equal to the actual cost of the Authorized Facility constructed, paid for, or provided, and the remaining Base Maximum One-Time Facilities Special Tax shall be paid by the Builder/Developer in addition to the full Administration Component.

Alternatively, if the cost of the Authorized Facility constructed, paid for, or provided exceeds the Builder's/Developer's Base Maximum One-Time Facilities Special Tax, the Builder/Developer will qualify for a Special Tax Credit and/or a reimbursement from the

collection of future One-Time Facilities Special Taxes, as set forth below; the Builder/Developer must still pay the full Administration Component. Notwithstanding the foregoing, there is no guarantee that future One-Time Facilities Special Taxes will be available to reimburse the Builder/Developer. All Credit/Reimbursement Amounts shall be determined by the City based on evidence of costs provided to the City by the Builder/Developer.

The landowners at the time this RMA was prepared and CFD No. 2012-1 was formed also requested that a Builder/Developer not receive any Special Tax Credits if other Builders/Developers have unpaid Credit/Reimbursement Amounts outstanding that have a higher priority for reimbursement. In other words, any outstanding Credit/Reimbursement Amounts for Builders/Developers that have a higher reimbursement priority shall be fully paid prior to Special Tax Credits being applied to a Builder/Developer with a lower reimbursement priority.

The following steps shall be applied to implement the credit/reimbursement program summarized above:

1. On an Ongoing Basis

- a. In January 2013 and each January thereafter, the Administrator shall escalate the Maximum One-Time Facilities Special Tax assigned to each Parcel and the Credit/Reimbursement Amount outstanding for any Builder/Developer 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 shall become effective on January 1 of the calendar year for which the annual adjustment was made.
- b. The City shall determine whether One-Time Facilities Special Tax revenues are available to reimburse Builders/Developers that have an outstanding Credit/Reimbursement Amount. If such revenues are available, the City shall pay reimbursements on a “first-incurred/first-paid” basis, as determined by the Base Year for each Authorized Facility accepted by the City. Once the Builder/Developer with first priority is fully reimbursed, the Builder/Developer with second priority will be able to take Special Tax Credits against their One-Time Facilities Special Tax and, if a Credit/Reimbursement Amount is still outstanding, be paid such outstanding Credit/Reimbursement amount if and when One-Time Facilities Special Tax revenues are available. Such reimbursement shall continue until the earlier of (i) the date on which all outstanding Credit/Reimbursement Amounts are paid, or (ii) the date on which no One-Time Facilities Special Tax revenues are available to pay outstanding Credit/Reimbursement Amounts and no additional One-Time Facilities Special Tax revenues are anticipated to be received by the City. There is no guarantee that

all Credit/Reimbursement Amounts will be paid to Builders/Developers.

2. At any time that Authorized Facilities are accepted by the City

The Administrator shall apply the following steps each time Authorized Facilities are dedicated to the City and the City accepts such dedication(s):

- Step 1.** Determine the total cost of Authorized Facilities accepted by the City. This total cost shall be the Credit/Reimbursement Amount applicable to the Builder/Developer that dedicated the Authorized Facilities.
- Step 2.** Identify and record the Base Year for the Authorized Facilities and determine priority for the Builder's/Developer's Credit/Reimbursement Amount relative to outstanding Credit/Reimbursement Amounts owed to other Builders/Developers.
- Step 3.** Beginning in the calendar year that commences after the Base Year, the Administrator shall escalate the Credit/Reimbursement Amount determined in Step 1 each year as outlined in Section D.1 above. If a Builder/Developer constructed, paid for, or provided Authorized Facilities with different Base Years, the Credit/Reimbursement Amount shall be escalated taking the different Base Years into account.

3. Prior to issuance of a Building Permit

When a Builder/Developer requests issuance of a Building Permit, the Administrator shall determine if the Builder/Developer has an outstanding Credit/Reimbursement Amount and apply the appropriate subsection below to determine the Credit/Reimbursement Amount and remaining One-Time Facilities Special Taxes (if any) for the Builder/Developer:

- a. A Credit/Reimbursement Amount is outstanding for the Builder/Developer requesting issuance of a Building Permit, and the Builder/Developer has first priority with respect to their Credit/Reimbursement Amount.**

For any Fiscal Year, the Administrator shall apply the following steps to determine the Maximum One-Time Facilities Special Tax, if any, that is due from the subject Parcel(s):

- Step 1.** Identify the Base Maximum One-Time Facilities Special Tax that would have been paid by the Parcel(s) if no Credit/Reimbursement Amount were outstanding.
- Step 2.** *If the Base Maximum One-Time Facilities Special Tax determined in Step 1 is less than the outstanding Credit/Reimbursement*

Amount for the Builder/Developer, the Administration Component shall be collected and the Builder/Developer shall be given a Special Tax Credit against the Base Maximum One-Time Facilities Special Tax for that Parcel(s). After the Special Tax Credit has been calculated, the Administrator shall subtract the aggregate amount of such Special Tax Credits from the outstanding Credit/Reimbursement Amount for the Builder/Developer, and the Builder/Developer shall qualify for reimbursement of the remaining Credit/Reimbursement Amount to the extent One-Time Facilities Special Tax revenues are available.

*If the Base Maximum One-Time Facilities Special Tax is **greater** than the outstanding Credit/Reimbursement Amount for the Builder/Developer, the Administrator shall subtract the outstanding Credit/Reimbursement Amount from the Base Maximum One-Time Facilities Special Tax to determine the net amount of the Base Maximum One-Time Facilities Special Tax that must be paid by the Builder/Developer. In addition, the Builder/Developer must pay the full Administration Component assigned to the Parcel(s) for which the Building Permit is being issued. The Administrator shall update the CFD records to reflect a zero Credit/Reimbursement Amount for that Builder/Developer.*

- b. **A Credit/Reimbursement Amount is outstanding for the Builder/Developer requesting issuance of a Building Permit, and the Builder/Developer does not have first priority with respect to their Credit/Reimbursement Amount.**

For any Fiscal Year, the Administrator shall apply the following steps to determine the Maximum One-Time Facilities Special Tax, if any, that is due from the subject Parcel(s):

- Step 1.** Identify the Base Maximum One-Time Facilities Special Tax that would have been paid by the Parcel(s) if no Credit/Reimbursement Amount were outstanding.
- Step 2.** Identify the aggregate outstanding Credit/Reimbursement Amounts that have a higher priority than the amount due the Builder/Developer requesting issuance of a Building Permit.
- Step 3.** *If the Base Maximum One-Time Facilities Special Tax determined in Step 1 is less than the Credit/Reimbursement Amounts that are due other Builders/Developers as determined in Step 2, the Base Maximum One-Time Facilities Special Tax and the Administration Component shall be collected from the Builder/Developer requesting issuance of a Building Permit. The Base One-Time Facilities Special Tax collected shall be used to reimburse Builders/Developers with higher reimbursement*

priority, and the Administration Component collected shall be retained by the City. The Builder/Developer requesting issuance of a Building Permit shall then qualify for a reimbursement of their entire Credit/Reimbursement Amount and be placed in order of priority behind any remaining Builders/Developers that still have outstanding Credit/Reimbursement Amounts.

*If the Base Maximum One-Time Facilities Special Tax determined in Step 1 is **greater** than the Credit/Reimbursement Amounts that are due all other Builders/Developers as determined in Step 2, the Administration Component and the amount of the aggregate Credit/Reimbursement Amounts that are due other Builder/Developers shall be collected from the Builder/Developer requesting issuance of a Building Permit. The outstanding Credit/Reimbursement Amounts due all other Builder/Developers shall be subtracted from the Base Maximum One-Time Facilities Special Tax to determine the net amount of the Base Maximum One-Time Facilities Special Tax that must be paid by the Builder/Developer. Using this net amount of the Base Maximum One-Time Facilities Special Tax as the starting point, the steps in Section D.3.a shall be applied to determine the remaining One-Time Facilities Special Tax and/or outstanding Credit/Reimbursement amount, if any, applicable to the Builder/Developer requesting issuance of a Building Permit.*

- c. **No Credit/Reimbursement Amount is outstanding for the Builder/Developer requesting issuance of a Building Permit**

If no Credit/Reimbursement Amount is outstanding for the Builder/Developer requesting issuance of a Building Permit, then the Maximum One-Time Facilities Special Tax as calculated pursuant to Section C.1 above shall be due and payable to the City.

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. 2012-1 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 that Fiscal Year. 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;

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 on Taxable Property within CFD No. 2012-1, and shall be immediately delinquent if not so paid.

The Annual Maintenance Special Tax for CFD No. 2012-1 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 will continue to be levied and collected unless and until the City determines that the Annual Maintenance Special Tax no longer needs to be levied to pay for Authorized Services and Administrative Expenses.

G. EXEMPTIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no Special Taxes shall be levied on Public Property, except Taxable Public Property, as defined herein. Special Taxes shall not be levied on Parcels that are owned by a public utility for an unmanned facility or on Parcels that are subject to an easement that precludes any other use on the Parcels. In addition, no Annual Maintenance Special Tax shall be levied on any Parcel of Undeveloped Property.

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 apportioning the Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City's discretion. Interpretations may be made by the City by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment of Special Tax.

I. ENFORCEMENT

All delinquent Annual Maintenance Special Taxes billed off the County tax roll shall be subject to an immediate 10% penalty plus interest charges of 1.5% as of the first day of the month after the delinquency date and on the first day of each month thereafter. Any such delinquent Special Taxes shall, at the City's discretion, be placed on the next secured property tax roll. The amount placed on the roll shall include the 10% penalty and the interest charges through the following January 1. This shall not prevent the City from simultaneously pursuing the delinquency by an action on a contract of guarantee against a third party who promised to pay the taxes, or from assigning such right of action to the property owner or other appropriate party.

ATTACHMENT 1

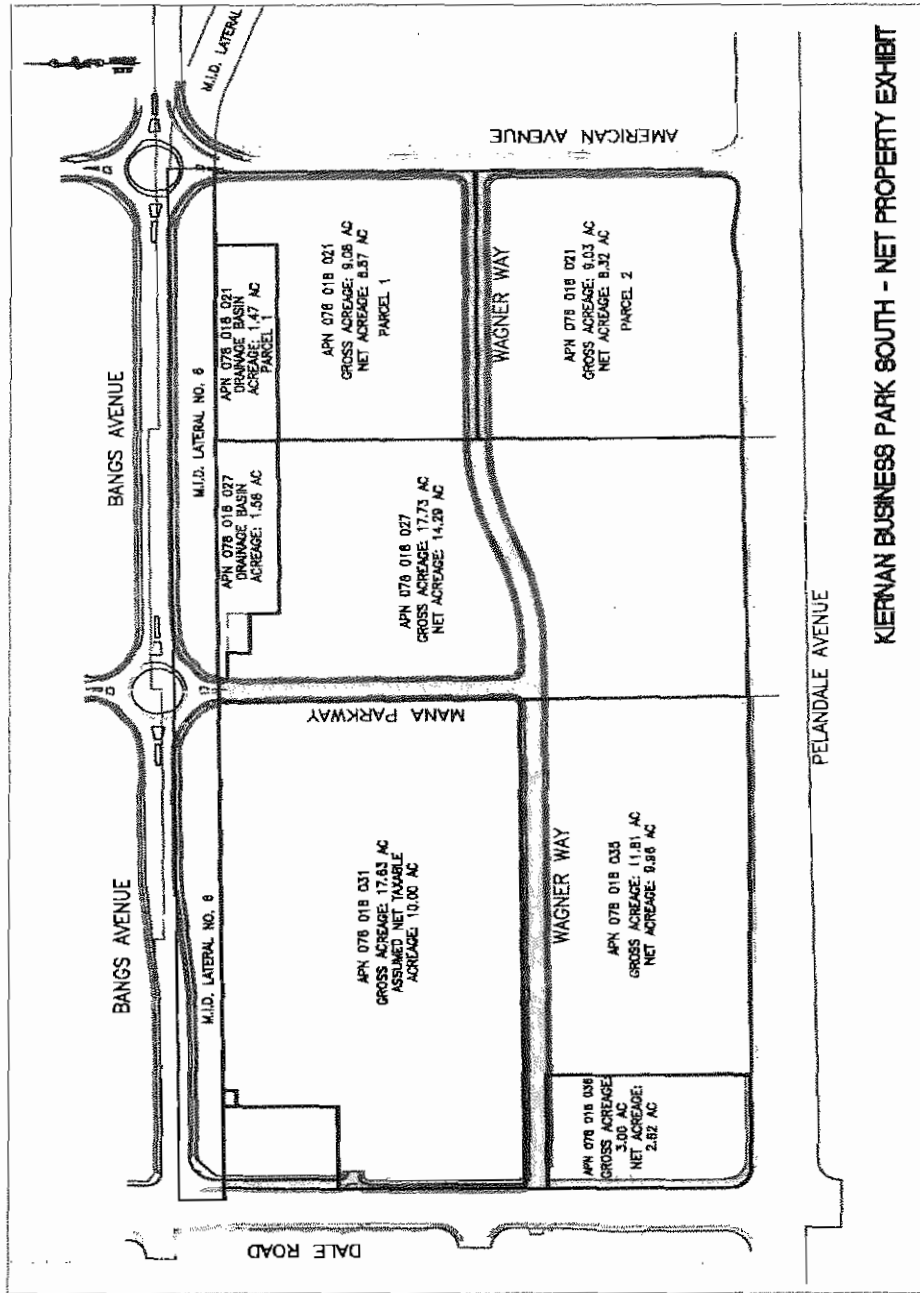
**City of Modesto Community Facilities District No. 2012-1
(Kiernan Business Park South)
Maximum One-Time Facilities Special Tax
at CFD Formation**

<i>Assessor's Parcel Number (Original Parcels)^{/1}</i>	<i>Net Taxable Acreage</i>	<i>Base Maximum One-Time Facilities Special Tax^{/2}</i>	<i>Administration Component^{/2}</i>	<i>Maximum One- Time Facilities Special Tax</i>
078-018-021 (1)	6.87	\$ 1,351,942	\$ 14,502	\$ 1,366,444
078-018-021 (2)	8.32	1,803,001	17,563	1,820,564
078-018-027	14.29	2,948,137	30,166	2,978,303
078-018-031 ^{/3}	14.00	3,035,561	29,553	3,065,114
078-018-035	9.96	2,233,405	26,556	2,259,961
078-018-036	2.62	0	0	0
Total		<u>\$11,372,045</u>	<u>\$118,341</u>	<u>\$ 11,490,386</u>

- /1 At the time of CFD Formation, APN 078-018-021 was anticipated to be subdivided into two separate parcels based on a preliminary parcel map submitted to the City. Attachment 2 to this RMA shows the geographic locations of APN 078-018-021 (1) and APN 078-018-021 (2) based on this preliminary parcel map. The Maximum One-Time Facilities Special Taxes shown above for these two Parcels were calculated based on this preliminary parcel map.
- /2 Represents the Base Maximum One-Time Facilities Special Tax and the Administration Component at the time of CFD Formation. Beginning in January 2013 and each January thereafter, the Base Maximum One-Time Facilities Special Tax and the Administration Component shall be adjusted annually by the greater of: (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available; or (ii) four percent (4.0%). Each annual adjustment of the Base Maximum One-Time Facilities Special Tax and the Administration Component shall become effective on January 1 of the calendar year for which the annual adjustment was made.
- /3 At the time of CFD Formation, APN 078-018-031 was not included in the CFD. This Parcel may or may not annex to the CFD at a future date, and it will not pay its Maximum One-Time Facilities Special Tax until such time as it annexes to the CFD and a Building Permit is issued for construction on the Parcel.

ATTACHMENT 2

City of Modesto Community Facilities District No. 2012-1
 (Kiernan Business Park South)
 Identification of Original Parcels
 at CFD Formation



KIERNAN BUSINESS PARK SOUTH - NET PROPERTY EXHIBIT

ATTACHMENT B

BALLOT PROPOSITION

**CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2012-1 (KIERNAN BUSINESS PARK
SOUTH)**

SPECIAL ELECTION

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall City of Modesto Community Facilities District No.2012-1 (Kiernan Business Park South) (the "Community Facilities District") be authorized to levy special taxes in accordance with a rate and method of apportionment as provided in the Resolution of Formation to finance (i) the costs of planning, designing, constructing, acquiring, modifying, expanding, improving, furnishing, equipping or rehabilitating certain real and other tangible property with an estimated useful life of five years or longer, consisting of certain storm drain system, transportation, landscaping and lighting system improvements and appurtenances and appurtenant work and to finance the incidental expenses associated therewith, all as further provided in the resolution of the Council of the City of Modesto establishing the Community Facilities District (the "Resolution of Formation"), (ii) certain administrative expenses and (iii) the cost of maintaining parkways, landscaped medians, bike paths, well sites, storm drainage pumps and basins, and related facilities, and shall the annual appropriations limit of Community Facilities District No. 2012-1 (Kiernan Business Park South) be established in the amount of \$20,000,000?

YES _____

NO _____

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-166**

**A RESOLUTION CALLING A SPECIAL ELECTION FOR THE CITY OF
MODESTO COMMUNITY FACILITIES DISTRICT NO. 2012-1 (KIERNAN
BUSINESS PARK SOUTH)**

WHEREAS, on this date, this City Council adopted a resolution entitled “A Resolution Establishing City of Modesto Community Facilities District No. 2012-1 (Kiernan Business Park South), and Authorizing the Levy of Special Taxes Therein and Establishing an Annual Appropriations Limit” (the “Resolution of Formation”), which established the City of Modesto Community Facilities District No. 2012-1 (Kiernan Business Park South) (the “Community Facilities District”), authorized the levy of special taxes therein, and established an annual appropriations limit, and

WHEREAS, pursuant to the provisions of the Resolution of Formation, a proposition to authorize the levy of special taxes within the Community Facilities District and to establish an appropriations limit of the Community Facilities District is to be submitted to the qualified electors of the Community Facilities District as required by the Mello-Roos Community Facilities Act of 1982, as amended (the “Act”),

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto, acting as the legislative body of the City of Modesto Community Facilities District No. 2012-1 (Kiernan Business Park South), hereby finds and determines as follows:

SECTION 1. The City Council has heretofore found that fewer than twelve persons have been registered to vote within the territory of the Community Facilities District for the ninety days preceding the close of the public hearing heretofore held by the City Council for the purposes of these proceedings. Accordingly, the vote shall be by

the land owners of the Community Facilities District, and each owner of record at the close of such public hearing, or the authorized representative thereof, shall have one vote for each acre or portion of an acre that he or she owns within the Community Facilities District.

SECTION 2. The date of the election shall be May 1, 2012, and the City Clerk shall conduct the election. The election shall be conducted by personally delivered or mailed ballots and in accordance with the provisions of law regulating elections of the City insofar as such provisions are determined by the City Clerk to be applicable. The voted ballots shall be returned to the City Clerk not later than 9:00 p.m. on May 1, 2012; provided that if all of the qualified electors have voted prior to such time, the election may be closed by the City Clerk.

SECTION 3. The form of the ballot for the election is **attached** hereto as **Exhibit A** and by this reference incorporated herein. The City Clerk shall cause to be delivered to each of the qualified electors of the Community Facilities District a ballot in said form. Each ballot shall indicate the number of votes to be voted by the respective elector based upon the number of acres of land owned by such elector as set forth above. The identification envelope for return of the ballot shall be enclosed with the ballot, shall have the postage prepaid and shall contain (a) the name and address of the landowner, (b) a declaration, under penalty of perjury, stating that the elector is the owner of record, or the authorized representative thereof, and is the person whose name appears on the identification envelope, (c) the printed name, signature and address of the elector, (d) the date of signing and place of execution of the declaration described above and (e) a notice

that the envelope contains an official ballot and is to be opened only by the canvassing board. Analysis and arguments with respect to the ballot proposition are hereby waived.

SECTION 4. The City Clerk shall accept the ballots of the qualified electors in the office of the City Clerk to and including 9:00 p.m. on May 1, 2012 whether said ballots shall be personally delivered or received by mail.

SECTION 5. There is on file with the City Clerk a written instrument executed by each qualified elector of the Community Facilities District requesting a shortening of the time for the special election in order to expedite the process of formation of the Community Facilities District and waiving any requirement for analysis and arguments in connection therewith.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A
OFFICIAL BALLOT
CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2009-1 (KIERNAN BUSINESS PARK SOUTH)

May 1, 2012

SPECIAL ELECTION

This ballot is for a special, landowner election. You must return this ballot in the enclosed envelope to the office of the City Clerk of the City of Modesto no later than 9:00 p.m. on May 1, 2012, either by mail or in person. The City Clerk's offices are located at 1010 Tenth Street, Modesto, California 95353.

INSTRUCTIONS TO VOTERS:

To vote on the measure, make a "+," "x" or other distinguishing mark on the line after the word "Yes" or on the line after the word "No." If you wrongly mark, tear or deface this ballot, return it to the City Clerk and obtain another.

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall City of Modesto Community Facilities District No. 2012-1 (Kiernan Business Park South) (the "Community Facilities District") be authorized to levy special taxes in accordance with a rate and method of apportionment as provided in the Resolution of Formation to finance (i) the costs of planning, designing, constructing, acquiring, modifying, expanding, improving, furnishing, equipping or rehabilitating certain real and other tangible property with an estimated useful life of five years or longer, consisting of certain storm drain system, transportation, landscaping and lighting system improvements and appurtenances and appurtenant work and to finance the incidental expenses associated therewith, all as further provided in the resolution of the Council of the City of Modesto establishing the Community Facilities District (the "Resolution of Formation"), (ii) certain administrative expenses and (iii) the cost of maintaining parkways, landscaped medians, bike paths, well sites, storm drainage pumps and basins, and related facilities, and shall the annual appropriations limit of Community Facilities District No. 2012-1 (Kiernan Business Park South) be established in the amount of \$20,000,000?

YES _____

NO _____

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-167**

**A RESOLUTION DECLARING THE RESULTS OF A SPECIAL ELECTION
AND APPROVING CERTAIN RELATED ACTIONS PERTAINING TO CITY OF
MODESTO COMMUNITY FACILITIES DISTRICT NO. 2012-1 (KIERNAN
BUSINESS PARK SOUTH)**

WHEREAS, this City Council, acting as the legislative body of the City of Modesto Community Facilities District No. 2012-1 (Kiernan Business Park South) (the “Community Facilities District”), called and duly held an election of the Community Facilities District pursuant to resolutions adopted by the City Council on May 1, 2012 for the purpose of presenting to the qualified electors within the Community Facilities District a proposition (the “Proposition”) for (a) the levy of special taxes in accordance with the rate and method of apportionment of special tax set forth in the resolution forming the Community Facilities District and (b) the establishment of an appropriations limit for the Community Facilities District, and

WHEREAS, there has been presented to the City Council a Certificate of the City Clerk as to the Results of the Canvass of the Election Returns, a copy of which is **attached** hereto as **Attachment “A”**,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto, acting as the legislative body of the City of Modesto Community Facilities District No. 2012-1 (Kiernan Business Park South), hereby finds and determines as follows:

SECTION 1. The above recitals are true and correct.

SECTION 2. Two-thirds or more of the votes cast by the qualified electors of the Community Facilities District at the special election held on May 1, 2012 on the Proposition were cast in favor of the Proposition, and the Proposition carried. The

City Council, acting as the legislative body of the Community Facilities District, is hereby authorized to take the necessary steps to levy the special taxes authorized by the Proposition.

SECTION 3. The City Clerk is hereby authorized and directed to execute and cause to be recorded in the office of the County Recorder of Stanislaus County a notice of special tax lien in the form required by law, said recording to occur no later than fifteen days following adoption of this Resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

ATTACHMENT "A"

CERTIFICATE OF CITY CLERK

AS TO RESULTS OF THE CANVAS OF ELECTION RETURNS

STATE OF CALIFORNIA)
) ss.

COUNTY OF STANISLAUS)

As City Clerk of the City of Modesto, I do hereby certify that I have examined the returns of the special election for City of Modesto Community Facilities District No. 2012-1 (Kiernan Business Park South) (the "Community Facilities District"). With my concurrence, the election was conducted on May 1, 2012. On or prior to said date I had mailed or personally delivered a ballot to the landowner listed on the latest equalized assessment roll prepared by the Stanislaus County Assessor prior to May 1, 2012 or otherwise known by me to own the property within the boundaries of the Community Facilities District. The landowner was given one vote for each acre, or portion thereof, that the landowner owns within the Community Facilities District.

I further certify that the results of said election and the number of votes cast for and against the Proposition are as follows:

YES: __

NO: __

TOTAL NUMBER OF VOTES CAST: _____

Dated this 1st day of May, 2012.

Stephanie Lopez,
City Clerk of the City of Modesto

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-168**

**RESOLUTION APPROVING A LETTER OF AGREEMENT FOR A
RESTRUCTURED AND EXTENDED MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF MODESTO AND MODESTO POLICE
MANAGEMENT ASSOCIATION (MPMA) FOR A TERM ENDING
SEPTEMBER 30, 2013 AND AUTHORIZING THE DIRECTOR OF HUMAN
RESOURCES AND CITY MANAGER TO TAKE THE NECESSARY
ADMINISTRATIVE ACTION TO IMPLEMENT THE AGREEMENT**

WHEREAS, the current Memorandum of Understanding (MOU) between the City of Modesto (CITY) and the Modesto Police Management Association (MPMA) expired on June 22, 2009, and

WHEREAS, representatives of the CITY and the MPMA met and conferred in good faith concerning wages, hours, terms and conditions of employment for employees in said bargaining unit, and

WHEREAS, the CITY and MPMA have reached agreement on a Letter of Agreement (LOA) for a restructured and extended MOU with a new expiration date of September 30, 2013 which, upon execution, shall be **attached** hereto and made a part hereof, and

WHEREAS, the LOA provides as follows:

SECTION 1. CONTRACT EXTENSION. All terms of the existing MOU are extended except as detailed below.

SECTION 2. TERM OF MEMORANDUM. Extend the end of the current term of the MOU from 12:00 a.m. on July 1, 2010 to 12:00 a.m. on September 30, 2013.

SECTION 3. SALARY. There shall be no salary increases for the term of this MOU except where the City and the Modesto Police Officers agree to salary increases or decreases. In that event, the City and MPMA will negotiate the equivalent increase or

decrease. If the parties fail to reach agreement on the implementation of equivalent increases or concessions, the parties will engage the assistance of a neutral to determine how the equivalent increase or concession shall be implemented. This process differs from interest arbitration under the City Charter. Interest arbitration pursuant to the terms of the City Charter is inapplicable to disputes under this provision.

SECTION 4. SALARY. The City shall undertake a study on the compaction, if any, between the ranks represented by the Modesto Police Officers Association (MPOA) and the ranks represented by the MPMA. This study shall be completed before June 30, 2013.

SECTION 5. OTHER COMPENSATION. Cash-out of management leave will be suspended for the term of the MOU. Lieutenants shall continue to be eligible to receive management leave, but will not be able to cash it out in December.

SECTION 6. RETIREMENT. Section 11 of the MOU shall be amended to include a second tier retirement formula and benefit will be implemented for new hires.

SECTION 7. HEALTH, DENTAL AND VISION INSURANCE. Effective March 1, 2012, the City shall increase its monthly contribution to employee only by \$25 and for employees with dependent coverage by \$50. The City will also provide a contribution of \$50 to a health saving account for employees in the high deductible health plan. There will be no increase in the opt out amount.

SECTION 8. RETIREE HEALTH INSURANCE. Section 12 of the MOU shall be amended to include a Defined Contribution Health Reimbursement Account for eligible employees hired on or after January 1, 2011 pursuant to LOA as **attached**.

SECTION 9. LAYOFF & DEMOTION PROCEDURES. Section 29 of the MOU shall be amended to include modifications to the layoff and demotions procedures for the MPMA. These modifications include: layoff and demotion by seniority; increasing the length of time an individual can remain on the reinstatement list from two years to three; and modification of the probationary period when employees are hired back from the reinstatement list.

WHEREAS, the Council considered this matter at its meeting of March 27, 2012,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the Letter of Agreement for a restructured and extended Memorandum of Understanding with a new expiration date of September 30, 2013 between the City of Modesto and the Modesto Police Management Association and upon execution of same, a copy of the MOU will be on file in the office of the City Clerk.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of May, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-169**

RESOLUTION APPROVING THE ALLOCATION OF I) HOME COMMUNITY HOUSING DEVELOPMENT ORGANIZATION (CHDO) OPERATING FUNDS IN THE AMOUNT OF \$50,000 TO STANCO AND \$50,000 TO HABITAT FOR HUMANITY, STANISLAUS; AND II) \$100,000 IN CHDO SET ASIDE FUNDS TO HABITAT FOR HUMANITY

WHEREAS, a CHDO is a specific type of private nonprofit entity, and

WHEREAS, CHDOs must meet certain requirements pertaining to their legal status; organizational structure; and capacity and experience, and

WHEREAS, applicants for CHDO set-aside and operating funds must be an approved CHDO through the City of Modesto and act as owner, developer or sponsor as required by HOME regulations, and

WHEREAS, as part of the HOME program, a minimum of fifteen percent (15%) must be allocated for housing development activities in which qualified Community Housing Development Organizations (CHDOs) are the owners, developers and/or sponsors of the housing, and

WHEREAS, the HOME funds set aside for CHDO activities may be used to acquire and/or rehabilitate rental housing and homebuyer properties or to construct rental or homebuyer properties, and

WHEREAS, to be eligible for CHDO operating funds, it must be anticipated that the CHDO will be receiving CHDO set-aside funds within 24 months of receiving the funds for operating expenses, and

WHEREAS, the City of Modesto released a Request for Proposals for CHDO Operating Funds and CHDO set aside funds on November 15, 2011, and

WHEREAS, the proposals were due on January 3, 2012, with the City receiving a proposal from STANCO for funds for operating expenses and Habitat for Humanity for operating expenses and CHDO set aside funds for a project located at 112 James Avenue in Modesto, to develop five single family units, and

WHEREAS, both organizations are certified CHDOs for the City of Modesto, and submitted the required recertification along with the proposals, and

WHEREAS, a sub-review committee from the CH&CDC reviewed the proposals and recommended to allocate \$50,000 to each organization for CHDO operating activities and \$100,000 to Habitat for Humanity for CHDO set aside activities but with some specific conditions, and

WHEREAS, it was recommended Habitat receive up to \$50,000 in a reimbursable basis for architectural and engineering expenses and prior to the release of the remaining \$50,000, Habitat's architect must submit to the City for approval, a Statement of Probable Cost along with plans for the James Avenue project, and

WHEREAS, the sub-review committee will meet to review the required documentation and approve the release of the remaining funds, and

WHEREAS, the Citizens' Housing and Community Development Committee (CH&CDC) considered the proposed recommendation at its April 18, 2012, meeting, and recommended that the City Council approve,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the allocation of \$50,000 in CHDO operating funds to both STANCO and Habitat for Humanity and the allocation of CHDO set aside funds in the

amount of \$100,000 to Habitat for Humanity with the conditions set by the sub-review committee.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of May, 2012, by Councilmember Lopez, who moved its adoption, with motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:


SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-170**

RESOLUTION APPROVING THE CITY OF MODESTO FISCAL YEAR 2012-2013 U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ANNUAL ACTION PLAN FOR THE USE OF THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG), HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME), AND EMERGENCY SOLUTIONS GRANT (ESG) FUNDS; AUTHORIZING SUBMISSION OF AN APPLICATION TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PERTAINING TO THE FISCAL YEAR 2012-2013 ANNUAL ACTION PLAN; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE REQUIRED CERTIFICATIONS AND DOCUMENTS FOR SUBMITTAL TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

WHEREAS, as an entitlement community for Housing and Urban Development, the City of Modesto is required to develop an Annual Action Plan (AAP) that describes anticipated uses of Community Development Block Grant (CDBG), Emergency Solutions Grant (ESG) and HOME Investment Partnerships Program (HOME) funds, 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 AAP is required to receive the City's entitlement grants from the U.S. Department of Housing and Urban Development (HUD), and

WHEREAS, the Citizens' Housing and Community Development Committee recommended support of this item at its April 18, 2012 meeting, and

WHEREAS, preparation of the AAP requires a citizens participation element, including a 30-day public comment period, and

WHEREAS, on April 3, 2012, a public notice was submitted and concluded with a public hearing on May 8, 2012, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the City of Modesto Fiscal Year 2012-2013 U.S. Department of Housing and Urban Development Annual Action Plan for the use of \$1,703,833 in Community Development Block Grant (CDBG) funds, \$671,157 in HOME Investment Partnerships Program (HOME) funds, and \$228,321 in Emergency Solutions Grant (ESG) funds, a copy of which is on file in the Office of the City Clerk.

BE IT FURTHER RESOLVED that City staff is hereby authorized to submit an application to the U.S. Department of Housing and Urban Development pertaining to the Fiscal Year 2012-2013 Annual Action Plan.

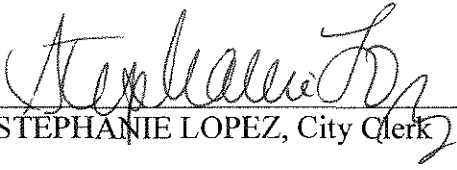
BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute the required certifications and documents for submittal to the U.S. Department of Housing and Urban Development.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of May, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-171**

RESOLUTION APPROVING THE ALLOCATION OF FUNDING IN THE AMOUNT OF \$256,880 IN COMMUNITY DEVELOPMENT BLOCK GRANT PUBLIC SERVICE GRANTS AND \$228,321 EMERGENCY SOLUTIONS GRANTS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENTS

WHEREAS, as an entitlement community for Housing and Urban Development, the City of Modesto is required to develop an Annual Action Plan (AAP) that describes anticipated uses of Community Development Block Grant (CDBG), Emergency Solutions Grant (ESG) and HOME Investment Partnerships Program (HOME) funds, and

WHEREAS, the City is obligated to allocate up to fifteen percent (15%) of the CDBG entitlement funds (plus fifteen percent (15%) of program income received during the prior year), to provide a wide range of public service activities to benefit low and moderate-income residents, and

WHEREAS, beginning in FY 2011-12, the City Council approved a two-year funding cycle for CDBG Public Services and ESG grants, which are competitively awarded through a request for proposals (RFP) process, and

WHEREAS, new federal regulations for the ESG program released in late 2011 changed the program focus from emergency shelter and transitional housing to permanent supportive housing for individuals and families experiencing homelessness, and those at risk of experiencing homelessness, and

WHEREAS, a second ESG allocation announced in the middle of the FY 2011-12 increased ESG funding in FY 2012-2013, and

WHEREAS, the City carried out a separate RFP as a result of new ESG requirements, and

WHEREAS, the Council-appointed Citizens' Housing & Community Development Committee (CH&CDC) reviews these proposals and makes funding recommendations, and

WHEREAS, the grant amounts of the CDBG Public Services and ESG funding recommendations have been adjusted for the second year of this two-year funding cycle to reflect the available funding for FY 2012-13, and

WHEREAS, these allocations are detailed in the City's AAP, and

WHEREAS, preparation of the AAP requires a citizens participation element, including a 30-day public comment period, and

WHEREAS, the 30-day public comment period began on April 3, 2012, and concluded with a public hearing scheduled for the Council meeting of May 8, 2012,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the allocation of funding in the amount of \$256,880 in Community Development Block Grant (CDBG) Public Services, \$228,321 in Emergency Solutions Grant (ESG) along with any carryover over from Fiscal Year 2011-12 for Fiscal Year 2012-13.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it approves a continued funding commitment to the Public Service and Emergency Solutions grant recipients through Fiscal Year 2012-13.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager, or his designee, to execute the agreements.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of May, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-172**

**RESOLUTION AMENDING THE FISCAL YEAR 2012-2013 ANNUAL
OPERATING AND CAPITAL IMPROVEMENT BUDGETS TO REFLECT THE
APPROVED ALLOCATIONS IN THE DRAFT FISCAL YEAR 2012-2013
ANNUAL ACTION PLAN; AND AUTHORIZING THE FINANCE DIRECTOR,
OR HER DESIGNEE, TO TAKE THE NECESSARY STEPS TO IMPLEMENT
THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, the City of Modesto receives several Federal grants from the United States Department of Housing and Urban Development (HUD), and

WHEREAS, notice has been duly given to the community of the proposed amendment to the HUD Annual Action Plan, and to provide a 30-day comment period, which began April 3, 2012, and ended on May 8, 2012, and

WHEREAS, the Citizens' Housing and Community Development Committee considered the proposed Draft Fiscal Year 2012-2013 Annual Action Plan at its April 18, 2012, meeting, and recommended that the City Council approve, and

WHEREAS, a duly noticed public hearing was held by the City Council on May 8, 2012 at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010 Tenth Street, to consider approval of the proposed Draft Fiscal Year 2012-2013 Annual Action Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Draft Fiscal Year 2012-2013 Annual Action Plan.

BE IT FURTHER RESOLVED that the Finance Director, or her 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, 2012, by Councilmember Cogdill, who moved its adoption, with motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-173**

A RESOLUTION (I) AFFIRMING COUNCIL POLICY WITH REGARD TO OUTSIDE SEWER SERVICE AGREEMENTS FOR THE BEARD INDUSTRIAL DISTRICT; AND (II) REQUESTING THAT STANISLAUS LOCAL AGENCY FORMATION COMMISSION AMEND POLICY 15 AND PROVIDE AN EXCEPTION TO LAFCO RESOLUTION NO. 2011-11, CONDITION 1.B AS IT RELATES TO NEW SEWER USERS WITHIN THE BEARD INDUSTRIAL DISTRICT CONSENT TO ANNEXATION

WHEREAS, businesses outside the City of Modesto City Limits requesting new sewer extensions were required to obtain an Out of Boundary Service Agreement (aka Outside Service Agreement, OSA) from the City of Modesto, and

WHEREAS, approvals for these OSA's are also required by the Stanislaus Local Agency Formation Commission (LAFCO), and

WHEREAS, in addition, LAFCO requires that individual owners agree to consent to future annexation as a condition of granting an OSA, and

WHEREAS, past City Council policy and actions demonstrate that the intent has been to exempt businesses within Beard from securing individual OSA's and exempt individual property owners from the requirement of executing an agreement to consent to annex, and

WHEREAS, Resolution No. 66-489 was approved on July 5, 1966, which created the Modesto Municipal Sewer District Number 1, geographically including the Beard Industrial District and was clearly created to permit the extension of sewer services within the specified area, and

WHEREAS, Council Policies 5.001 and 5.002 were created to provide guidance to the City Manager in establishing conditions for the extension of water and sewer services to areas of the City limits, and

WHEREAS, Policy 5.001 (Adopted: 1959; Revised: 1998), allows for the extension of water service to properties outside of the City limits, outside the Sphere of Influence and inside, contiguous to and near the former service areas of the Del Este Water Company, and

WHEREAS, Policy 5.002 (Adopted: 1986) defines the conditions for the extension of sewer service to property outside of the City limits and provides a key definition and implementation condition, and

WHEREAS, Policy 5.002 does not require properties located within the Modesto Municipal Sewer District Number 1 to enter into an Outside Service Agreement or execute an agreement to consent to annex as a condition for receiving sewer service, and

WHEREAS, Council action of June 27, 2006 affirmed the position that property owners within the District were exempt from the condition to execute an agreement to consent to annex, and

WHEREAS, in spite of these policies and actions, LAFCO has historically not recognized the relationship between the City and Beard; or acknowledged the existence of Modesto Sewer District Number 1 as a type of District subject to LAFCO jurisdiction, and

WHEREAS, therefore, individual businesses were required to apply to LAFCO for OSA approvals and comply with the consent to annex condition, and

WHEREAS, this process extends the development approval process by at least 30 days causing added expense, delays and uncertainty to the individual business, and

WHEREAS, in an effort to remedy this, City staff initiated a proposal to LAFCO in August 2011 requesting in essence a blanket OSA approval for all remaining properties within the Beard District, and

WHEREAS, LAFCO approved the request on August 24, 2011 by Resolution 2011-11; however, also included in the Resolution is Condition 1.B, requiring new owners to execute an agreement to consent to a future annexation, and

WHEREAS, Beard Industrial District and the City of Modesto object to the position and action taken by LAFCO with respect to condition 1.B, as it works against the intent of past City Council action and policy stated above, and serves to constrain the continued business relationship between the City, Beard, and future business prospects,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it formally requests Stanislaus Local Agency Formation Commission to amend Policy 15 and provide an exception to LAFCO Resolution No. 2011-11, Condition 1.B, eliminating the requirement for new sewer users within the Beard Industrial District to execute agreements consenting to annexation, and thereby affirming the City's long-standing position and policies.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of May, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

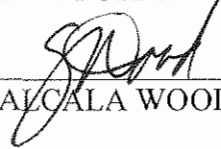
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-174**

RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE SYLVAN AVENUE RECONSTRUCTION PROJECT, ACCEPTING THE BID, AND APPROVING A CONTRACT WITH DSS COMPANY DBA KNIFE RIVER CONSTRUCTION OF STOCKTON, CALIFORNIA IN THE AMOUNT OF \$1,425,697.36 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Sylvan Avenue Reconstruction project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Sylvan Avenue Reconstruction project were opened at 11:00 a.m. on April 17, 2012, and later tabulated by the Director of Community and Economic Development for the consideration of the Council, and

WHEREAS, the Director of Community and Economic Development has recommended that the bid of \$1,425,697.36, received from DSS Company dba Knife River Construction of Stockton, California, be accepted as the lowest responsive and responsible bid and the contract be awarded to DSS Company dba Knife River Construction,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Sylvan Avenue Reconstruction project, accepts the bid of DSS Company dba Knife River Construction of Stockton, California, in the amount of \$1,425,697.36, and awards DSS Company dba Knife River Construction the contract for the Sylvan Avenue Reconstruction project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of May, 2012, by Councilmember Burnside, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

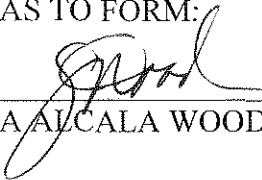
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-175**

**RESOLUTION REAPPOINTING ANNETTE RECLUSADO AND RICHARD
GAYTAN TO THE EQUAL OPPORTUNITY/DISABILITY COMMISSION AND
HUMAN RELATIONS COMMISSION**

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

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

SECTION 1. ANNETTE RECLUSADO is hereby appointed to the Equal Opportunity/Disability Commission with a term expiration of January 1, 2016.

SECTION 2. RICHARD GAYTAN is hereby appointed to the Human Relations Commission with a term expiration of January 1, 2016.

SECTION 3. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed members of the Commissions and the Secretary thereof.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh


NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-176**

A RESOLUTION APPROVING A COOPERATIVE AGREEMENT BETWEEN THE CITY OF MODESTO AND THE CALIFORNIA STATE DEPARTMENT OF TRANSPORTATION (CALTRANS) FOR CONSTRUCTION OF STATE ROUTE 99 AND PELANDALE AVENUE INTERCHANGE RECONSTRUCTION PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE THE AGREEMENT

WHEREAS, the State Route 99 and Pelandale Interchange improvement project is a State Project to address the traffic congestion problem at Pelandale Avenue and Highway 99 Interchange, and

WHEREAS, the City of Modesto is the lead agency for preparation of Plans, Specifications and Estimates (PS&E), and PS&E is ninety six (96%) completed, and

WHEREAS, this Cooperative Agreement is required by Caltrans prior to final approval of Plans, Specifications and Estimates

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Cooperative Agreement between the City of Modesto and the California State Department of Transportation (Caltrans) for construction of State Route 99 and Pelandale Avenue Interchange Reconstruction Project.

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

BE IT FURTHER RESOLVED the City Manager, or his designee, is hereby authorized to negotiate with Caltrans and execute all construction documents on behalf of the City for all authority required therefore.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

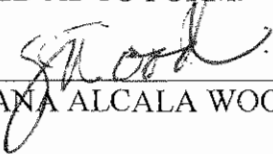
NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-177**

RESOLUTION AUTHORIZING THE AWARD OF BIDS FOR THE PURCHASE OF WATER VALVES AND FIRE HYDRANTS FOR THE DEPARTMENT OF PUBLIC WORKS, WATER DIVISION, TO GROENIGER CO., MODESTO, CA AND AMERICAN AVK CO., MINDEN, NV, FOR A ONE-YEAR AGREEMENT WITH FOUR (4) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE PURCHASE AGREEMENTS FOR AN ESTIMATED ANNUAL COST OF \$275,000

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of water valves and fire hydrants, and

WHEREAS, the Purchasing Division issued RFB No. 1112-20 Water Valves and Fire Hydrants to seventeen (17) prospective bidders, eight (8) of which were local vendors, posted the bid on the City's website and formally advertised as required by law, and

WHEREAS, bids were formally opened in the City Clerk's Office. Five (5) companies chose to respond, one of which was a local vendor. All five (5) companies provided responsive and responsible bids, and

WHEREAS, Modesto Municipal Code 8-3.206 Support of Local Vendors (SLV) allows the lowest bid or quote submitted by a local business that is within five (5) percent of the lowest bid, the opportunity to match the lowest bid price. Grongier Co., Modesto, CA qualified for SLV on a list of inventory items and agreed to match lowest bid price for those items, which represents an additional \$121,000 of product purchased annually through the local vendor, and

WHEREAS, based on providing lowest responsive and responsible bids, City staff recommends the award of bids for the purchase of water valves and fire hydrants to Grongier Co., Modesto, CA and AVK Co., Minden, NV, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. The award of bids for the purchase of water valves and fire hydrants to Grongier Co., CA and AVK Co., Minden, NV, conforms to the Modesto Municipal Code, and

WHEREAS, funds shall be budgeted for the purchase of water valves and fire hydrants in Appropriation Units: 4100-55050-53150 and 4100-55080-53150.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bids for the purchase of water valves and fire hydrants for the Department of Public Works, Water Division, to Grongier Co., Modesto, CA and AVK Co., Minden, NV.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue purchase agreements for an estimated annual cost of \$275,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

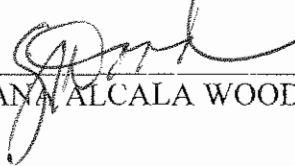
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-178**

**RESOLUTION AUTHORIZING SUBMISSION OF THE CITY'S
TRANSPORTATION DEVELOPMENT ACT TRANSIT CLAIM FOR FISCAL
YEAR 2012-2013 TO THE STANISLAUS COUNCIL OF GOVERNMENTS IN
THE AMOUNT OF \$9,063,045**

WHEREAS, the greatest portion of the City's funding for the Transit Service Program is made available under the Transportation Development Act (TDA), which includes Local Transportation Fund (LTF) funds and State Transit Assistance (STA) funds, and

WHEREAS, the Stanislaus Council of Governments (StanCOG) has informed the Finance Department that LTF funds have been apportioned by the State to StanCOG for allocation to public transit agencies pursuant to Articles 4 and 8 of Chapter 4 of the California Public Utilities Code (PUC), and

WHEREAS, the City has prepared its TDA claim for Fiscal Year 2012-2013 pursuant to these sections of the California PUC, and

WHEREAS, the City's Transit TDA Claim for Fiscal Year 2012-2013 is \$9,063,045 and

WHEREAS, the total Transit Operating Budget for Fiscal Year 2012-2013 is \$15,854,412 and

WHEREAS, Council action authorizing submission of the Claim is required by StanCOG pursuant to Section 99261 of the California PUC before any TDA funding can be released to the City

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves submission of the TDA transit claim for Fiscal Year 2012-2013 to StanCOG in the amount of \$9,063,045.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

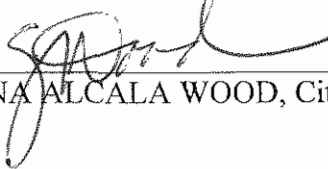
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-179**

RESOLUTION AUTHORIZING THE SUBMITTAL OF A GRANT APPLICATION TO THE CALIFORNIA DEPARTMENT OF WATER RESOURCES FOR A LOCAL GROUNDWATER ASSISTANCE GRANT FOR A GROUNDWATER CHARACTERIZATION AND RECHARGE STUDY IN AN AMOUNT UP TO \$250,000; AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL GRANT-RELATED DOCUMENTS AND ENTER INTO AN AGREEMENT TO RECEIVE GRANT FUNDS (IF AWARDED); AND AUTHORIZING THE DIRECTOR OF UTILITY PLANNING AND PROJECTS TO BE THE SIGNATORY OF GRANT INVOICES FORMS DURING REQUESTS FOR REIMBURSEMENTS

WHEREAS, the cities of Modesto, Riverbank, Oakdale, the Modesto Irrigation District (MID), the Oakdale Irrigation District (OID), and Stanislaus County formed the Stanislaus Tuolumne River Groundwater Basin Association (STRGBA) to oversee and coordinate groundwater management activities in the Modesto Groundwater Subbasin, and

WHEREAS, through prior applications, the STRGBA has cumulatively secured \$500,000 of Proposition 84 funding under the Local Groundwater Assistance Program for groundwater-related studies.

WHEREAS, the STRGBA developed an Integrated Regional Groundwater Management Plan (IRGMP), which was approved by the City Council, by Resolution No. 2005-340, on June 29, 2005, and

WHEREAS, the proposed Groundwater Characterization and Recharge Study incorporates the following IRGMP Basin Management Objectives:

1. Identifies and maps the basin's natural recharge areas;
2. Supports programs that relieve aquifer overdraft;
3. Evaluates feasibility of groundwater recharge and conjunctive use projects including the development of artificial recharge areas;
4. Seeks funding for projects and programs that will contribute to water recharge of the groundwater basin;

5. Provides and expands existing forum for coordination and cooperation between all water entities to manage the Modesto Groundwater Subbasin; and
6. Formulates and implements a geologic assessment to better understand the basin's aquifer characteristics and water movement, and to evaluate and understand the sources of contaminants

WHEREAS, the California Department of Water Resources (DWR) will execute an agreement with only one agency from the STRGBA, and the City of Modesto has been selected on behalf of the STRGBA to submit the grant application and enter into an agreement, and

WHEREAS, while no matching funds are required for this grant, the City must pay the project and consultant costs in advance, and

WHEREAS, should the City be awarded this grant, staff will return to Council for acceptance and appropriation of funds through Water Fund Reserves in the amount of \$250,000 to fund the upfront costs of the Study, and

WHEREAS, DWR will then reimburse the City within 60 to 90 days following the City's request for reimbursement, and

WHEREAS, DWR requires that the applicant provide a resolution adopted by the City Council that designates and authorizes a representative to file the application and enter into an agreement, and

WHEREAS, the proposed Groundwater Characterization and Recharge Study will be managed by City staff, on behalf of the STRGBA,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the submittal of a grant application to the California Department of Water Resources for a Local Groundwater Assistance Grant for a Groundwater Characterization and Recharge Study in an amount up to \$250,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all grant-related documents and enter into an agreement to receive the grant funds (if awarded)

BE IT FURTHER RESOLVED that the Director of Utility Planning and Projects is hereby authorized to be the signatory of grant invoice forms during requests for reimbursements.

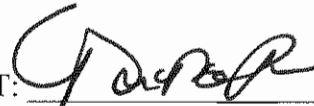
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:



STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-180**

RESOLUTION APPROVING A COST-SHARING AGREEMENT FOR ASSOCIATED TASK ITEMS OF WORK TO SHARE CERTAIN COSTS BETWEEN THE DEL PUERTO WATER DISTRICT, THE CITY OF TURLOCK, AND THE CITY OF MODESTO FOR THE DEVELOPMENT OF A REGIONAL RECYCLED WATER DELIVERY SYSTEM PHASE 2 FEASIBILITY STUDY; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on January 12, 2010, the City Council, by Resolution No. 2010-016, approved moving forward with a Regional Recycled Water Delivery System Feasibility Study (Phase 1 Feasibility Study) in partnership with the Del Puerto Water District (DPWD) in a Cost-sharing Agreement in the amount of \$25,000 each, and

WHEREAS, they would then seek a reimbursement from the Bureau of Reclamation (BOR) or other sources, and

WHEREAS, based on the BOR's review of the request for proposals for the Phase 1 Feasibility Study, the estimate was revised to \$150,000, and

WHEREAS, on April 27, 2010, the City Council, by Resolution No. 2010-149, approved an Amendment to the Cost-sharing Agreement with DPWD allowing the City of Modesto to fund the remainder of the Phase 1 Feasibility Study in the amount of \$100,000, and

WHEREAS, DPWD hired RMC Water and Environment (RMC) to perform the Phase 1 Feasibility Study, and was responsible for managing the contract, and

WHEREAS, the final contract amount for RMC was \$149,615.37, with the BOR reimbursing \$75,149.30 to the agencies for the cost of the Phase 1 Feasibility Study, with Modesto paying \$49,466.07, and DPWD paying the balance of \$25,000, and

WHEREAS, subsequently, the proposed project expanded to include the Cities of Turlock and Ceres, and Stanislaus County as partners and is now truly regional in scope, and now referred to as the North Valley Regional Recycled Water Program, and

WHEREAS, the City of Ceres and Stanislaus County will participate in the project as stakeholders but will not participate in the Cost-sharing Agreement, and

WHEREAS, as the Phase 1 Feasibility Study work was drawing to a close, the Cities of Modesto, Turlock and the DPWD (parties) recognized that the project was feasible and that it was necessary to refine the program alternatives identified in the study, and

WHEREAS, therefore, the parties agreed that it was in their best interest for DPWD to employ RMC for further refinement of the program alternatives and subsequent tasks associated with the NVRRWP as shown in the Phase 2 Feasibility Study Scope of Work, and

WHEREAS, since DPWD is a BOR contractor, the parties agreed that DPWD should also act as lead for the Phase 2 Feasibility Study, and

WHEREAS, some objectives for the Phase 2 Feasibility Study include:

- river flow modeling
- pipeline assessments
- reservoir modeling
- identification of agreements and agreement schedules needed for the project
- confirmation of project design criteria
- preparation of an environmental assessment and initial study

WHEREAS, the goal for the Phase 2 Feasibility Study effort is to develop the NVRRWP project alternatives so that the project meets the requirements for federal authorization and subsequent funding, and

WHEREAS, the parties also agreed to enter into this Cost-sharing Agreement for those expenses related to the further refinement and development of the program alternatives and subsequent related tasks, which focus specifically on further development of the two near-term alternatives (river conveyance and direct pipeline identified in the Phase 1 Feasibility Study, and

WHEREAS, the parties will jointly seek a 50% cost share, or \$380,640, from BOR or other sources, and

WHEREAS, this agreement provides for revisions to make use of other federal, state, or local funding opportunities that might become available, and

WHEREAS, also included in the Cost-sharing Agreement is clarification related to the cost-share reimbursement percentage associated with the Administrative Agency's costs for the NVRRWP Collaborative Partnership Memorandum of Understanding, as the City of Modesto is the Administrative Agency for the Partnership, and

WHEREAS, the sharing of costs related to the Administrative Agency's duties for the Partnership will be based on each party's estimated flow contribution to the Program, and the reimbursement percentages are shown in Exhibit A of the Cost-sharing Agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Cost-sharing Agreement for associated task items of work to share certain costs between the Del Puerto Water District, the City of Turlock, and the City of Modesto for the development of a Regional Recycled Water Delivery System Phase 2 Feasibility Study.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-181**

**RESOLUTION AMENDING THE FISCAL YEAR 2011-2012 CAPITAL
IMPROVEMENT PROGRAM BUDGET IN THE AMOUNT OF \$175,349 TO
FULLY FUND THE CITY'S PORTION OF THE RECYCLED WATER
DELIVERY SYSTEM PHASE 2 FEASIBILITY STUDY, AND INCREASED
STAFFING COSTS ASSOCIATED WITH THE PHASE 2 FEASIBILITY
STUDY REVIEW AND OVERALL PROGRAM SUPPORT**

WHEREAS, certain budgetary transactions are necessary in the amount of \$175,349 in order to fully fund the City's share of the cost-sharing agreement with Del Puerto Water District and the City of Turlock for the Regional Recycled Water Delivery System Phase 2 Feasibility Study and increased staffing costs associated with the Phase 2 Feasibility Study review and overall program costs, and

WHEREAS, the Fiscal Year 2011-2012 Capital Improvement Budget must be amended as shown in **Exhibit A**, which is incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2011-2012 Capital Improvement Budget as shown in **Exhibit A**.

BE IT FURTHER RESOLVED that the Director of Finance, or her 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 22nd day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

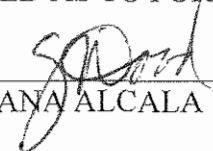
By: 
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

Due to the City's portion of the Regional Recycled Delivery System Phase 2 Feasibility Study, project account #100521, is being increased to refine the program alternatives and subsequent tasks associated with the North Valley Regional Recycled Water Program, the total project costs needs to be increased by \$155,349.

Additionally, funds are necessary to cover increased staffing costs associated with Phase 2 Feasibility Study review and overall program support in the amount of \$20,000.

This would be done by transferring from \$175,349 from Wastewater Reserves Account.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-182**

RESOLUTION APPROVING A PURCHASE AND SALE AGREEMENT WITH CARMEL M. CAETANO AND HOPE CARMO, AS ADMINISTRATORS OF THE ESTATE OF JOHN ROCHA MARTINS, FOR A 57,885 SQUARE FEET (1.33 ACRES) FEE ACQUISITION, A 15,852 SQUARE FEET (0.36 ACRES) TEMPORARY ACCESS EASEMENT, A 48,352 SQUARE FEET (1.11 ACRES) GRANT OF EASEMENT, AND QUITCLAIM DEED OF A PARCEL LOCATED AT 4016 LITT ROAD (APN 084-003-004), IN THE AMOUNT OF \$143,610, FOR THE SYLVAN AND LITT IMPROVEMENT PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND ALL RELATED DOCUMENTS REQUIRED TO CLOSE ESCROW

WHEREAS, the Sylvan and Litt Improvement Project is included in the Village One Facilities Master Plan and is a Priority 3 project on the Village One Project Prioritization List, and

WHEREAS, the project includes roadway improvements on Sylvan Avenue from west of Litt Road to Claus Road and on Litt Road from Sylvan Avenue to the north end of the future Grogan Park site, and

WHEREAS, the proposed street widening project also includes land acquisition for the needed right-of-way and abandonment of the south portion of Litt Road that will no longer be used for road purposes due to the realignment, and

WHEREAS, staff has identified a portion of a parcel located at 4016 Litt Road (APN 084-003-004), to place improvements as a part of the capital improvements identified for the Sylvan and Litt Improvement Project, and

WHEREAS, an Agreement is needed for the acquisition of the property and staff has investigated the subject property to ensure it is suitable for this purpose, and therefore recommends approving the Purchase and Sale Agreement for acquisition of the property.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Purchase and Sale Agreement with Carmel M. Caetano and Hope Carmo, as Administrators of the Estate of John Rocha Martins, for (a) a 57,885 square feet (1.33 acres) fee acquisition, (b) a 15,852 square feet (0.36 acres) Temporary Access Easement, and a 48,352 square feet (1.11 acres), (c) a Grant of Easement, and (d) Quitclaim Deed of a parcel located at 4016 Litt Road (APN 084-003-004), in the amount of \$143,610, for the Sylvan and Litt Improvement Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Purchase and Sale Agreement, and all related documents required to close escrow.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh


NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-183**

RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN CERTIFICATES OF ACCEPTANCE FOR THE (1) GRANT DEED, AND TEMPORARY CONSTRUCTION AND (2) QUITCLAIM DEED EASEMENT AND TRANSFER AND CONVEYANCE DOCUMENTS FOR THE ACQUISITION OF PROPERTY INTERESTS LOCATED AT 4016 LITT ROAD, OWNED BY CARMEL M. CAETANO AND HOPE CARMO, AS ADMINISTRATORS OF THE ESTATE OF JOHN ROCHA MARTINS, (APN 084-003-004) TO BE PURCHASED BY THE CITY OF MODESTO FOR THE SYLVAN AND LITT IMPROVEMENT PROJECT

WHEREAS, Section 27281 of the Government Code requires a public agency to accept real property prior to the recordation of a deed or adopt a resolution accepting real property, and

WHEREAS, the City of Modesto desires to acquire the following real property interests: a 57,885 square feet (1.33 acres) fee acquisition, a 15,852 square feet (0.36 acres) Temporary Access Easement, and a 48,352 square feet (1.11 acres) Grant of Easement of a parcel owned by Carmel M. Caetano and Hope Carmo, as Administrators of the Estate of John Rocha Martins, (APN 084-003-004), to be purchased by the City of Modesto for the Sylvan and Litt Improvement Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign Certificates of Acceptance for (1) the Grant Deed and Temporary Construction Easement and (2) Quitclaim Deed for the acquisition of property interests located at 4016 Litt Road (APN 084-003-004), in the County of Stanislaus, owned by Carmel M. Caetano and Hope Carmo, as Administrators of the Estate of John Rocha Martins, and the Quitclaim Deed from Joe Scoto, to be purchased by the City of Modesto for the Sylvan and Litt Improvement Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSAN ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-183A**

RESOLUTION MAKING FINDINGS PURSUANT TO GOVERNMENT CODE SECTION 51292 REGARDING WILLIAMSON ACT CONTRACT 74-1606 FOR THE ACQUISITION OF RIGHT-OF-WAY FROM A PARCEL LOCATED AT 4016 LITT ROAD (APN 084-003-004), FOR THE SYLVAN AND LITT IMPROVEMENT PROJECT

WHEREAS, the Sylvan and Litt Improvement Project is included in the Village One Facilities Master Plan, and

WHEREAS, the project includes roadway improvements on Sylvan Avenue from west of Litt Road to Claus Road and on Litt Road from Sylvan Avenue to the north end of the future Grogan Park site, and

WHEREAS, the proposed street widening project also includes land acquisition for the needed right-of-way and abandonment of the south portion of Litt Road that will no longer be used for road purposes due to the realignment, and

WHEREAS, staff has identified a portion of a parcel located at 4016 Litt Road (APN 084-003-004), to place improvements as a part of the capital improvements identified for the Sylvan and Litt Improvement Project, and

WHEREAS, the parcel is encumbered by Williamson Act Contract 72-1606 and the following findings pursuant to Government Code Section 51292 can be made.

- (a) The location is not based primarily on a consideration of the lower cost of acquiring land in an agricultural preserve.
- (b) If the land is agricultural land covered under a contract pursuant to this chapter of any public improvement, that there is no other land within or outside the preserve on which it is reasonably feasible to locate the public improvement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it makes the following findings:

- (a) In response to finding (a) provided above, the right-of-way that is needed for this street improvement project was not based on acquiring lower cost land of an agricultural preserve. The alignment and width of Sylvan Avenue and Litt Road were determined by Village One Specific Plan approved in 1990. Sylvan Avenue is one of the important east-west Principal Arterials for the City of Modesto traveling approximately seven miles from Freeway 99 to Claus Road.
- (b) In response to finding (b) provided above, the proposed street improvements along with the needed right-of-way would implement the required improvements for the Village One Specific Plan. The south side of Sylvan Avenue roadway next to the subject parcel is already fully improved establishing the required width needed on the north side. There is no reasonable possibility of shifting the Sylvan Avenue south to avoid the subject parcel. Single family lots are developed on the south side of Sylvan Avenue next to the subject parcel. There is no other land within or outside of the subject parcel on which it is reasonably feasible to locate this public improvement project.

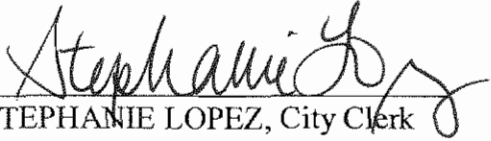
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:



SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-184**

RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PHASE 2 BNR/TERTIARY WASTEWATER TREATMENT PROJECT, ACCEPTING THE BID, AND APPROVING A CONTRACT WITH G S E CONSTRUCTION COMPANY, INC. OF LIVERMORE, CALIFORNIA IN THE AMOUNT OF \$100,554,396.91, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Phase 2 BNR/Tertiary Wastewater Treatment Project, and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Phase 2 BNR/Tertiary Wastewater Treatment Project were opened at 11:00 a.m. on January 25, 2012, and later tabulated by the Director of Utility Planning and Projects for the consideration of the Council, and

WHEREAS, the Director of Utility Planning and Projects has recommended that the bid of \$100,554,396.91 received from G S E Construction Company, Inc. of Livermore, California be accepted as the lowest responsible bid and the contract be awarded to G S E Construction Company, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Phase 2 BNR/Tertiary Wastewater Treatment Project, accepts the bid of G S E Construction Company, Inc. of Livermore, California, in the amount of \$100,554,396.91, and awards G S E Construction Company, Inc. the contract for the Phase 2 BNR/Tertiary Wastewater Treatment Project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-185**

**RESOLUTION AMENDING THE FISCAL YEAR 2011-2012 CAPITAL
IMPROVEMENT PROGRAM BUDGET IN THE AMOUNT OF \$5,329,775 IN
ORDER TO FULLY FUND CONSTRUCTION ADMINISTRATION AND
ENGINEERING DESIGN SUPPORT SERVICES DURING CONSTRUCTION
PLUS ENGINEERING CONSTRUCTION SUPPORT BY CITY STAFF FOR THE
PHASE 2 BNR/TERTIARY WASTEWATER TREATMENT PROJECT**

WHEREAS, certain budgetary transactions are necessary in the amount of \$5,329,775, in order to fully fund construction administration and engineering design support services during construction plus engineering construction support by City staff for the Phase 2 BNR/Tertiary Wastewater Treatment project, and

WHEREAS, the Fiscal Year 2011-2012 Operating Budget must be amended as shown in **Exhibit A**, which is incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2011-2012 Operating Budget as shown in **Exhibit A**.

BE IT FURTHER RESOLVED that the Director of Finance, or her 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 22nd day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

Due to the award of the Phase 2 Biological Nutrient Removal/Tertiary Treatment Facility project and in order to fully fund construction administration and engineering design support services during construction plus engineering construction support by City staff, project task costs need to be increased by \$5,329,775. This would be done by adjusting tasks within CIP Account 100520 "WW Treatment Phase 2 Tertiary" as follows: Construction by <\$5,329,775>, Construction Administration by \$5,175,361, and Engineering/Design/Administration by \$154,414.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-186**

RESOLUTION APPROVING AN AGREEMENT WITH CAROLLO ENGINEERS, INC. FOR DESIGN SUPPORT DURING CONSTRUCTION FOR PHASE 2 BNR/TERTIARY TREATMENT FACILITY PROJECT IN AN AMOUNT NOT TO EXCEED \$5,469,731 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS \$273,487 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF \$5,743,218, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, in April 2008, the Central Valley Regional Water Quality Control Board (RWQCB) adopted a new National Pollutant Discharge Elimination System (NPDES) permit for the City of Modesto with stricter limits to the City's treated wastewater discharge into the San Joaquin River, and

WHEREAS, the new permit requires the City to meet these discharge requirements by February 2016, and has resulted in the need for the Phase 2 BNR/Tertiary Treatment Facility Project (Phase 2 Tertiary Project), and

WHEREAS, bids for the Phase 2 Tertiary Project were opened January 25, 2012 and construction is expected to begin early summer, and

WHEREAS, due to the size and complexity of the project, construction support services are needed to facilitate construction activities, and

WHEREAS, these support services will promote timely and successful construction of the facilities, while also reducing risk to the City, and

WHEREAS, therefore, Engineering Services During Construction (ESDC) work is being recommended by City staff, and will cover the nearly four years estimated for construction and the start-up of Phase 2 Tertiary Project, and

WHEREAS, Carollo Engineers, Inc. (Carollo) is the consulting design engineer for the Phase 2 Tertiary Project, and was selected for preliminary design services utilizing the City's Administrative Directive 3.1 in 2008 and final design services in 2009, and

WHEREAS, upon successful completion of the design of the project, City staff requested and received a proposal from Carollo for ESDC services, and

WHEREAS, the scope for ESDC includes General technical oversight of project activity, including review of submittals and shop drawings, review and response to Requests for Information (RFIs) and change order requests, as-needed technical observation of construction activities, project start-up and close-out assistance, and As-built preparation, and

WHEREAS, Carollo's scope also includes necessary services which will extend beyond the construction period of Phase 2 Tertiary Project, and

WHEREAS, the City will be responsible for permitting the new tertiary facility as well as complying with Title 22 as required by the RWQCB, and

WHEREAS, Carollo will be responsible for coordinating permit requirements with the various governmental agencies and/or utilities that have jurisdiction over the project, as well as for preparing an Engineering Compliance Report required by the RWQCB and California Department of Public Health (CDPH) Title 22 Compliance, and

WHEREAS, Carollo will also provide assistance concerning potential warranty issues associated with the project and prepare an electronic Operations and Maintenance Manual, and

WHEREAS, the total cost of ESDC, including the optional 5% Additional Services, is \$5,743,218, which is 5.7% of the total construction costs, and

WHEREAS, staff has negotiated the scope and fees with Carollo and believes the costs are reasonable for a project of this size and complexity, and

WHEREAS, furthermore, staff has collected cost data from several other wastewater treatment facility and water treatment facility projects of similar scope, and

WHEREAS, the ESDC costs as a percentage of total construction costs for the projects collected range from 2.9% to 8.6% with an average cost of 6.0%, and

WHEREAS, the collected cost data further reflects that the proposed costs for ESDC and CM services for the Phase 2 Tertiary Project are in line with industry standards, and

WHEREAS, based on the City's need for these services and analysis of the proposed costs, staff is recommending approval of the agreement with Carollo for construction support services of the Phase 2 Tertiary Project, and

WHEREAS, staff recommends an agreement with Carollo, as the City does not have the staffing level or subject matter expertise to perform design support during construction for the Phase 2 Tertiary Project, and current workload levels do not provide for timely in-house solutions/responses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Carollo Engineers, Inc. for Design Support During Construction for Phase 2 Biological Nutrient Removal/Tertiary Treatment Facility for an amount not to exceed \$5,469,731 for the identified scope of services, plus \$273,487 for additional services (if needed), for a maximum total amount of \$5,743,218.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh


NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-187**

RESOLUTION APPROVING AN AGREEMENT WITH WEST YOST ASSOCIATES, INC. FOR CONSTRUCTION MANAGEMENT SERVICES FOR PHASE 2 BNR/TERTIARY TREATMENT FACILITY PROJECT IN AN AMOUNT NOT TO EXCEED \$8,029,699 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS \$240,891 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF \$8,270,590, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, in April 2008, the Central Valley Regional Water Quality Control Board (RWQCB) adopted a new National Pollutant Discharge Elimination System (NPDES) permit for the City of Modesto with stricter limits to the City's treated wastewater discharge into the San Joaquin River, and

WHEREAS, the new permit requires the City to meet these discharge requirements by February 2016, and has resulted in the need for the Phase 2 BNR/Tertiary Treatment Facility Project (Phase 2 Tertiary Project), and

WHEREAS, bids for the Phase 2 Tertiary Project were opened January 25, 2012 and construction is expected to begin early summer, and

WHEREAS, due to the size and complexity of the project, construction management services are needed to facilitate construction activities, and

WHEREAS, these support services will promote timely and successful construction of the facilities, while also reducing risk to the City, and

WHEREAS, therefore, Construction Management & Inspection (CM) work is being recommended by City staff, and will cover the nearly four years estimated for construction and the start-up of Phase 2 Tertiary Project, and

WHEREAS, in preparation for construction of the Phase 2 Tertiary Project, consultant services were sought in 2010 for CM services, and

WHEREAS, following Administrative Directive 3.1, City staff selected West Yost Associates, Inc. (West Yost) as the most qualified firm to provide these services, and

WHEREAS, as the CM, West Yost will act as the City's advisor relating to the contract and provide coordination between all parties as it relates to the construction activities, and

WHEREAS, the scope for CM services includes management of the project schedule, review and management of submittals and shop drawings, review and management of all Requests for Information (RFIs) and change orders, full-time construction observation and inspection, management of all project costs and progress payments, operational start-up and training assistance, project close-out assistance, and claims management, and

WHEREAS, the total cost of CM services, including the optional 3% Additional Services, is \$8,270,590, which is 8.3% of the total construction costs, and

WHEREAS, staff has negotiated the scope and fees with West Yost and believes the costs are reasonable for a project of this size and complexity, and

WHEREAS, furthermore, staff has collected cost data from several other wastewater treatment facility and water treatment facility projects of similar scope, and

WHEREAS, the CM costs as a percentage of total construction costs for the projects collected range from 5.5% to 11.8% with an average cost of 8.6%, and

WHEREAS, the collected cost data further reflects that the proposed costs for CM services for the Phase 2 Tertiary Project are in line with industry standards, and

WHEREAS, based on the City's need for these services and analysis of the proposed costs, staff is recommending approval of the agreement with West Yost for CM services of the Phase 2 Tertiary Project, and

WHEREAS, staff recommends an agreement with West Yost, as the City does not have the staffing level or subject matter expertise to perform CM services for the Phase 2 Tertiary Project, and current workload levels do not provide for timely in-house solutions/responses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with West Yost Associates, Inc. for Construction Management Services for Phase 2 Biological Nutrient Removal/Tertiary Treatment Facility for an amount not to exceed \$8,029,699 for the identified scope of services, plus \$240,891 for additional services (if needed), for a maximum total amount of \$8,270,590.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-188**

A RESOLUTION AMENDING THE FISCAL YEAR 2011-2012 CAPITAL IMPROVEMENT PROGRAM BUDGET TO APPROPRIATE \$3,121,345 FROM STREETS CAPITAL FACILITY FEES FUND BALANCE TO CIP PROJECT NO 100046 FOR THE PURPOSE OF TOTAL ACQUISITION OF FOUR PARCELS AND A TEMPORARY CONSTRUCTION EASEMENT FOR FOUR ADDITIONAL PARCELS OF THE REAL PROPERTY AND REAL PROPERTY INTERESTS

WHEREAS, certain budgetary transactions are necessary in the amount of \$3,121,345, in order to acquire four parcels and temporary construction easement for four additional parcels of the real property and real property interests,

WHEREAS, the Fiscal Year 2011-2012 Capital Improvement Program budget should be amended as follows by appropriating \$3,121,345 from Streets Capital Facility Fees fund balance NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2011-2012 Capital Improvement Program budget by appropriating \$3,121,345 from Streets Capital Facility fund balance to COSMO Project No. 100046 and increasing the expense budget by that amount in order to acquire four parcels and temporary construction easement for four additional parcels of the real property and real property interests.

BE IT FURTHER RESOLVED that the Finance Director, or her 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 22nd day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

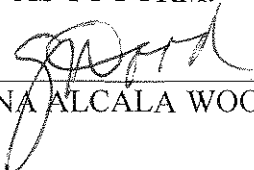
NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-189**

RESOLUTION APPROVING THE PURCHASE AGREEMENT FOR A TEMPORARY CONSTRUCTION EASEMENT BETWEEN THE CITY OF MODESTO AND JOGA S. MINHAS & SURINDER K. MINHAS, FOR A 1,615 SQ. FT. (0.037 ACRES) PARCEL OF LAND (APN 135-029-036), IN THE AMOUNT OF \$4,800.00, FOR THE PELANDALE AVENUE/SR 99 INTERCHANGE RECONSTRUCTION PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND ALL RELATED DOCUMENTS REQUIRED TO CLOSE ESCROW

WHEREAS, the City of Modesto is planning a project to reconstruct the Pelandale Avenue/SR 99 Interchange, and

WHEREAS, the project will alleviate congestion and improve operations of the Pelandale Avenue & SR 99 Interchange, and

WHEREAS, the City of Modesto has obtained lead agency status from the California Department of Transportation for the project, and

WHEREAS, staff has identified a 1,615 sq. ft. (0.037 acres) portion of a parcel of APN 135-029-036 for a Temporary Construction Easement to improve the roadway on Salida Blvd. as a part of the capital improvements identified for the Pelandale Avenue/SR 99 Interchange Reconstruction Project, and

WHEREAS, staff has completed the required environmental review for the project, and

WHEREAS, an Agreement is needed for the acquisition interests of the property,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Purchase Agreement between the City of Modesto and Joga S. Minhas & Surinder K. Minhas, for a 1,615 sq. ft. (0.037 acres) Temporary Construction

Easement, located at 4224 Salida Blvd. (APN 135-029-036), in the amount of \$4,800 for the Pelandale Avenue/SR 99 Interchange Reconstruction Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement, and all related documents required to close escrow.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh


NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-190**

RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE CERTIFICATE OF ACCEPTANCE FOR THE TEMPORARY CONSTRUCTION EASEMENT, FOR THE ACQUISITION OF PROPERTY INTERESTS LOCATED AT 4224 SALIDA BLVD, OWNED BY JOGA S. MINHAS & SURINDER K. MINHAS, (APN 135-029-036) TO BE PURCHASED BY THE CITY OF MODESTO FOR THE PELANDALE AVENUE/SR 99 INTERCHANGE RECONSTRUCTION PROJECT

WHEREAS, Section 27281 of the Government Code requires a public agency to accept real property prior to the recordation of a deed or adopt a resolution accepting real property, and

WHEREAS, the City of Modesto desires to acquire a 1,615 sq. ft. (0.037 acres) portion of land for a Temporary Construction Easement located on Salida Blvd., owned by Joga S. Minhas & Surinder K. Minhas., (APN 135-029-036), to be purchased by the City of Modesto for the Pelandale Avenue/SR 99 Interchange Reconstruction Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign the Certificate of Acceptance for the Temporary Construction Easement for the acquisition of property interests located at 4224 Salida Blvd., owned by Joga S. Minhas & Surinder K. Minhas, (APN 135-029-036) to be purchased by the City of Modesto for the Pelandale Avenue/SR 99 Interchange Reconstruction Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-191**

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION OF CERTAIN REAL PROPERTY AND DIRECTING THE FILING OF EMINENT DOMAIN PROCEEDINGS: STATE ROUTE 99 / PELANDALE AVENUE INTERCHANGE RECONSTRUCTION PROJECT – ASSESSOR’S PARCEL NUMBER: 135-029-049. PROPERTY OWNERS: MOHAMMED S. HUSSAIN AND KHAIRUL N. HUSSAIN – 4324 SALIDA BOULEVARD, SALIDA, STANISLAUS COUNTY, CALIFORNIA

WHEREAS, the purpose of the State Route 99/Pelandale Avenue Interchange Construction Project (“Project”) is to replace and expand the Pelandale Avenue Interchange on State Route (“SR”) 99 in order to mitigate existing interchange operational and safety deficiencies, including without limitation: (1) widening, reconstructing, and relocating an existing operationally inadequate bridge structure across SR 99; (2) ramp modifications to lessen congestion and improve operational efficiency of SR 99 and surrounding local roads, including Pelandale Avenue, Sisk Road and Salida Avenue; (3) pedestrian crossings and upgrades to meet standards of the Americans with Disabilities Act, as well as, improving traffic conditions, levels of service and accommodate projected increases in regional and local traffic; and

WHEREAS, the Project is consistent with the adopted General Plan of the City of Modesto and the State Route 99 Transportation Concept Plan; and

WHEREAS, improvement of said interchange will require acquisition of right-of-way for State Highway and related local road purposes, and

WHEREAS, California Streets and Highway Code Section 130 authorizes Caltrans and the City of Modesto to enter into a contract regarding the acquisition, construction, improvement and/or maintenance of any State Route; and

WHEREAS, on February 22, 2011, the City Council of City of Modesto adopted Resolution 2011-64 authorizing the City Manager to execute a co-operative agreement between City of Modesto and California Department of Transportation (“Caltrans”) for acquisition of right-of-way for construction of the Project improvements and for the City of Modesto to hear Resolutions of Necessity; and

WHEREAS, on June 9, 2011, the City of Modesto and Caltrans entered into a Co-operative Agreement (“District Agreement 10-322”); and

WHEREAS, after extensive public scoping of nineteen (19) interchange alternatives, in addition to a “No Build” alternative, Caltrans approved the Initial Study with Mitigated Negative Declaration on September 28, 2009 selecting the preferred alternative for the Project; and

WHEREAS, the selection of the preferred alternative set the Right-of-Way requirements for implementation of the Project; and

WHEREAS, the real property described herein and to be acquired is within the Project area; and

WHEREAS, it is desirable and necessary for the City of Modesto’s SR 99/Pelandale Avenue Interchange Reconstruction Project to acquire a twelve month temporary construction easement to Assessor’s Parcel Number 135-029-049, also known as 4324 Salida Boulevard in the County of Stanislaus, California, as more particularly described in **Exhibit “A”** and depicted in **Exhibit “B” attached** hereto and made part of this Resolution and referred to as the “Subject Property”; and

WHEREAS, the City of Modesto is vested with the power of eminent domain to acquire real property for the Project by virtue of Article 1, Section 19, of the Constitution

of the State of California; California Code of Civil Procedure sections 1240.010 - 1240.050, 1240.110, 1240.120, 1240.150, 1240.350, 1240.510, 1250.610; California Government Code sections 37350.5, 37353, 39792, 38900, 40401 and 40404; Pelandale Avenue Joint Powers Agreement dated December 6, 2005 between the City of Modesto and the County of Stanislaus; Approval of the Consent by Stanislaus County to Allow Right-of-Way Acquisition by the City of Modesto, Item No. 2011-568, dated October 4, 2011; Consent signed by the County to Allow Right-of-Way Acquisition by the City of Modesto (in the County for the Project) dated October 5, 2011 and February 28, 2012; Modesto City Council Resolution No. 2011-064, dated February 22, 2011; the Cooperative Agreement between the California State Department of Transportation and the City of Modesto dated June 9, 2011 (District Agreement 10-322); and, California Streets and Highways Code section 10102; and

WHEREAS, pursuant to Code of Civil Procedure Section 1245.235, the City of Modesto provided the owners of the Subject Property, a copy of the “Notice of Intent to Adopt resolution of Necessity” informing them of the date and time any interested person could be heard before the City Council, on the following matters, and to have the City Council give consideration to testimony prior to deciding whether or not to adopt the proposed Resolution of Necessity to commence eminent domain proceedings:

- (a) Whether the public interest and necessity require the Project;
- (b) Whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
- (c) Whether the property sought to be acquired is necessary for the Project;
- (d) Whether the property is being acquired for a compatible use under Code of Civil Procedure section 1240.510 in that the City’s use of the property will

not interfere with or impair the continued public use as it now exists or may reasonably be expected to exist in the future;

- (e) Whether the property is being acquired for a more necessary public use under Code of Civil Procedure 1240.610 in that the City's use is a more necessary public use than the use to which the property is appropriated or could be appropriated; and
- (f) Whether the offer required by Government Code Section 7267.2 has been made to the owner of record.

WHEREAS, pursuant to the provisions of Section 7267.2 of the Government Code of the State of California, the City of Modesto made a written offer to the property owners to acquire the Subject Property for just compensation and provided same with an appraisal summary statement; and

WHEREAS, Caltrans and the City of Modesto have satisfied the provisions and complied with all requirements of the California Environmental Quality Act ("CEQA") for the Project; and

WHEREAS, Caltrans authorized and approved the City of Modesto to hear Resolutions of Necessity for acquisitions of right-of-way for the Project; and

WHEREAS, on February 28, 2012, the County of Stanislaus authorized and approved the City of Modesto to acquire right-of-way in the County; and

WHEREAS, a hearing was held on May 22, 2012, at 5:30 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which the City Council considered this matter as an item placed on its agenda at its regular meeting; and

WHEREAS, all the findings and conclusions made by the City Council pursuant to this Resolution are based upon substantial evidence in the entire record before the City Council, and are not based solely on the information in this Resolution; and

WHEREAS, prior to taking action, the City Council has heard, been presented with, reviewed and considered all of the information and data in the administrative record, including each of the Project-related documents relevant to the adoption of this Resolution, including but not limited to, the General Plans of the City of Modesto and the County of Stanislaus, the Environmental Documents including without limitation, the Initial Study with Mitigated Negative Declaration, the Staff Report and all documents incorporated therein, and all oral and written evidence presented to it during all meetings and hearings regarding this Project; and

WHEREAS, the City Council has endeavored in good faith to consider the pros and cons of the issue before it; and

WHEREAS, all other legal prerequisites to the adoption of the Resolution have occurred.

NOW, THEREFORE, IT IS FOUND, DETERMINED, AND RESOLVED by the City of Modesto as follows:

1. The above recitals are true and correct and are matters on which these findings are based.
2. The public interest and necessity require the Project.
3. The Project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury.
4. The taking of the twelve month temporary construction easement in and to the real property as more particularly described in **Exhibit "A"** and depicted in **Exhibit "B"** is necessary for the Project.
5. The offer required by Section 7267.2 of the Government Code of the State of California has been made to the owner of record of the real property.

6. The Subject Property is being acquired for a compatible use under California Code of Civil Procedure section 1240.510 in that the City's use of the Subject Property will not interfere with or impair the continued use of the Subject Property for public uses as they now exist or may reasonably be expected to exist in the future.
7. The Subject Property is being acquired for a more necessary public use under California Code of Civil Procedure section 1240.610 in that the City's use of the Subject Property is a more necessary public use than the use to which the property is appropriated now or may be appropriated to in the future.
8. Special Counsel, Meyers, Nave, Riback, Silver & Wilson, is hereby authorized, empowered and directed to acquire, in the name of City of Modesto, by condemnation, the Subject Property in accordance with the provisions of the Eminent Domain Law, the Code of Civil Procedure and the Constitution of California; to prepare, prosecute and conduct to conclusion in the name of the City of Modesto such proceedings in the proper court as are necessary for such acquisition and to take such action as may be deemed advisable or necessary in connection therewith; and, to deposit the probable amount of just compensation to the State Treasurer's Condemnation Fund based on an appraisal and apply to the Court for an order of prejudgment possession and use for said public uses and purposes as set forth herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore , was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

EXHIBIT "A"

**Salida Boulevard
TCE
APN 135-029-049**

Legal Description:

A parcel of land lying in the southeast one-quarter of Section 3, Township 3 South, Range 8 East, Mount Diablo Meridian, in the County of Stanislaus, State of California, and being all that portion of PARCEL 2 as shown on that certain PARCEL MAP filed August 13, 1997 in Book 48 of PARCEL MAPS, Page 43, Stanislaus County Records, more particularly described by metes and bounds as follows:

Beginning at the most southerly corner of said PARCEL 2, said point being the True Point of Beginning;

Thence from said True Point of Beginning, NORTH 43°07'01" WEST 48.80 feet along the southwesterly line of said PARCEL 2;

Thence departing from said southwesterly line NORTH 46°52'59" EAST 20.00 feet;

Thence SOUTH 43°07'01" EAST 34.90 feet;

Thence SOUTH 46°52'59" WEST 5.00 feet;


Thence SOUTH 43°07'01" EAST 13.90 feet to a point on the southeasterly line of said PARCEL 2;

Thence SOUTH 46°52'59" WEST 15.00 feet along said southeasterly line to the True Point of Beginning.

Containing 907 square feet (0.0208 Acres) more or less.

The Basis of Bearings for this description is the California State Plane Coordinate System, ZONE 3, NAD83 adjusted to the 2007.00 epoch of Monuments "HPGN D CA 10 HG", "HPGN D CA 10 JL" and "HPGN CA 10 04". All distances are Ground distances. To convert to grid distances apply the combined factor of 0.9999311249.

This real property description was prepared by me,
or under my direction, in conformance with the
Professional Land Surveyors Act.


Signature

2/22/12
Dated

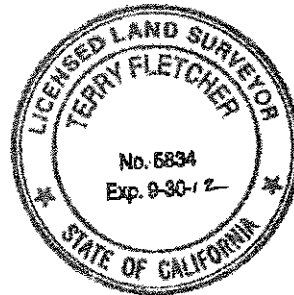
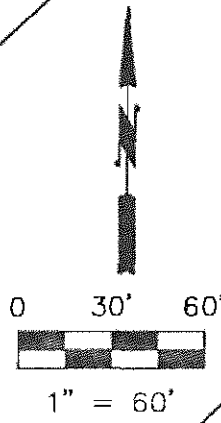


EXHIBIT "B"

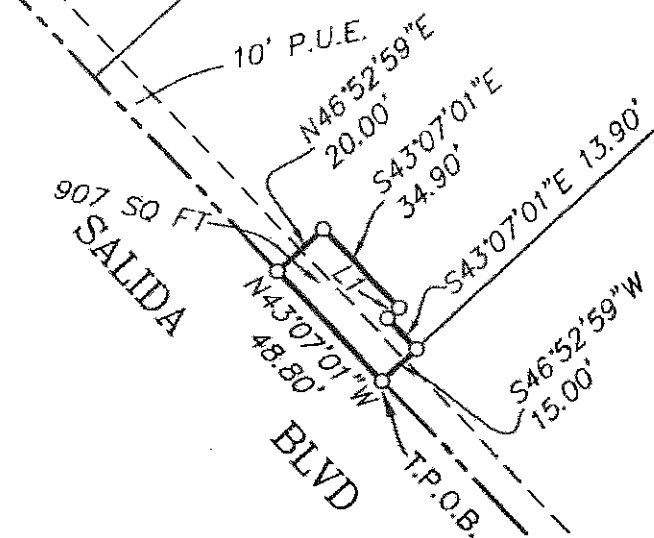
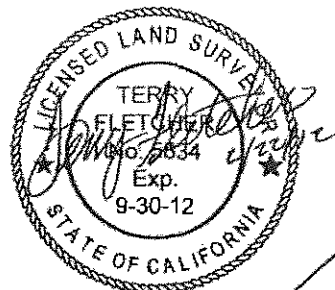
TEMPORARY CONSTRUCTION EASEMENT

STATE HIGHWAY 99


LINE	LINE TABLE DIRECTION	LENGTH
L1	S46°52'59"W	5.00'



APN 135-029-049
PARCEL 2
48 PM 43



BASIS OF BEARINGS: CALIFORNIA STATE PLANE COORDINATE SYSTEM, ZONE 3, NAD83, adjusted to the 2007.00 epoch of Monuments "HPGN D 10 HG", "HPGN D CA JL" and "HPGN CA 10 04". All distances are Ground distances > To convert to grid distances apply the combined factor of 0.9999311249.

 2365 IRON POINT ROAD, SUITE 200 FOLSOM, CA 95630 (916)858-0642	PELANDALE	DATE: 2/22/12
	STANISLAUS COUNTY STATE OF CALIFORNIA	APN: 135-029-049
		PARCEL NO. -----
	CHECKED BY: TF	PREPARED BY: RJ

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-192**

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION OF CERTAIN REAL PROPERTY AND DIRECTING THE FILING OF EMINENT DOMAIN PROCEEDINGS: STATE ROUTE 99 / PELANDALE AVENUE INTERCHANGE RECONSTRUCTION PROJECT: ASSESSOR'S PARCEL NUMBER: 135-029-051. PROPERTY OWNERS: ROGER A. FLORES AND CAROL E. FLORES AS TRUSTEES OF THE ROGER A. OR CAROL E. FLORES TRUST DATED 3/10/1981, JULIANNE M. POLATI – 4300 SALIDA BOULEVARD, SALIDA, STANISLAUS COUNTY, CALIFORNIA

WHEREAS, the purpose of the State Route 99/Pelandale Avenue Interchange Construction Project (“Project”) is to replace and expand the Pelandale Avenue Interchange on State Route (“SR”) 99 in order to mitigate existing interchange operational and safety deficiencies, including without limitation: (1) widening, reconstructing, and relocating an existing operationally inadequate bridge structure across SR 99; (2) ramp modifications to lessen congestion and improve operational efficiency of SR 99 and surrounding local roads, including Pelandale Avenue, Sisk Road and Salida Avenue; (3) pedestrian crossings and upgrades to meet standards of the Americans with Disabilities Act, as well as, improving traffic conditions, levels of service and accommodate projected increases in regional and local traffic; and

WHEREAS, the Project is consistent with the adopted General Plan of the City of Modesto and the State Route 99 Transportation Concept Plan; and

WHEREAS, improvement of said interchange will require acquisition of right-of-way for State Highway and related local road purposes, and

WHEREAS, California Streets and Highway Code Section 130 authorizes Caltrans and the City of Modesto to enter into a contract regarding the acquisition, construction, improvement and/or maintenance of any State Route; and

WHEREAS, on February 22, 2011, the City Council of City of Modesto adopted Resolution 2011-64 authorizing the City Manager to execute a co-operative agreement between City of Modesto and California Department of Transportation (“Caltrans”) for acquisition of right-of-way for construction of the Project improvements and for the City of Modesto to hear Resolutions of Necessity; and

WHEREAS, on June 9, 2011, the City of Modesto and Caltrans entered into a Co-operative Agreement (“District Agreement 10-322”); and

WHEREAS, after extensive public scoping of nineteen (19) interchange alternatives, in addition to a “No Build” alternative, Caltrans approved the Initial Study with Mitigated Negative Declaration on September 28, 2009 selecting the preferred alternative for the Project; and

WHEREAS, the selection of the preferred alternative set the Right-of-Way requirements for implementation of the Project; and

WHEREAS, the real property described herein and to be acquired is within the Project area; and

WHEREAS, it is desirable and necessary for the City of Modesto’s SR 99/Pelandale Avenue Interchange Reconstruction Project to acquire a twelve month temporary construction easement to Assessor’s Parcel Number I35-029-051, also known as 4300 Salida Boulevard in the County of Stanislaus, California, as more particularly described in **Exhibit “A”** and depicted in **Exhibit “B” attached** hereto and made part of this Resolution and referred to as the “Subject Property”; and

WHEREAS, the City of Modesto is vested with the power of eminent domain to acquire real property for the Project by virtue of Article 1, Section 19, of the Constitution

of the State of California; California Code of Civil Procedure sections 1240.010 - 1240.050, 1240.110, 1240.120, 1240.150, 1240.350, 1240.510, 1250.610; California Government Code sections 37350.5, 37353, 39792, 38900, 40401 and 40404; Pelandale Avenue Joint Powers Agreement dated December 6, 2005 between the City of Modesto and the County of Stanislaus; Approval of the Consent by Stanislaus County to Allow Right-of-Way Acquisition by the City of Modesto, Item No. 2011-568, dated October 4, 2011; Consent signed by the County to Allow Right-of-Way Acquisition by the City of Modesto (in the County for the Project) dated October 5, 2011 and February 28, 2012; Modesto City Council Resolution No. 2011-064, dated February 22, 2011; the Cooperative Agreement between the California State Department of Transportation and the City of Modesto dated June 9, 2011 (District Agreement 10-322); and, California Streets and Highways Code section 10102; and

WHEREAS, pursuant to Code of Civil Procedure Section 1245.235, the City of Modesto provided the owners of the Subject Property, a copy of the “Notice of Intent to Adopt resolution of Necessity” informing them of the date and time any interested person could be heard before the City Council, on the following matters, and to have the City Council give consideration to testimony prior to deciding whether or not to adopt the proposed Resolution of Necessity to commence eminent domain proceedings:

- (a) Whether the public interest and necessity require the Project;
- (b) Whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
- (c) Whether the property sought to be acquired is necessary for the Project;
- (d) Whether the property is being acquired for a compatible use under Code of Civil Procedure section 1240.510 in that the City’s use of the property will

not interfere with or impair the continued public use as it now exists or may reasonably be expected to exist in the future;

- (e) Whether the property is being acquired for a more necessary public use under Code of Civil Procedure 1240.610 in that the City's use is a more necessary public use than the use to which the property is appropriated or could be appropriated; and
- (f) Whether the offer required by Government Code Section 7267.2 has been made to the owner of record.

WHEREAS, pursuant to the provisions of Section 7267.2 of the Government Code of the State of California, the City of Modesto made a written offer to the property owners to acquire the Subject Property for just compensation and provided same with an appraisal summary statement; and

WHEREAS, Caltrans and the City of Modesto have satisfied the provisions and complied with all requirements of the California Environmental Quality Act ("CEQA") for the Project; and

WHEREAS, Caltrans authorized and approved the City of Modesto to hear Resolutions of Necessity for acquisitions of right-of-way for the Project; and

WHEREAS, on February 28, 2012, the County of Stanislaus authorized and approved the City of Modesto to acquire right-of-way in the County; and

WHEREAS, a hearing was held on May 22, 2012, at 5:30 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which the City Council considered this matter as an item placed on its agenda at its regular meeting; and

WHEREAS, all the findings and conclusions made by the City Council pursuant to this Resolution are based upon substantial evidence in the entire record before the City Council, and are not based solely on the information in this Resolution; and

WHEREAS, prior to taking action, the City Council has heard, been presented with, reviewed and considered all of the information and data in the administrative record, including each of the Project-related documents relevant to the adoption of this Resolution, including but not limited to, the General Plans of the City of Modesto and the County of Stanislaus, the Environmental Documents including without limitation, the Initial Study with Mitigated Negative Declaration, the Staff Report and all documents incorporated therein, and all oral and written evidence presented to it during all meetings and hearings regarding this Project; and

WHEREAS, the City Council has endeavored in good faith to consider the pros and cons of the issue before it; and

WHEREAS, all other legal prerequisites to the adoption of the Resolution have occurred.

NOW, THEREFORE, IT IS FOUND, DETERMINED, AND RESOLVED by the City of Modesto as follows:

1. The above recitals are true and correct and are matters on which these findings are based.
2. The public interest and necessity require the Project.
3. The Project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury.
4. The taking of the twelve month temporary construction easement in and to the real property as more particularly described in **Exhibit "A"** and depicted in **Exhibit "B"** is necessary for the Project.
5. The offer required by Section 7267.2 of the Government Code of the State of California has been made to the owner of record of the real property.

6. The Subject Property is being acquired for a compatible use under California Code of Civil Procedure section 1240.510 in that the City's use of the Subject Property will not interfere with or impair the continued use of the Subject Property for public uses as they now exist or may reasonably be expected to exist in the future.
7. The Subject Property is being acquired for a more necessary public use under California Code of Civil Procedure section 1240.610 in that the City's use of the Subject Property is a more necessary public use than the use to which the property is appropriated now or may be appropriated to in the future.
8. Special Counsel, Meyers, Nave, Riback, Silver & Wilson, is hereby authorized, empowered and directed to acquire, in the name of City of Modesto, by condemnation, the Subject Property in accordance with the provisions of the Eminent Domain Law, the Code of Civil Procedure and the Constitution of California; to prepare, prosecute and conduct to conclusion in the name of the City of Modesto such proceedings in the proper court as are necessary for such acquisition and to take such action as may be deemed advisable or necessary in connection therewith; and, to deposit the probable amount of just compensation to the State Treasurer's Condemnation Fund based on an appraisal and apply to the Court for an order of prejudgment possession and use for said public uses and purposes as set forth herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Muratore, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

EXHIBIT "A"

Salida Boulevard

TCE

APN 135-029-051

Legal Description:

A parcel of land lying in the southeast one-quarter of Section 3, Township 3 South, Range 8 East, Mount Diablo Meridian, in the County of Stanislaus, State of California, and being all that portion of PARCEL 1 as shown on that certain PARCEL MAP filed May 6, 1997 in Book 48 of PARCEL MAPS, Page 22, Stanislaus County Records, more particularly described by metes and bounds as follows:

Beginning at the most westerly corner of said PARCEL 1, said point being the True Point of Beginning;

Thence from said True Point of Beginning, NORTH 46°52'59" EAST 15.00 feet along the northwesterly line of said PARCEL 1;

Thence departing from said northwesterly line SOUTH 43°07'01" EAST 120.00 feet;

Thence NORTH 46°52'59" EAST 5.00 feet;

Thence SOUTH 43°07'01" EAST 30.99 feet to a point on the southeasterly line of said PARCEL 1;

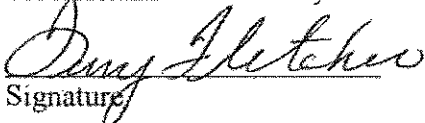
Thence SOUTH 46°52'59" WEST 20.00 feet along said southeasterly line to the most southerly corner of said PARCEL 1;

Thence NORTH 43°07'01" WEST 151.00 feet along the southwesterly line of said PARCEL 1 to the True Point of Beginning.

Containing 2,420 square feet (0.0556 Acres) more or less.

The Basis of Bearings for this description is the California State Plane Coordinate System, ZONE 3, NAD83 adjusted to the 2007.00 epoch of Monuments "HPGN D CA 10 HG", "HPGN D CA 10 JL" and "HPGN CA 10 04". All distances are Ground distances. To convert to grid distances apply the combined factor of 0.9999311249.

This real property description was prepared by me,
or under my direction, in conformance with the
Professional Land Surveyors Act.


Signature

2/24/12
Dated

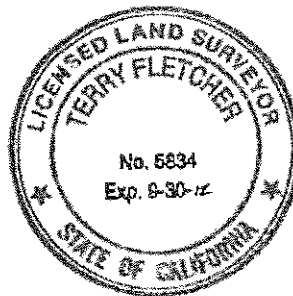
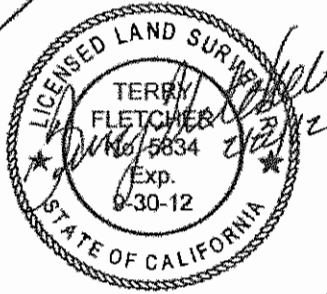


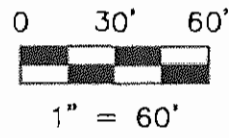
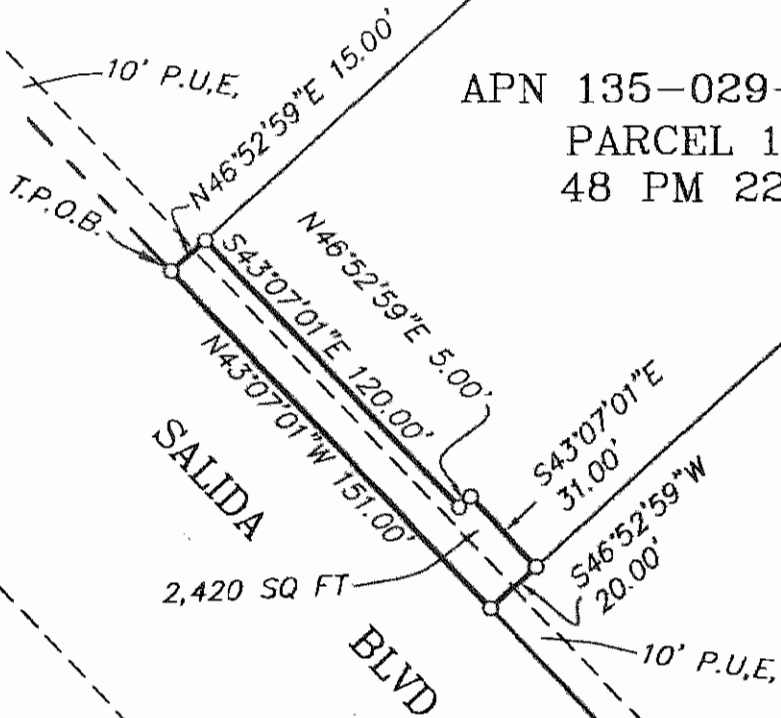
EXHIBIT "B"

TEMPORARY CONSTRUCTION EASEMENT



STATE HIGHWAY 99

APN 135-029-051
PARCEL 1
48 PM 22



BASIS OF BEARINGS: CALIFORNIA STATE PLANE COORDINATE SYSTEM, ZONE 3, NAD83, adjusted to the 2007.00 epoch of Monuments "HPGN D 10 HG", "HPGN D CA JL" and "HPGN CA 10 04". All distances are Ground distances > To convert to grid distances apply the combined factor of 0.9999311249.

DOKKEN ENGINEERING 2365 IRON POINT ROAD, SUITE 200 FOLSOM, CA 95630 (916)858-0642	PELANDALE	DATE: 2/22/12
	STANISLAUS COUNTY STATE OF CALIFORNIA	APN: 135-029-051
		PARCEL NO. -----
	CHECKED BY: TF	PREPARED BY: RJ

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-193**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO
DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE
THE ACQUISITION OF CERTAIN REAL PROPERTY AND DIRECTING THE
FILING OF EMINENT DOMAIN PROCEEDINGS: STATE ROUTE
99/PELANDALE AVENUE INTERCHANGE RECONSTRUCTION PROJECT.
ASSESSOR'S PARCEL NUMBER: 135-029-037 – PROPERTY OWNER:
MCDONALD'S CORPORATION / 4230 SALIDA BOULEVARD, SALIDA,
STANISLAUS COUNTY, CALIFORNIA**

WHEREAS, the purpose of the State Route 99/Pelandale Avenue Interchange Construction Project (“Project”) is to replace and expand the Pelandale Avenue Interchange on State Route (“SR”) 99 in order to mitigate existing interchange operational and safety deficiencies, including without limitation: (1) widening, reconstructing, and relocating an existing operationally inadequate bridge structure across SR 99; (2) ramp modifications to lessen congestion and improve operational efficiency of SR 99 and surrounding local roads, including Pelandale Avenue, Sisk Road and Salida Avenue; (3) pedestrian crossings and upgrades to meet standards of the Americans with Disabilities Act, as well as, improving traffic conditions, levels of service and accommodate projected increases in regional and local traffic; and

WHEREAS, the Project is consistent with the adopted General Plan of the City of Modesto and the State Route 99 Transportation Concept Plan; and

WHEREAS, improvement of said interchange will require acquisition of right-of-way for State Highway and related local road purposes, and

WHEREAS, California Streets and Highway Code Section 130 authorizes Caltrans and the City of Modesto to enter into a contract regarding the acquisition, construction, improvement and/or maintenance of any State Route; and

WHEREAS, on February 22, 2011, the City Council of City of Modesto adopted Resolution 2011-64 authorizing the City Manager to execute a co-operative agreement between City of Modesto and California Department of Transportation (“Caltrans”) for acquisition of right-of-way for construction of the Project improvements and for the City of Modesto to hear Resolutions of Necessity; and

WHEREAS, on June 9, 2011, the City of Modesto and Caltrans entered into a Co-operative Agreement (“District Agreement 10-322”); and

WHEREAS, after extensive public scoping of nineteen (19) interchange alternatives, in addition to a “No Build” alternative, Caltrans approved the Initial Study with Mitigated Negative Declaration on September 28, 2009 selecting the preferred alternative for the Project; and

WHEREAS, the selection of the preferred alternative set the Right-of-Way requirements for implementation of the Project; and

WHEREAS, the real property described herein and to be acquired is within the Project area; and

WHEREAS, it is desirable and necessary for the City of Modesto’s SR 99/Pelandale Avenue Interchange Reconstruction Project to acquire a twelve month temporary construction easement to Assessor’s Parcel Number 135-029-037, also known as 4230 Salida Boulevard in the County of Stanislaus, California, as more particularly described in **Exhibit “A”** and depicted in **Exhibit “B” attached** hereto and made part of this Resolution and referred to as the “Subject Property”; and

WHEREAS, the City of Modesto is vested with the power of eminent domain to acquire real property for the Project by virtue of Article 1, Section 19, of the Constitution

of the State of California; California Code of Civil Procedure sections 1240.010 - 1240.050, 1240.110, 1240.120, 1240.150, 1240.350, 1240.510, 1250.610; California Government Code sections 37350.5, 37353, 39792, 38900, 40401 and 40404; Pelandale Avenue Joint Powers Agreement dated December 6, 2005 between the City of Modesto and the County of Stanislaus; Approval of the Consent by Stanislaus County to Allow Right-of-Way Acquisition by the City of Modesto, Item No. 2011-568, dated October 4, 2011; Consent signed by the County to Allow Right-of-Way Acquisition by the City of Modesto (in the County for the Project) dated October 5, 2011 and February 28, 2012; Modesto City Council Resolution No. 2011-064, dated February 22, 2011; the Cooperative Agreement between the California State Department of Transportation and the City of Modesto dated June 9, 2011 (District Agreement 10-322); and, California Streets and Highways Code section 10102; and

WHEREAS, pursuant to Code of Civil Procedure Section 1245.235, the City of Modesto provided the owner of the Subject Property, a copy of the "Notice of Intent to Adopt resolution of Necessity" informing it of the date and time any interested person could be heard before the City Council, on the following matters, and to have the City Council give consideration to testimony prior to deciding whether or not to adopt the proposed Resolution of Necessity to commence eminent domain proceedings:

- (a) Whether the public interest and necessity require the Project;
- (b) Whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
- (c) Whether the property sought to be acquired is necessary for the Project;

- (d) Whether the property is being acquired for a compatible use under Code of Civil Procedure section 1240.510 in that the City's use of the property will not interfere with or impair the continued public use as it now exists or may reasonably be expected to exist in the future;
- (e) Whether the property is being acquired for a more necessary public use under Code of Civil Procedure 1240.610 in that the City's use is a more necessary public use than the use to which the property is appropriated or could be appropriated; and
- (f) Whether the offer required by Government Code Section 7267.2 has been made to the owner of record.

WHEREAS, pursuant to the provisions of Section 7267.2 of the Government Code of the State of California, the City of Modesto made a written offer to the property owner to acquire the Subject Property for just compensation and provided same with an appraisal summary statement; and

WHEREAS, Caltrans and the City of Modesto have satisfied the provisions and complied with all requirements of the California Environmental Quality Act ("CEQA") for the Project; and

WHEREAS, Caltrans authorized and approved the City of Modesto to hear Resolutions of Necessity for acquisitions of right-of-way for the Project; and

WHEREAS, on February 28, 2012, the County of Stanislaus authorized and approved the City of Modesto to acquire right-of-way in the County; and

WHEREAS, a hearing was held on May 22, 2012, at 5:30 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which the City Council considered this matter as an item placed on its agenda at its regular meeting; and

WHEREAS, all the findings and conclusions made by the City Council pursuant to this Resolution are based upon substantial evidence in the entire record before the City Council, and are not based solely on the information in this Resolution; and

WHEREAS, prior to taking action, the City Council has heard, been presented with, reviewed and considered all of the information and data in the administrative record, including each of the Project-related documents relevant to the adoption of this Resolution, including but not limited to, the General Plans of the City of Modesto and the County of Stanislaus, the Environmental Documents including without limitation, the Initial Study with Mitigated Negative Declaration, the Staff Report and all documents incorporated therein, and all oral and written evidence presented to it during all meetings and hearings regarding this Project; and

WHEREAS, the City Council has endeavored in good faith to consider the pros and cons of the issue before it; and

WHEREAS, all other legal prerequisites to the adoption of the Resolution have occurred.

NOW, THEREFORE, IT IS FOUND, DETERMINED, AND RESOLVED by the City of Modesto as follows:

1. The above recitals are true and correct and are matters on which these findings are based.
2. The public interest and necessity require the Project.
3. The Project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury.
4. The taking of the twelve month temporary construction easement in and to the real property as more particularly described in **Exhibit "A"** and depicted in **Exhibit "B"** is necessary for the Project.
5. The offer required by Section 7267.2 of the Government Code of the State of California has been made to the owner of record of the real property.
6. The Subject Property is being acquired for a compatible use under California Code of Civil Procedure section 1240.510 in that the City's use of the Subject Property will not interfere with or impair the continued use of the Subject Property for public uses as they now exist or may reasonably be expected to exist in the future.
7. The Subject Property is being acquired for a more necessary public use under California Code of Civil Procedure section 1240.610 in that the City's use of the

Subject Property is a more necessary public use than the use to which the property is appropriated now or may be appropriated to in the future.

8. Special Counsel, Meyers, Nave, Riback, Silver & Wilson, is hereby authorized, empowered and directed to acquire, in the name of City of Modesto, by condemnation, the Subject Property in accordance with the provisions of the Eminent Domain Law, the Code of Civil Procedure and the Constitution of California; to prepare, prosecute and conduct to conclusion in the name of the City of Modesto such proceedings in the proper court as are necessary for such acquisition and to take such action as may be deemed advisable or necessary in connection therewith; and, to deposit the probable amount of just compensation to the State Treasurer's Condemnation Fund based on an appraisal and apply to the Court for an order of prejudgment possession and use for said public uses and purposes as set forth herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Geer, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

EXHIBIT "A"

Salida Boulevard
TCE
APN 135-029-037

Legal Description:

A parcel of land lying in the southeast one-quarter of Section 3, Township 3 South, Range 8 East, Mount Diablo Meridian, in the County of Stanislaus, State of California, and being all that portion of PARCEL B as shown on that certain PARCEL MAP filed June 1, 1988 in Book 40 of PARCEL MAPS, Page 96, Stanislaus County Records, more particularly described by metes and bounds as follows:

Beginning at the most westerly corner of said PARCEL B, said point being the True Point of Beginning;

Thence from said True Point of Beginning, NORTH 46°52'59" EAST 15.00 feet along the northwesterly line of said PARCEL B;

Thence departing from said northwesterly line SOUTH 43°07'01" EAST 97.50 feet;

Thence NORTH 46°52'59" EAST 5.00 feet;

Thence SOUTH 43°07'01" EAST 52.50 feet to a point on the southeasterly line of said PARCEL B;

Thence SOUTH 46°52'59" WEST 20.00 feet along said southeasterly line to the most southerly corner of said PARCEL B;

Thence NORTH 43°07'01" WEST 150.00 feet along the southwesterly line of said PARCEL B to the True Point of Beginning.

Containing 2,513 square feet (0.0577 Acres) more or less.

The Basis of Bearings for this description is the California State Plane Coordinate System, ZONE 3, NAD83 adjusted to the 2007.00 epoch of Monuments "HPGN D CA 10 HG", "HPGN D CA 10 JL" and "HPGN CA 10 04". All distances are Ground distances. To convert to grid distances apply the combined factor of 0.9999311249.

This real property description was prepared by me,
or under my direction, in conformance with the
Professional Land Surveyors Act.


Signature

2/22/12
Dated

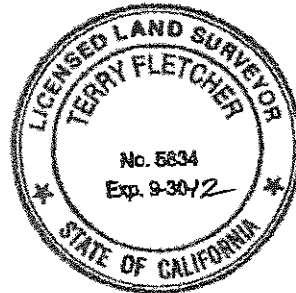
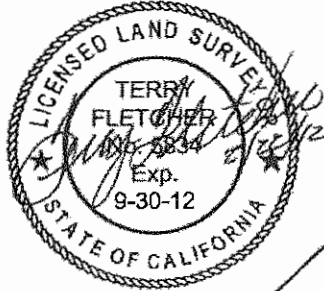


EXHIBIT "B"

TEMPORARY CONSTRUCTION EASEMENT

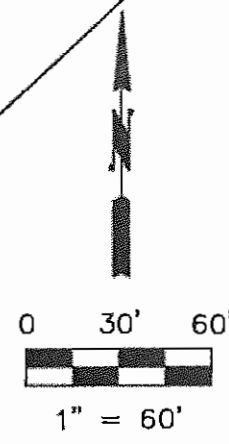
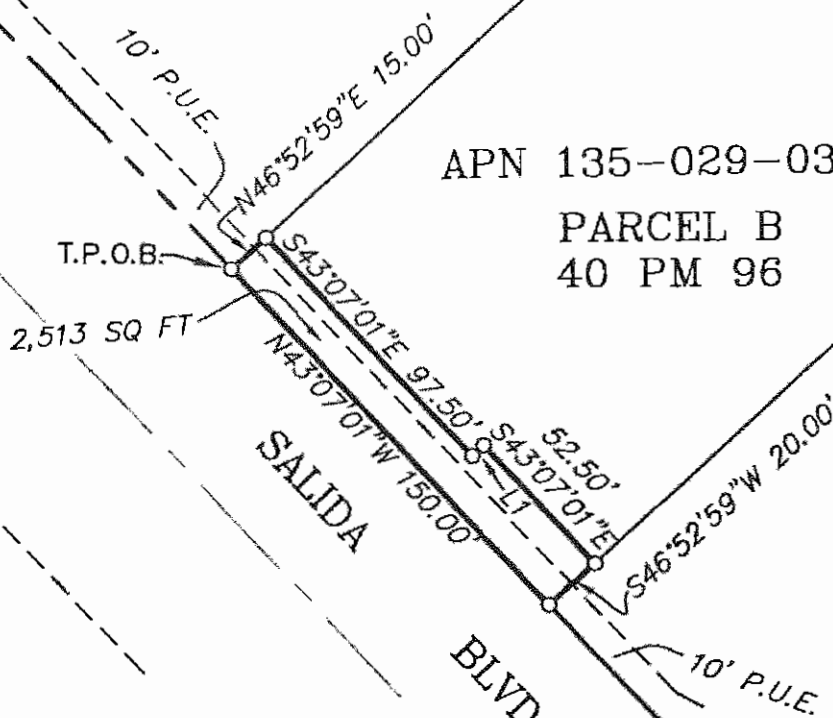


LINE	LINE TABLE DIRECTION	LENGTH
L1	N46°52'59"E	5.00'

STATE HIGHWAY 99

APN 135-029-037

PARCEL B
40 PM 96



BASIS OF BEARINGS: CALIFORNIA STATE PLANE COORDINATE SYSTEM, ZONE 3, NAD83, adjusted to the 2007.00 epoch of Monuments "HPGN D 10 HG", "HPGN D CA JL" and "HPGN CA 10 04". All distances are Ground distances > To convert to grid distances apply the combined factor of 0.9999311249.



PELANDALE		DATE: 2/22/12
STANISLAUS COUNTY STATE OF CALIFORNIA		APN: 135-029-037
		PARCEL NO. ----
CHECKED BY: TF	PREPARED BY: RJ	SHEET 1 OF 1

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-194**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO
DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE
THE ACQUISITION OF CERTAIN REAL PROPERTY AND DIRECTING THE
FILING OF EMINENT DOMAIN PROCEEDINGS: STATE ROUTE
99/PELANDALE AVENUE INTERCHANGE RECONSTRUCTION PROJECT.
ASSESSOR'S PARCEL NUMBER: 135-029-036, PROPERTY OWNERS: JOGA
S. MINHAUS AND SURINDER K. MINHAUS, 4224 SALIDA BOULEVARD,
SALIDA, STANISLAUS COUNTY, CALIFORNIA**

WHEREAS, the purpose of the State Route 99/Pelandale Avenue Interchange Construction Project ("Project") is to replace and expand the Pelandale Avenue Interchange on State Route ("SR") 99 in order to mitigate existing interchange operational and safety deficiencies, including without limitation: (1) widening, reconstructing, and relocating an existing operationally inadequate bridge structure across SR 99; (2) ramp modifications to lessen congestion and improve operational efficiency of SR 99 and surrounding local roads, including Pelandale Avenue, Sisk Road and Salida Avenue; (3) pedestrian crossings and upgrades to meet standards of the Americans with Disabilities Act, as well as, improving traffic conditions, levels of service and accommodate projected increases in regional and local traffic; and

WHEREAS, the Project is consistent with the adopted General Plan of the City of Modesto and the State Route 99 Transportation Concept Plan; and

WHEREAS, improvement of said interchange will require acquisition of right-of-way for State Highway and related local road purposes, and

WHEREAS, California Streets and Highway Code Section 130 authorizes Caltrans and the City of Modesto to enter into a contract regarding the acquisition, construction, improvement and/or maintenance of any State Route; and

WHEREAS, on February 22, 2011, the City Council of City of Modesto adopted Resolution 2011-64 authorizing the City Manager to execute a co-operative agreement between City of Modesto and California Department of Transportation (“Caltrans”) for acquisition of right-of-way for construction of the Project improvements and for the City of Modesto to hear Resolutions of Necessity; and

WHEREAS, on June 9, 2011, the City of Modesto and Caltrans entered into a Co-operative Agreement (“District Agreement 10-322”); and

WHEREAS, after extensive public scoping of nineteen (19) interchange alternatives, in addition to a “No Build” alternative, Caltrans approved the Initial Study with Mitigated Negative Declaration on September 28, 2009 selecting the preferred alternative for the Project; and

WHEREAS, the selection of the preferred alternative set the Right-of-Way requirements for implementation of the Project; and

WHEREAS, the real property described herein and to be acquired is within the Project area; and

WHEREAS, it is desirable and necessary for the City of Modesto’s SR 99/Pelandale Avenue Interchange Reconstruction Project to acquire a twelve month temporary construction easement to Assessor’s Parcel Number 135-029-036, also known as 4224 Salida Boulevard in the County of Stanislaus, California, as more particularly described in **Exhibit “A”** and depicted in **Exhibit “B” attached** hereto and made part of this Resolution and referred to as the “Subject Property”; and

WHEREAS, the City of Modesto is vested with the power of eminent domain to acquire real property for the Project by virtue of Article 1, Section 19, of the Constitution

of the State of California; California Code of Civil Procedure sections 1240.010 - 1240.050, 1240.110, 1240.120, 1240.150, 1240.350, 1240.510, 1250.610; California Government Code sections 37350.5, 37353, 39792, 38900, 40401 and 40404; Pelandale Avenue Joint Powers Agreement dated December 6, 2005 between the City of Modesto and the County of Stanislaus; Approval of the Consent by Stanislaus County to Allow Right-of-Way Acquisition by the City of Modesto, Item No. 2011-568, dated October 4, 2011; Consent signed by the County to Allow Right-of-Way Acquisition by the City of Modesto (in the County for the Project) dated October 5, 2011 and February 28, 2012; Modesto City Council Resolution No. 2011-064, dated February 22, 2011; the Cooperative Agreement between the California State Department of Transportation and the City of Modesto dated June 9, 2011 (District Agreement 10-322); and, California Streets and Highways Code section 10102; and

WHEREAS, pursuant to Code of Civil Procedure Section 1245.235, the City of Modesto provided the owners of the Subject Property, a copy of the “Notice of Intent to Adopt resolution of Necessity” informing them of the date and time any interested person could be heard before the City Council, on the following matters, and to have the City Council give consideration to testimony prior to deciding whether or not to adopt the proposed Resolution of Necessity to commence eminent domain proceedings:

- (a) Whether the public interest and necessity require the Project;
- (b) Whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
- (c) Whether the property sought to be acquired is necessary for the Project;
- (d) Whether the property is being acquired for a compatible use under Code of Civil Procedure section 1240.510 in that the City’s use of the property will

not interfere with or impair the continued public use as it now exists or may reasonably be expected to exist in the future;

- (e) Whether the property is being acquired for a more necessary public use under Code of Civil Procedure 1240.610 in that the City's use is a more necessary public use than the use to which the property is appropriated or could be appropriated; and
- (f) Whether the offer required by Government Code Section 7267.2 has been made to the owner of record.

WHEREAS, pursuant to the provisions of Section 7267.2 of the Government Code of the State of California, the City of Modesto made a written offer to the property owners to acquire the Subject Property for just compensation and provided same with an appraisal summary statement; and

WHEREAS, Caltrans and the City of Modesto have satisfied the provisions and complied with all requirements of the California Environmental Quality Act ("CEQA") for the Project; and

WHEREAS, Caltrans authorized and approved the City of Modesto to hear Resolutions of Necessity for acquisitions of right-of-way for the Project; and

WHEREAS, on February 28, 2012, the County of Stanislaus authorized and approved the City of Modesto to acquire right-of-way in the County; and

WHEREAS, a hearing was held on May 22, 2012, at 5:30 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which the City Council considered this matter as an item placed on its agenda at its regular meeting; and

WHEREAS, all the findings and conclusions made by the City Council pursuant to this Resolution are based upon substantial evidence in the entire record before the City Council, and are not based solely on the information in this Resolution; and

WHEREAS, prior to taking action, the City Council has heard, been presented with, reviewed and considered all of the information and data in the administrative record, including each of the Project-related documents relevant to the adoption of this Resolution, including but not limited to, the General Plans of the City of Modesto and the County of Stanislaus, the Environmental Documents including without limitation, the Initial Study with Mitigated Negative Declaration, the Staff Report and all documents incorporated therein, and all oral and written evidence presented to it during all meetings and hearings regarding this Project; and

WHEREAS, the City Council has endeavored in good faith to consider the pros and cons of the issue before it; and

WHEREAS, all other legal prerequisites to the adoption of the Resolution have occurred.

NOW, THEREFORE, IT IS FOUND, DETERMINED, AND RESOLVED by the City of Modesto as follows:

1. The above recitals are true and correct and are matters on which these findings are based.
2. The public interest and necessity require the Project.
3. The Project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury.
4. The taking of the twelve month temporary construction easement in and to the real property as more particularly described in **Exhibit "A"** and depicted in **Exhibit "B"** is necessary for the Project.
5. The offer required by Section 7267.2 of the Government Code of the State of California has been made to the owner of record of the real property.
6. The Subject Property is being acquired for a compatible use under California Code of Civil Procedure section 1240.510 in that the City's use of the Subject Property will not interfere with or impair the continued use of the Subject

Property for public uses as they now exist or may reasonably be expected to exist in the future.

7. The Subject Property is being acquired for a more necessary public use under California Code of Civil Procedure section 1240.610 in that the City's use of the Subject Property is a more necessary public use than the use to which the property is appropriated now or may be appropriated to in the future.
8. Special Counsel, Meyers, Nave, Riback, Silver & Wilson, is hereby authorized, empowered and directed to acquire, in the name of City of Modesto, by condemnation, the Subject Property in accordance with the provisions of the Eminent Domain Law, the Code of Civil Procedure and the Constitution of California; to prepare, prosecute and conduct to conclusion in the name of the City of Modesto such proceedings in the proper court as are necessary for such acquisition and to take such action as may be deemed advisable or necessary in connection therewith; and, to deposit the probable amount of just compensation to the State Treasurer's Condemnation Fund based on an appraisal and apply to the Court for an order of prejudgment possession and use for said public uses and purposes as set forth herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh


NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

WHEN RECORDED RETURN TO:

City of Modesto
Attn: Jon Yuriar, Property Agent
1010 10th Street, Suite 4500
Modesto, CA 95356

NO FEE DOCUMENT

Per Government Code 6103

R&T 11922; Government agency acquiring title

Project: Pendale Ave. / Hwy 99 Interchange
APN: 135-029-036

TEMPORARY CONSTRUCTION EASEMENT

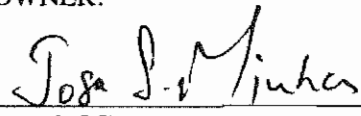
JOGA S. MINHAS AND SURINDER K. MINHAS, HUSBAND AND WIFE AS JOINT TENANTS, ("OWNER") grant(s) to the CITY OF MODESTO ("CITY"), a municipal corporation, an exclusive temporary construction easement over, upon and across all that real property in the County of Stanislaus, State of California, described in Exhibit "A" and Exhibit "B" attached hereto and made a part hereof.

This Temporary Construction Easement (TCE) shall be for the purpose of construction activities related to the Pelandale Avenue / Hwy 99 Interchange Project. Under this TCE, CITY's use of the TCE Area shall be exclusive. As a result, CITY, from time to time, may erect and maintain temporary fences and may exclude persons or other uses of all or a portion of the TCE Area if, in CITY's sole discretion, the presence of said persons or other uses would be hazardous or would hinder CITY's activities related to the Project.

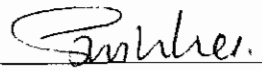
Said easement shall be for a period of twelve (12) months from the date the contractor enters the easement and end no later than the completion of construction within the Highway Project, or twelve (12) months, whichever occurs first. Upon termination of the Easement, the CITY shall execute and deliver to Grantor a quitclaim deed reciting the fact of termination of said grant of easement. Recordation of notice of the quitclaim deed shall serve as conclusive evidence of the termination of the grant of the temporary construction easement.

OWNER:

DATE: 3/30/12



Joga S. Minhas



Surinder K. Minhas

EXHIBIT "A"

Salida Boulevard
TCE
APN 135-029-036

Legal Description:

A parcel of land lying in the southeast one-quarter of Section 3, Township 3 South, Range 8 East, Mount Diablo Meridian, in the County of Stanislaus, State of California, and being all that portion of PARCEL C as shown on that certain PARCEL MAP filed June 1, 1988 in Book 40 of PARCEL MAPS, Page 96, Stanislaus County Records, more particularly described by metes and bounds as follows:

Beginning at the most westerly corner of said PARCEL C, said point being the True Point of Beginning;

Thence from said True Point of Beginning, NORTH 46°52'59" EAST 20.00 feet along the northwesterly line of said PARCEL C;

Thence departing from said northwesterly line SOUTH 43°07'01" EAST 111.45 feet to a point on the southwesterly line of said PARCEL C;

Thence northwesterly along said southwesterly line the following 2 (two) courses; (1) NORTH 61°08'39" WEST 64.63 feet to an angle point in said southwesterly line, and (2) NORTH 43°07'01" WEST 50.00 feet to the True Point of Beginning.

Containing 1,615 square feet (0.0371 Acres) more or less.

The Basis of Bearings for this description is the California State Plane Coordinate System, ZONE 3, NAD83 adjusted to the 2007.00 epoch of Monuments "HPGN D CA 10 HG", "HPGN D CA 10 JL" and "HPGN CA 10 04". All distances are Ground distances. To convert to grid distances apply the combined factor of 0.9999311249.

This real property description was prepared by me,
or under my direction, in conformance with the
Professional Land Surveyors Act.

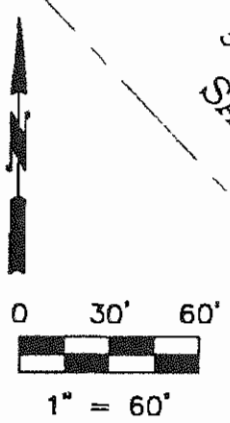
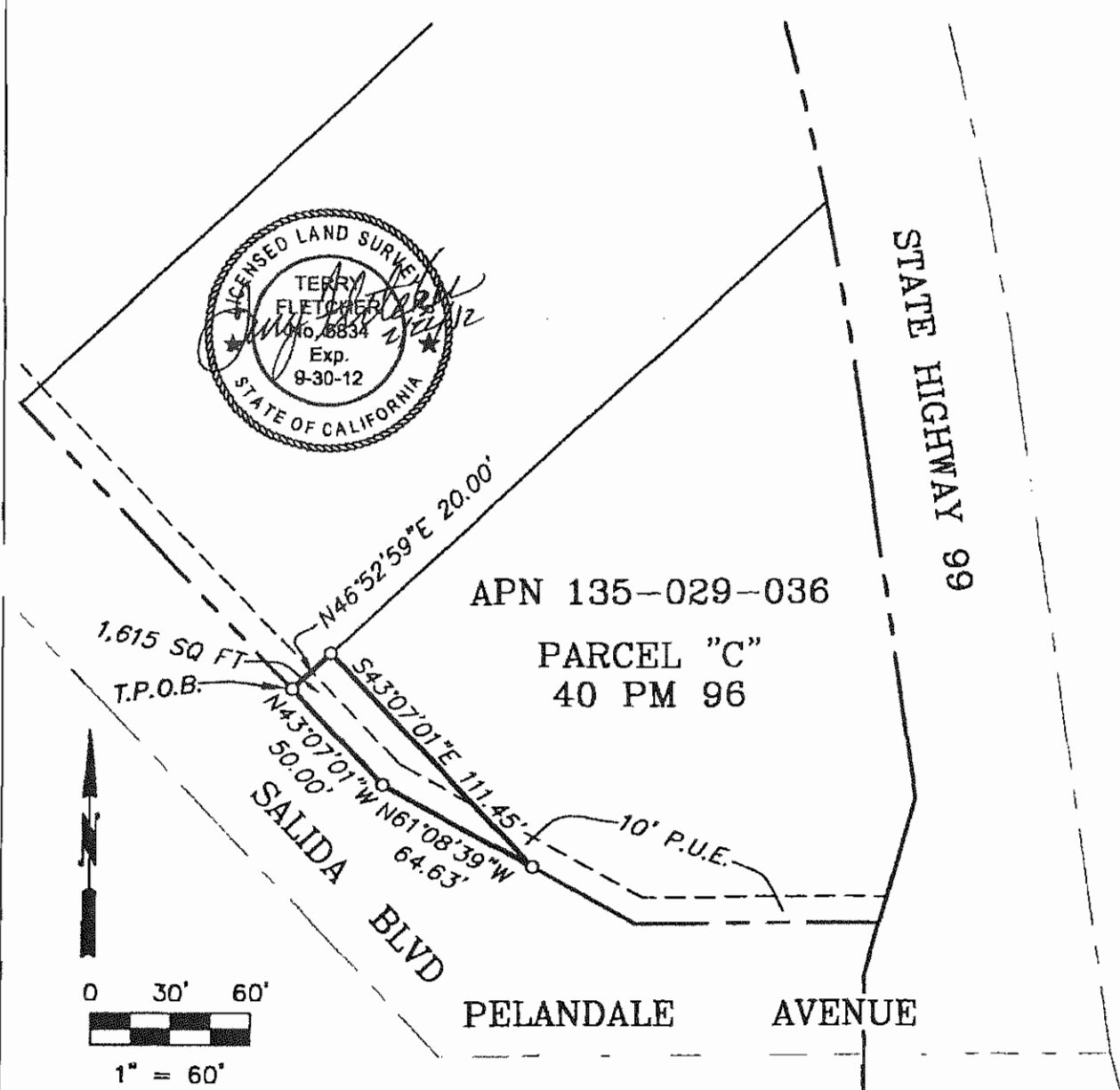

Signature

2/22/12
Dated




EXHIBIT "B"

TEMPORARY CONSTRUCTION EASEMENT



BASIS OF BEARINGS: CALIFORNIA STATE PLANE COORDINATE SYSTEM, ZONE 3, NAD83, adjusted to the 2007.00 epoch of Monuments "HPGN D 10 HG", "HPGN D CA JL" and "HPGN CA 10 04". All distances are Ground distances > To convert to grid distances apply the combined factor of 0.9999311249.

 DOKKEN <small>REGISTERED PROFESSIONAL SURVEYORS</small> 2385 IRON POINT ROAD, SUITE 200 FOLSOM, CA 95630 (916) 858-0642	PELANDALE	DATE: 2/22/12
	STANISLAUS COUNTY STATE OF CALIFORNIA	APN: 135-029-036
		PARCEL NO. -----
	CHECKED BY: TF	PREPARED BY: RJ

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA

COUNTY OF STANISLAUS

On 3/30/2012 before me, Deryl L. Neal, Notary Public,
date name of notary officer

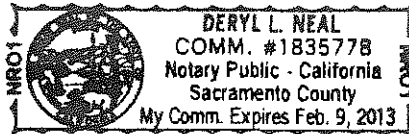
personally appeared Joga S. Minhas and Surinder K. Minhas
names(s) of signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.


Signature of Notary



OPTIONAL SECTION

CAPACITY CLAIMED BY SIGNER

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the document.

- INDIVIDUAL
- CORPORATE OFFICER(S)

Title(s)

- PARTNER(S) LIMITED
- TRUSTEE(S) GENERAL
- ATTORNEY-IN-FACT
- GUARDIAN/CONSERVATOR
- OTHER:

SIGNER IS REPRESENTING:
Name of Person(s) or entity(ies)

OPTIONAL SECTION:

DATA REQUESTED HERE IS NOT REQUIRED BY LAW.

TITLE OR TYPE OF DOCUMENT: _____

NUMBER OF PAGES _____ DATE _____

SIGNER(S) OTHER THAN NAMED ABOVE _____

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-195**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO
DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE
THE ACQUISITION OF CERTAIN REAL PROPERTY AND DIRECTING THE
FILING OF EMINENT DOMAIN PROCEEDINGS: STATE ROUTE 99 /
PELANDALE AVENUE INTERCHANGE RECONSTRUCTION PROJECT.
ASSESSOR'S PARCEL NUMBER: 135-029-039. OKADA BROS., INC.,
PROPERTY OWNER, PROPERTY ADDRESS: 4201 SISK ROAD, MODESTO,
STANISLAUS COUNTY, CALIFORNIA**

WHEREAS, the purpose of the State Route 99/Pelandale Avenue Interchange Construction Project ("Project") is to replace and expand the Pelandale Avenue Interchange on State Route ("SR") 99 in order to mitigate existing interchange operational and safety deficiencies, including without limitation: (1) widening, reconstructing, and relocating an existing operationally inadequate bridge structure across SR 99; (2) ramp modifications to lessen congestion and improve operational efficiency of SR 99 and surrounding local roads, including Pelandale Avenue, Sisk Road and Salida Avenue; (3) pedestrian crossings and upgrades to meet standards of the Americans with Disabilities Act, as well as, improving traffic conditions, levels of service and accommodate projected increases in regional and local traffic; and

WHEREAS, the Project is consistent with the adopted General Plan of the City of Modesto and the State Route 99 Transportation Concept Plan; and

WHEREAS, improvement of said interchange will require acquisition of right-of-way for State Highway and related local road purposes, and

WHEREAS, California Streets and Highway Code Section 130 authorizes Caltrans and the City of Modesto to enter into a contract regarding the acquisition, construction, improvement and/or maintenance of any State Route; and

WHEREAS, on February 22, 2011, the City Council of City of Modesto adopted Resolution 2011-64 authorizing the City Manager to execute a co-operative agreement between City of Modesto and California Department of Transportation (“Caltrans”) for acquisition of right-of-way for construction of the Project improvements and for the City of Modesto to hear Resolutions of Necessity; and

WHEREAS, on June 9, 2011, the City of Modesto and Caltrans entered into a Co-operative Agreement (“District Agreement 10-322”); and

WHEREAS, after extensive public scoping of nineteen (19) interchange alternatives, in addition to a “No Build” alternative, Caltrans approved the Initial Study with Mitigated Negative Declaration on September 28, 2009 selecting the preferred alternative for the Project; and

WHEREAS, the selection of the preferred alternative set the Right-of –Way requirements for implementation of the Project; and

WHEREAS, the real property described herein and to be acquired is within the Project area; and

WHEREAS, it is desirable and necessary for the City of Modesto’s SR 99/Pelandale Avenue Interchange Reconstruction Project to acquire fee title together with all improvements situated thereon, together with all rights appurtenant thereto, to Assessor’s Parcel Number 135-029-039, known as 4201 Sisk Road, Modesto, County of Stanislaus, California, as more particularly described in **Exhibit “A”** and depicted in **Exhibit “B” attached** hereto and made part of this Resolution and referred to as the “Subject Property”; and

WHEREAS, the City of Modesto is vested with the power of eminent domain to acquire real property for the Project by virtue of Article 1, Section 19, of the Constitution of the State of California; California Code of Civil Procedure sections 1240.010 - 1240.050, 1240.110, 1240.120, 1240.150, 1240.350, 1240.510, 1250.610; California Government Code sections 37350.5, 37353, 39792, 38900, 40401 and 40404; Pelandale Avenue Joint Powers Agreement dated December 6, 2005 between the City of Modesto and the County of Stanislaus; Approval of the Consent by Stanislaus County to Allow Right-of-Way Acquisition by the City of Modesto, Item No. 2011-568, dated October 4, 2011; Consent signed by the County to Allow Right-of-Way Acquisition by the City of Modesto (in the County for the Project) dated October 5, 2011 and February 28, 2012; Modesto City Council Resolution No. 2011-064, dated February 22, 2011; the Cooperative Agreement between the California State Department of Transportation and the City of Modesto dated June 9, 2011 (District Agreement 10-322); and, California Streets and Highways Code section 10102; and

WHEREAS, pursuant to Code of Civil Procedure Section 1245.235, the City of Modesto provided the owner of the Subject Property, a copy of the “Notice of Intent to Adopt resolution of Necessity” informing it of the date and time any interested person could be heard before the City Council, on the following matters, and to have the City Council give consideration to testimony prior to deciding whether or not to adopt the proposed Resolution of Necessity to commence eminent domain proceedings:

- (a) Whether the public interest and necessity require the Project;
- (b) Whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
- (c) Whether the property sought to be acquired is necessary for the Project;

- (d) Whether the property is being acquired for a compatible use under Code of Civil Procedure section 1240.510 in that the City's use of the property will not interfere with or impair the continued public use as it now exists or may reasonably be expected to exist in the future;
- (e) Whether the property is being acquired for a more necessary public use under Code of Civil Procedure 1240.610 in that the City's use is a more necessary public use than the use to which the property is appropriated or could be appropriated; and
- (f) Whether the offer required by Government Code Section 7267.2 has been made to the owner of record.

WHEREAS, pursuant to the provisions of Section 7267.2 of the Government Code of the State of California, the City of Modesto made a written offer to Okada Bros. Inc., to acquire the Subject Property for just compensation and provided same with an appraisal summary statement; and

WHEREAS, Caltrans and the City of Modesto have satisfied the provisions and complied with all requirements of the California Environmental Quality Act ("CEQA") for the Project; and

WHEREAS, Caltrans authorized and approved the City of Modesto to hear Resolutions of Necessity for acquisitions of right-of-way for the Project; and

WHEREAS, a hearing was held on May 22, 2012, at 5:30 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which the City Council considered this matter as an item placed on its agenda at its regular meeting; and

WHEREAS, all the findings and conclusions made by the City Council pursuant to this Resolution are based upon substantial evidence in the entire record before the City Council, and are not based solely on the information in this Resolution; and

WHEREAS, prior to taking action, the City Council has heard, been presented with, reviewed and considered all of the information and data in the administrative

record, including each of the Project-related documents relevant to the adoption of this Resolution, including but not limited to, the General Plans of the City of Modesto and the County of Stanislaus, the Environmental Documents including without limitation, the Initial Study with Mitigated Negative Declaration, the Staff Report and all documents incorporated therein, and all oral and written evidence presented to it during all meetings and hearings regarding this Project; and

WHEREAS, the City Council has endeavored in good faith to consider the pros and cons of the issue before it; and

WHEREAS, all other legal prerequisites to the adoption of the Resolution have occurred.

NOW, THEREFORE, IT IS FOUND, DETERMINED, AND RESOLVED by the City of Modesto as follows:

1. The above recitals are true and correct and are matters on which these findings are based.
2. The public interest and necessity require the Project.
3. The Project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury.
4. The taking of the fee simple title in and to the real property as more particularly described in **Exhibit "A"** and depicted in **Exhibit "B"** is necessary for the Project.
5. The offer required by Section 7267.2 of the Government Code of the State of California has been made to the owner of record of the real property.
6. The Subject Property is being acquired for a compatible use under California Code of Civil Procedure section 1240.510 in that the City's use of the Subject Property will not interfere with or impair the continued use of the Subject Property for public uses as they now exist or may reasonably be expected to exist in the future.

7. The Subject Property is being acquired for a more necessary public use under California Code of Civil Procedure section 1240.610 in that the City's use of the Subject Property is a more necessary public use than the use to which the property is appropriated now or may be appropriated to in the future.
8. Special Counsel, Meyers, Nave, Riback, Silver & Wilson, is hereby authorized, empowered and directed to acquire, in the name of City of Modesto, by condemnation, the Subject Property in accordance with the provisions of the Eminent Domain Law, the Code of Civil Procedure and the Constitution of California; to prepare, prosecute and conduct to conclusion in the name of the City of Modesto such proceedings in the proper court as are necessary for such acquisition and to take such action as may be deemed advisable or necessary in connection therewith; and, to deposit the probable amount of just compensation to the State Treasurer's Condemnation Fund based on an appraisal and apply to the Court for an order of prejudgment possession and use for said public uses and purposes as set forth herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

All of Parcel 2 as shown on that certain parcel map filed for record January 12, 1990 in Book 42 of Parcel Maps, at Page 70, Stanislaus County Records excepting therefrom all of that certain Grant Deed to the City of Modesto described in Document 2008-0045573 Stanislaus County Records. Located in the City of Modesto, Stanislaus County, State of California more particularly described as follows:

Beginning at the most northerly corner of Parcel 2 as shown on said Parcel Map, said point also being on the westerly right of way of Sisk Road thence from the point of beginning along a non tangent curve to the right having a radius of 560.00 feet, to which a radial lines bears North 49°49'24" East; thence coincident with the right of way of Sisk Road along said curve 165.80 feet through a central angle of 16°57'51" to a point on the northerly line of that certain Grant Deed to the City of Modesto described in document 2008-0045573 Stanislaus County Records and being the beginning of a non tangent curve to the right havening a radius or 47.00 feet, to which a radial lines bears North 67°42'45" East; thence coincident with the northerly line of said Grant Deed the following (6) courses (1) along said curve 46.49 feet through a central angle of 56°40'42"; thence (2) North 55°36'33" West 2.10 feet to the beginning of a non tangent curve to the left having a radius of 45.00 feet, to which a radial lines bears South 55°36'34" East; thence (3) along said curve 42.24 feet through a central angle of 53°46'47"; thence (4) South 88°10'13" West 13.17 feet; thence (5) North 59°17'47" West 51.12 feet; thence (6) South 30°40'52" West 6.40 feet to the easterly right of way of State Highway 99 as shown on said Parcel Map; thence coincident with said easterly right of way also being the westerly line of said Parcel 2 the following two (2) courses; (1) North 59°17'47" West 14.43 feet to the beginning of a non tangent curve to the left having a radius of 865.00 feet, to which a radial bearing bears North 70°11'47" East; thence (2) along said curve 54.17 feet through a central angle of 03°35'17" thence leaving said State Highway 99 right of way and coincident with the northerly line of said parcel 2 the following (3) courses (1) North 58°04'13" East 32.59 feet; thence (2) North 31°55'45" West 81.00 feet; thence (3) North 58°04'15" East 74.54 feet to the POINT OF BEGINNING.

Containing 0.42 acres, more or less.

Exhibit B attached herewith and made a part hereof.

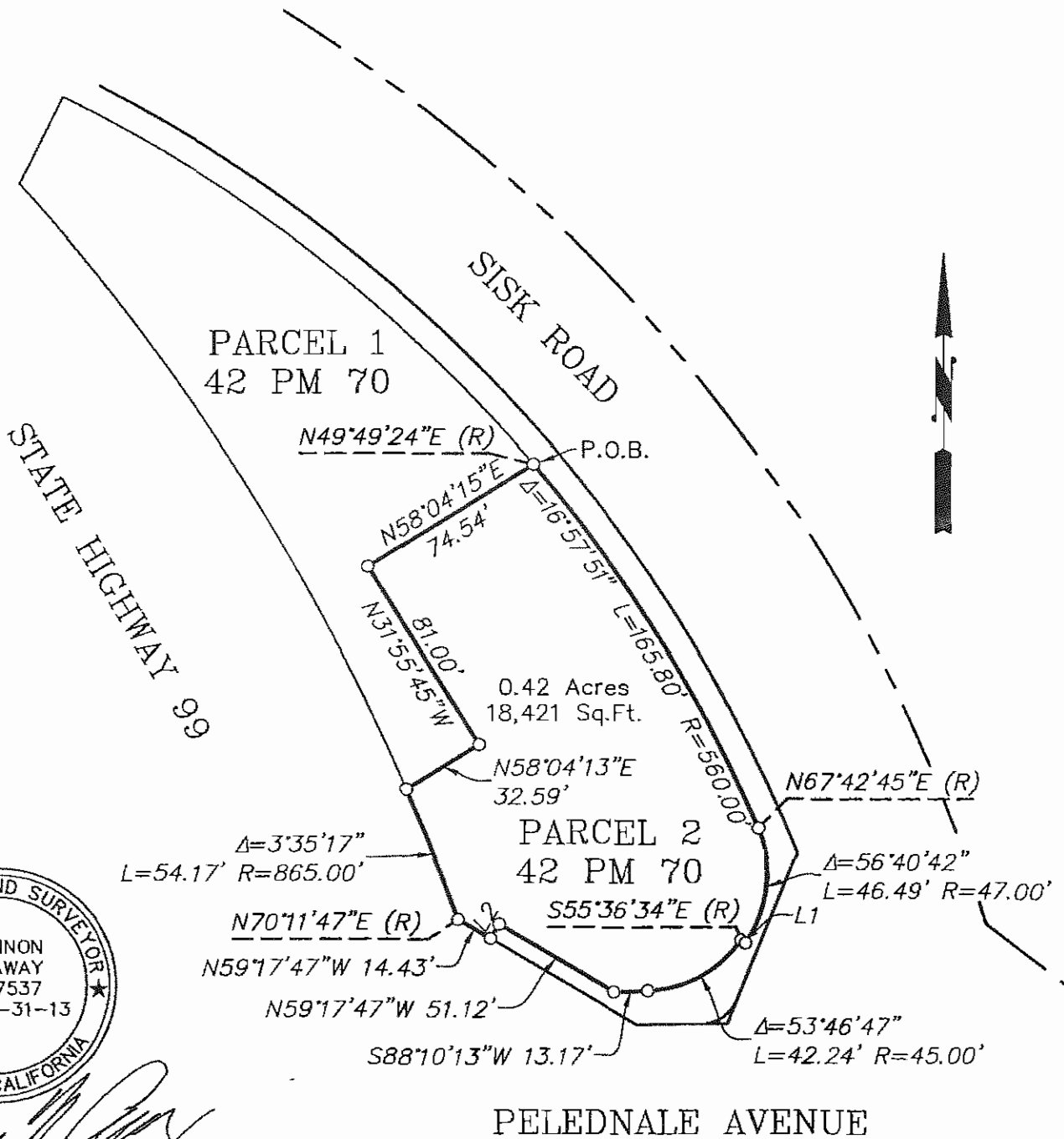
The Basis of Bearings for this map is the California State Plane Coordinate System, zone 3, North American Datum 1983 adjusted to the 2007.00 epoch, holding monuments "HPGN D CA 10 HG", "HPGN D CA 10 JL" and "HPGN CA 10 04". To obtain ground values apply the combination factor of 1.000068880.

Prepared by:
Jacobs
Shannon K. Conaway, PLS 7537
License Expires 12-31-2013
Date: 4-27-2012



EXHIBIT "B"

RIGHT OF WAY ACQUISITION



[Handwritten Signature]

LEGEND

- (R) RADIAL
- o DIMENSION POINT
- P.O.B. POINT OF BEGINNING

LINE TABLE

LINE	DIRECTION	LENGTH
L1	N55°36'33"W	2.10'
L2	S30°40'52"W	6.40'

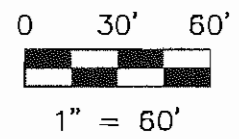
P:\Projects\W9X13300_Pala\400_INTRA_DESIGN_CORR\470_SURVEYS\472_Data\zDrawings\W9X13300_Survey\W9X13300 - 135-029-039.dwg, 5/1/2012 12:43 PM



JACOBS
180 Promenade Circle, Suite 300 Sacramento, CA 95834
Phone (916) 929-3323 Fax (916) 929-1772

RIGHT OF WAY ACQUISITION
PELEDNALE INTERCHANGE

CITY OF MODESTO



DATE: 5/1/12
PAGE: 1 of 1

135-029-039.txt

Name: LOT 4

End North: 2078133.00' East: 6396915.67'

Segment #1 : Curve

Length: 165.80' Radius: 560.00'
Delta: 16°57'51" Tangent: 83.51'
Chord: 165.20' Course: S31°41'40"E
Course In: S49°49'24"W Course Out: N66°47'15"E
RP North: 2077771.72' East: 6396487.79'
End North: 2077992.44' East: 6397002.46'



A handwritten signature in black ink, appearing to read "Shannon K. Conaway", written over the bottom portion of the professional seal.

Segment #2 : Curve

Length: 46.49' Radius: 47.00'
Delta: 56°40'42" Tangent: 25.35'
Chord: 44.62' Course: S6°03'06"W
Course In: S67°42'45"W Course Out: S55°36'33"E
RP North: 2077974.61' East: 6396958.97'
End North: 2077948.07' East: 6396997.76'

Segment #3 : Line

Course: N55°36'33"W Length: 2.10'
North: 2077949.25' East: 6396996.02'

Segment #4 : Curve

Length: 42.24' Radius: 45.00'

Delta: 53°46'47" Tangent: 22.82'
Chord: 40.70' Course: S61°16'50"W
Course In: N55°36'34"W Course Out: S1°49'47"E
RP North: 2077974.67' East: 6396958.89'
End North: 2077929.70' East: 6396960.33'

Segment #5 : Line

Course: S88°10'13"W Length: 13.17'
North: 2077929.28' East: 6396947.17'

Segment #6 : Line

Course: N59°17'47"W Length: 51.12'
North: 2077955.38' East: 6396903.21'

Segment #7 : Line

Course: S30°40'52"W Length: 6.40'
North: 2077949.87' East: 6396899.95'

Segment #8 : Line

Course: N59°17'47"W Length: 14.43'
North: 2077957.24' East: 6396887.54'

Segment #9 : Curve

Length: 54.17' Radius: 865.00'
 Delta: 3°35'17" Tangent: 27.09'
 Chord: 54.16' Course: N21°35'51"W
 Course In: S70°11'47"W Course Out: N66°36'30"E
 RP North: 2077664.18' East: 6396073.70'
 End North: 2078007.60' East: 6396867.61'

Segment #10 : Line

Course: N58°04'13"E Length: 32.59'
 North: 2078024.84' East: 6396895.26'

Segment #11 : Line

Course: N31°55'45"W Length: 81.00'
 North: 2078093.58' East: 6396852.43'

Segment #12 : Line

Course: N58°04'15"E Length: 74.54'
 North: 2078133.00' East: 6396915.69'

Perimeter: 584.07' Area: 18421 Sq. Ft.
 Error Closure: 0.02 Course: N87°47'52"E
 Error North: 0.001 East: 0.021

135-029-039.txt

Precision 1: 29001.50

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-196**

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION OF CERTAIN REAL PROPERTY AND DIRECTING THE FILING OF EMINENT DOMAIN PROCEEDINGS: STATE ROUTE 99 / PELANDALE AVENUE INTERCHANGE RECONSTRUCTION PROJECT, ASSESSOR'S PARCEL NUMBER: 135-029-038. PROPERTY OWNERS, PAUL ALLEN BAHN; DAVID JOHN SEIFERT AND RUTH ELLA SEIFERT, TRUSTEE AND SUCCESSOR TRUSTEES OF THE DAVID JOHN SEIFERT AND RUTH SEIFERT 1995 LIVING TRUST, CREATED BY DECLARATION OF TRUST DATED SEPTEMBER 7, 1995; W. BLAKE GIBBS AND ESTER M. GIBBS, TRUSTEES AND THE SUCCESSOR TRUSTEES OF THE W.B. & E.M. GIBBS TRUST, U/A/D 02/04/09; TYLER GIBBS AND KRISTINE A. GIBBS, TRUSTEES AND THE SUCCESSOR TRUSTEES OF THE GIBBS FAMILY TRUST, CREATED BY DECLARATION OF TRUST DATED MARCH 20, 2000; JONATHAN D. SEIFERT; KRISTIN B. SEIFERT; DANIEL E. BLACKMAN; PARI ANNA BLACKMAN. 4259 SISK ROAD, MODESTO, STANISLAUS COUNTY, CALIFORNIA

WHEREAS, the purpose of the State Route 99/Pelandale Avenue Interchange Construction Project ("Project") is to replace and expand the Pelandale Avenue Interchange on State Route ("SR") 99 in order to mitigate existing interchange operational and safety deficiencies, including without limitation: (1) widening, reconstructing, and relocating an existing operationally inadequate bridge structure across SR 99; (2) ramp modifications to lessen congestion and improve operational efficiency of SR 99 and surrounding local roads, including Pelandale Avenue, Sisk Road and Salida Avenue; (3) pedestrian crossings and upgrades to meet standards of the Americans with Disabilities Act, as well as, improving traffic conditions, levels of service and accommodate projected increases in regional and local traffic; and

WHEREAS, the Project is consistent with the adopted General Plan of the City of Modesto and the State Route 99 Transportation Concept Plan; and

WHEREAS, improvement of said interchange will require acquisition of right-of-way for State Highway and related local road purposes, and

WHEREAS, California Streets and Highway Code Section 130 authorizes Caltrans and the City of Modesto to enter into a contract regarding the acquisition, construction, improvement and/or maintenance of any State Route; and

WHEREAS, on February 22, 2011, the City Council of City of Modesto adopted Resolution 2011-64 authorizing the City Manager to execute a co-operative agreement between City of Modesto and California Department of Transportation (“Caltrans”) for acquisition of right-of-way for construction of the Project improvements and for the City of Modesto to hear Resolutions of Necessity; and

WHEREAS, on June 9, 2011, the City of Modesto and Caltrans entered into a Co-operative Agreement (“District Agreement 10-322”); and

WHEREAS, after extensive public scoping of nineteen (19) interchange alternatives, in addition to a “No Build” alternative, Caltrans approved the Initial Study with Mitigated Negative Declaration on September 28, 2009 selecting the preferred alternative for the Project; and

WHEREAS, the selection of the preferred alternative set the Right-of-Way requirements for implementation of the Project; and

WHEREAS, the real property described herein and to be acquired is within the Project area; and

WHEREAS, it is desirable and necessary for the City of Modesto’s SR 99/Pelandale Avenue Interchange Reconstruction Project to acquire fee title together with

all improvements situated thereon, together with all rights appurtenant thereto, to Assessor's Parcel Number 135-029-038, also known as 4259 Sisk Road in Modesto, County of Stanislaus, California, as more particularly described in **Exhibit "A"** and depicted in **Exhibit "B" attached** hereto and made part of this Resolution and referred to as the "Subject Property"; and

WHEREAS, the City of Modesto is vested with the power of eminent domain to acquire real property for the Project by virtue of Article 1, Section 19, of the Constitution of the State of California; California Code of Civil Procedure sections 1240.010 - 1240.050, 1240.110, 1240.120, 1240.150, 1240.350, 1240.510, 1250.610; California Government Code sections 37350.5, 37353, 39792, 38900, 40401 and 40404; Pelandale Avenue Joint Powers Agreement dated December 6, 2005 between the City of Modesto and the County of Stanislaus; Approval of the Consent by Stanislaus County to Allow Right-of-Way Acquisition by the City of Modesto, Item No. 2011-568, dated October 4, 2011; Consent signed by the County to Allow Right-of-Way Acquisition by the City of Modesto (in the County for the Project) dated October 5, 2011 and February 28, 2012; Modesto City Council Resolution No. 2011-064, dated February 22, 2011; the Cooperative Agreement between the California State Department of Transportation and the City of Modesto dated June 9, 2011 (District Agreement 10-322); and, California Streets and Highways Code section 10102; and

WHEREAS, pursuant to Code of Civil Procedure Section 1245.235, the City of Modesto provided the owners of the Subject Property, a copy of the "Notice of Intent to Adopt resolution of Necessity" informing them of the date and time any interested person could be heard before the City Council, on the following matters, and to have the City

Council give consideration to testimony prior to deciding whether or not to adopt the proposed Resolution of Necessity to commence eminent domain proceedings:

- (a) Whether the public interest and necessity require the Project;
- (b) Whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
- (c) Whether the property sought to be acquired is necessary for the Project;
- (d) Whether the property is being acquired for a compatible use under Code of Civil Procedure section 1240.510 in that the City's use of the property will not interfere with or impair the continued public use as it now exists or may reasonably be expected to exist in the future;
- (e) Whether the property is being acquired for a more necessary public use under Code of Civil Procedure 1240.610 in that the City's use is a more necessary public use than the use to which the property is appropriated or could be appropriated; and
- (f) Whether the offer required by Government Code Section 7267.2 has been made to the owner of record.

WHEREAS, pursuant to the provisions of Section 7267.2 of the Government Code of the State of California, the City of Modesto made a written offer to the property owners to acquire the Subject Property for just compensation and provided same with an appraisal summary statement; and

WHEREAS, Caltrans and the City of Modesto have satisfied the provisions and complied with all requirements of the California Environmental Quality Act ("CEQA") for the Project; and

WHEREAS, Caltrans authorized and approved the City of Modesto to hear Resolutions of Necessity for acquisitions of right-of-way for the Project; and

WHEREAS, a hearing was held on May 22, 2012, at 5:30 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which the City Council considered this matter as an item placed on its agenda at its regular meeting; and

WHEREAS, all the findings and conclusions made by the City Council pursuant to this Resolution are based upon substantial evidence in the entire record before the City Council, and are not based solely on the information in this Resolution; and

WHEREAS, prior to taking action, the City Council has heard, been presented with, reviewed and considered all of the information and data in the administrative record, including each of the Project-related documents relevant to the adoption of this Resolution, including but not limited to, the General Plans of the City of Modesto and the County of Stanislaus, the Environmental Documents including without limitation, the Initial Study with Mitigated Negative Declaration, the Staff Report and all documents incorporated therein, and all oral and written evidence presented to it during all meetings and hearings regarding this Project; and

WHEREAS, the City Council has endeavored in good faith to consider the pros and cons of the issue before it; and

WHEREAS, all other legal prerequisites to the adoption of the Resolution have occurred.

NOW, THEREFORE, IT IS FOUND, DETERMINED, AND RESOLVED by the City of Modesto as follows:

1. The above recitals are true and correct and are matters on which these findings are based.
2. The public interest and necessity require the Project.

3. The Project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury.
4. The taking of the fee simple title in and to the real property as more particularly described in **Exhibit "A"** and depicted in **Exhibit "B"** is necessary for the Project.
5. The offer required by Section 7267.2 of the Government Code of the State of California has been made to the owner of record of the real property.
6. The Subject Property is being acquired for a compatible use under California Code of Civil Procedure section 1240.510 in that the City's use of the Subject Property will not interfere with or impair the continued use of the Subject Property for public uses as they now exist or may reasonably be expected to exist in the future.
7. The Subject Property is being acquired for a more necessary public use under California Code of Civil Procedure section 1240.610 in that the City's use of the Subject Property is a more necessary public use than the use to which the property is appropriated now or may be appropriated to in the future.
8. Special Counsel, Meyers, Nave, Riback, Silver & Wilson, is hereby authorized, empowered and directed to acquire, in the name of City of Modesto, by condemnation, the Subject Property in accordance with the provisions of the Eminent Domain Law, the Code of Civil Procedure and the Constitution of California; to prepare, prosecute and conduct to conclusion in the name of the City of Modesto such proceedings in the proper court as are necessary for such acquisition and to take such action as may be deemed advisable or necessary in connection therewith; and, to deposit the probable amount of just compensation to the State Treasurer's Condemnation Fund based on an appraisal and apply to the Court for an order of prejudgment possession and use for said public uses and purposes as set forth herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Geer, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

All of Parcel 1 as shown on that certain parcel map filed for record January 12, 1990 in Book 42 of Parcel Maps, at Page 70, Stanislaus County Records. Located in the City of Modesto, Stanislaus County, state of California more particularly described as follows:

Beginning at the most northerly corner of Parcel 1 as shown on said Parcel Map, said point also being on the westerly right of way of Sisk Road thence from the point of beginning along a non tangent curve to the right having a radius of 560.00 feet, to which a radial lines bears North 26°08'54" East; thence coincident with the right of way of Sisk Road as shown on said map along said curve 231.40 feet through a central angle of 23°40'30" to the most easterly corner of said Parcel 1; thence leaving said right of way coincident with the southerly line of said Parcel 1 also being the northerly line of Parcel 2 of said Parcel Map the following (3) courses (1) South 58°04'15" West 74.54 feet; (2) thence South 31°55'45" East 81.00 feet; (3) thence South 58°04'13" West 32.59 feet to the most southerly corner of said Parcel 1 and a point on the easterly right of way of State highway 99 as shown on said Parcel Map and the beginning of a non tangent curve to the left having a radius of 865.00 feet, to which a radial lines bears North 66°36'30" East; thence coincident with the right of way of State Highway 99 along said curve 278.36 feet through a central angle of 18°26'17" to the most westerly corner of said Parcel 1; thence coincident with the northwesterly line of said Parcel 1 North 26°08'54" East 37.14 feet to the POINT OF BEGINNING.

Containing 0.40 acres, more or less.

Exhibit B attached herewith and made a part hereof.

The Basis of Bearings for this map is the California State Plane Coordinate System, zone 3, North American Datum 1983 adjusted to the 2007.00 epoch, holding monuments "HPGN D CA 10 HG", "HPGN D CA 10 JL" and "HPGN CA 10 04". To obtain ground values apply the combination factor of 1.000068880.

Prepared by:

Jacobs

Shannon K. Conaway, PLS 7537

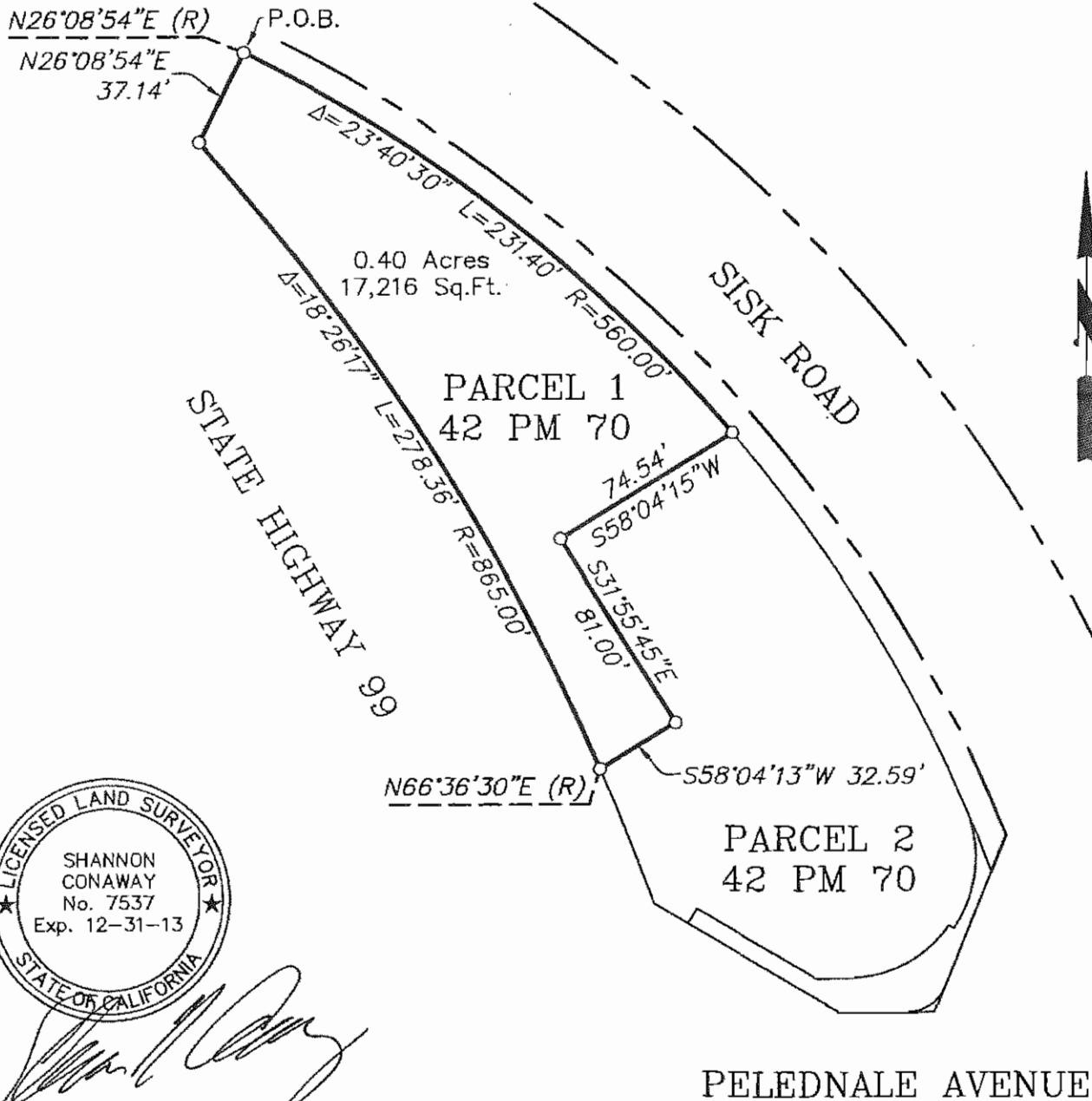
License Expires 12-31-2013

Date: 4-27-2012



EXHIBIT "B"

RIGHT OF WAY ACQUISITION



[Handwritten Signature]

LEGEND

- (R) RADIAL
- o DIMENSION POINT
- P.O.B. POINT OF BEGINNING

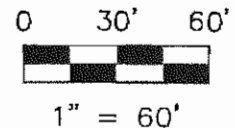
P: \Projects\W9X13300_Pela\400_INTRA_DESIGN_CORR\470_SURVEYS\472_Data\zDrawings\W9X13300_Survey\W9X13300 - 135-029-038.dwg, 4/27/2012 6:33 PM

JACOBS™

JACOBS
180 Promenade Circle, Suite 300 Sacramento, CA 95834
Phone (916) 929-3323 Fax (916) 929-1772

RIGHT OF WAY ACQUISITION
PELEDNALE INTERCHANGE

CITY OF MODESTO



DATE: 4/27/12
PAGE: 1 of 1

Name: LOT 5

End North: 2078274.41' East: 6396734.58'

Segment #1 : Curve

Length: 231.40' Radius: 560.00'
Delta: 23°40'30" Tangent: 117.37'
Chord: 229.75' Course: S52°00'51"E
Course In: S26°08'54"W Course Out: N49°49'24"E
RP North: 2077771.72' East: 6396487.79'
End North: 2078133.00' East: 6396915.67'



A handwritten signature in black ink, appearing to read "Shannon K. Conaway", written over the bottom portion of the professional seal.

Segment #2 : Line

Course: S58°04'15"W Length: 74.54'
North: 2078093.58' East: 6396852.40'

Segment #3 : Line

Course: S31°55'45"E Length: 81.00'
North: 2078024.84' East: 6396895.24'

Segment #4 : Line

Course: S58°04'13"W Length: 32.59'
North: 2078007.60' East: 6396867.58'

Segment #5 : Curve

135-029-038.txt

Length: 278.36' Radius: 865.00'
Delta: 18°26'17" Tangent: 140.39'
Chord: 277.16' Course: N32°36'38"W
Course In: S66°36'30"W Course Out: N48°10'13"E
RP North: 2077664.18' East: 6396073.67'
End North: 2078241.07' East: 6396718.21'

Segment #6 : Line

Course: N26°08'54"E Length: 37.14'
North: 2078274.41' East: 6396734.58'

Perimeter: 735.02' Area: 17216 Sq. Ft.
Error Closure: 0.00 Course: S74°57'14"W
Error North: -0.001 East: -0.004

Precision 1: 732180000.00

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-197**

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION OF CERTAIN REAL PROPERTY AND DIRECTING THE FILING OF EMINENT DOMAIN PROCEEDINGS: STATE ROUTE 99 / PELANDALE AVENUE INTERCHANGE RECONSTRUCTION PROJECT. ASSESSOR'S PARCEL NUMBERS: 135-029-040 & 135-029-041, RAMANBHAI VANMALIBHAI PATEL AND USHABEN RAMANBHAI PATEL AS TRUSTEES OF THE PATEL LIVING TRUST DATED NOVEMBER 13, 2007, PROPERTY OWNERS – 4152 SALIDA BOULEVARD, MODESTO, STANISLAUS COUNTY, CALIFORNIA

WHEREAS, the purpose of the State Route 99/Pelandale Avenue Interchange Construction Project (“Project”) is to replace and expand the Pelandale Avenue Interchange on State Route (“SR”) 99 in order to mitigate existing interchange operational and safety deficiencies, including without limitation: (1) widening, reconstructing, and relocating an existing operationally inadequate bridge structure across SR 99; (2) ramp modifications to lessen congestion and improve operational efficiency of SR 99 and surrounding local roads, including Pelandale Avenue, Sisk Road and Salida Avenue; (3) pedestrian crossings and upgrades to meet standards of the Americans with Disabilities Act, as well as, improving traffic conditions, levels of service and accommodate projected increases in regional and local traffic; and

WHEREAS, the Project is consistent with the adopted General Plan of the City of Modesto and the State Route 99 Transportation Concept Plan; and

WHEREAS, improvement of said interchange will require acquisition of right-of-way for State Highway and related local road purposes, and

WHEREAS, California Streets and Highway Code Section 130 authorizes Caltrans and the City of Modesto to enter into a contract regarding the acquisition, construction, improvement and/or maintenance of any State Route; and

WHEREAS, on February 22, 2011, the City Council of City of Modesto adopted Resolution 2011-64 authorizing the City Manager to execute a co-operative agreement between City of Modesto and California Department of Transportation (“Caltrans”) for acquisition of right-of-way for construction of the Project improvements and for the City of Modesto to hear Resolutions of Necessity; and

WHEREAS, on June 9, 2011, the City of Modesto and Caltrans entered into a Co-operative Agreement (“District Agreement 10-322”); and

WHEREAS, after extensive public scoping of nineteen (19) interchange alternatives, in addition to a “No Build” alternative, Caltrans approved the Initial Study with Mitigated Negative Declaration on September 28, 2009 selecting the preferred alternative for the Project; and

WHEREAS, the selection of the preferred alternative set the Right-of-Way requirements for implementation of the Project; and

WHEREAS, the real property described herein and to be acquired is within the Project area; and

WHEREAS, it is desirable and necessary for the City of Modesto’s SR 99/Pelandale Avenue Interchange Reconstruction Project to acquire fee title together with all improvements situated thereon, together with all rights appurtenant thereto, to Assessor’s Parcel Numbers 135-029-040 and 135-029-041, along Salida Boulevard in Modesto, County of Stanislaus, California, as more particularly described in **Exhibit “A”**

and depicted in **Exhibit “B” attached** hereto and made part of this Resolution and referred to as the “Subject Property”; and

WHEREAS, the City of Modesto is vested with the power of eminent domain to acquire real property for the Project by virtue of Article 1, Section 19, of the Constitution of the State of California; California Code of Civil Procedure sections 1240.010 - 1240.050, 1240.110, 1240.120, 1240.150, 1240.350, 1240.510, 1250.610; California Government Code sections 37350.5, 37353, 39792, 38900, 40401 and 40404; Pelandale Avenue Joint Powers Agreement dated December 6, 2005 between the City of Modesto and the County of Stanislaus; Approval of the Consent by Stanislaus County to Allow Right-of-Way Acquisition by the City of Modesto, Item No. 2011-568, dated October 4, 2011; Consent signed by the County to Allow Right-of-Way Acquisition by the City of Modesto (in the County for the Project) dated October 5, 2011 and February 28, 2012; Modesto City Council Resolution No. 2011-064, dated February 22, 2011; the Cooperative Agreement between the California State Department of Transportation and the City of Modesto dated June 9, 2011 (District Agreement 10-322); and, California Streets and Highways Code section 10102; and

WHEREAS, pursuant to Code of Civil Procedure Section 1245.235, the City of Modesto provided the owners of the Subject Property, a copy of the “Notice of Intent to Adopt resolution of Necessity” informing them of the date and time any interested person could be heard before the City Council, on the following matters, and to have the City Council give consideration to testimony prior to deciding whether or not to adopt the proposed Resolution of Necessity to commence eminent domain proceedings:

- (a) Whether the public interest and necessity require the Project;

- (b) Whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
- (c) Whether the property sought to be acquired is necessary for the Project;
- (d) Whether the property is being acquired for a compatible use under Code of Civil Procedure section 1240.510 in that the City's use of the property will not interfere with or impair the continued public use as it now exists or may reasonably be expected to exist in the future;
- (e) Whether the property is being acquired for a more necessary public use under Code of Civil Procedure 1240.610 in that the City's use is a more necessary public use than the use to which the property is appropriated or could be appropriated; and
- (f) Whether the offer required by Government Code Section 7267.2 has been made to the owner of record.

WHEREAS, pursuant to the provisions of Section 7267.2 of the Government Code of the State of California, the City of Modesto made a written offer to the property owners to acquire the Subject Property for just compensation and provided same with an appraisal summary statement; and

WHEREAS, Caltrans and the City of Modesto have satisfied the provisions and complied with all requirements of the California Environmental Quality Act ("CEQA") for the Project; and

WHEREAS, Caltrans authorized and approved the City of Modesto to hear Resolutions of Necessity for acquisitions of right-of-way for the Project; and

WHEREAS, a hearing was held on May 22, 2012, at 5:30 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which the City Council considered this matter as an item placed on its agenda at its regular meeting; and

WHEREAS, all the findings and conclusions made by the City Council pursuant to this Resolution are based upon substantial evidence in the entire record before the City Council, and are not based solely on the information in this Resolution; and

WHEREAS, prior to taking action, the City Council has heard, been presented with, reviewed and considered all of the information and data in the administrative record, including each of the Project-related documents relevant to the adoption of this Resolution, including but not limited to, the General Plans of the City of Modesto and the County of Stanislaus, the Environmental Documents including without limitation, the Initial Study with Mitigated Negative Declaration, the Staff Report and all documents incorporated therein, and all oral and written evidence presented to it during all meetings and hearings regarding this Project; and

WHEREAS, the City Council has endeavored in good faith to consider the pros and cons of the issue before it; and

WHEREAS, all other legal prerequisites to the adoption of the Resolution have occurred.

NOW, THEREFORE, IT IS FOUND, DETERMINED, AND RESOLVED by the City of Modesto as follows:

1. The above recitals are true and correct and are matters on which these findings are based.
2. The public interest and necessity require the Project.
3. The Project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury.
4. The taking of the fee simple title in and to the real property as more particularly described in **Exhibit "A"** and depicted in **Exhibit "B"** is necessary for the Project.

5. The offer required by Section 7267.2 of the Government Code of the State of California has been made to the owner of record of the real property.
6. The Subject Property is being acquired for a compatible use under California Code of Civil Procedure section 1240.510 in that the City's use of the Subject Property will not interfere with or impair the continued use of the Subject Property for public uses as they now exist or may reasonably be expected to exist in the future.
7. The Subject Property is being acquired for a more necessary public use under California Code of Civil Procedure section 1240.610 in that the City's use of the Subject Property is a more necessary public use than the use to which the property is appropriated now or may be appropriated to in the future.
8. Special Counsel, Meyers, Nave, Riback, Silver & Wilson, is hereby authorized, empowered and directed to acquire, in the name of City of Modesto, by condemnation, the Subject Property in accordance with the provisions of the Eminent Domain Law, the Code of Civil Procedure and the Constitution of California; to prepare, prosecute and conduct to conclusion in the name of the City of Modesto such proceedings in the proper court as are necessary for such acquisition and to take such action as may be deemed advisable or necessary in connection therewith; and, to deposit the probable amount of just compensation to the State Treasurer's Condemnation Fund based on an appraisal and apply to the Court for an order of prejudgment possession and use for said public uses and purposes as set forth herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

All of Parcel 1 as shown upon that certain parcel map filed for record March 1, 1993 in Book 45 of Parcel Maps, at Page 78, Stanislaus county records. Located in the City of Modesto, Stanislaus County, State of California more particularly described as follows:

Beginning at the most easterly corner of said Parcel 1; thence from the Point of Beginning and coincident with the southeasterly line of said Parcel 1 also being the northwesterly line Parcel 2 as shown on said Parcel Map South $46^{\circ}52'59''$ West 129.41 feet to the most southerly corner of said Parcel 1 and the northeasterly right of way of Salida Boulevard as shown on said Parcel Map also being the beginning of a non tangent curve to the right having a radius of 6970 feet, to which a radial lines bears South $48^{\circ}13'41''$ West; thence coincident with said northeasterly right of way along said curve 184.59 feet through a central angle of $01^{\circ}31'03''$; thence continuing along said right of way North $40^{\circ}15'12''$ West 157.39 feet to the most westerly corner of said Parcel 1; thence North $49^{\circ}44'44''$ East 33.48 feet to the most northerly corner of said Parcel 1 also being on the westerly right of way line of State Highway 99 and the beginning of a non tangent curve to the left having a radius of 860.00 feet to which a radial lines bears South $37^{\circ}15'37''$ West; thence coincident with easterly line of said Parcel 1 also being the westerly right of way of State Highway 99 the following (2) courses (1) along said curve 63.23 feet through a central angle of $04^{\circ}12'45''$; thence (2) South $56^{\circ}57'08''$ east 286.39 feet to the POINT OF BEGINNING.

Containing 0.63 acres, more or less.
Exhibit B attached herewith and made a part hereof.

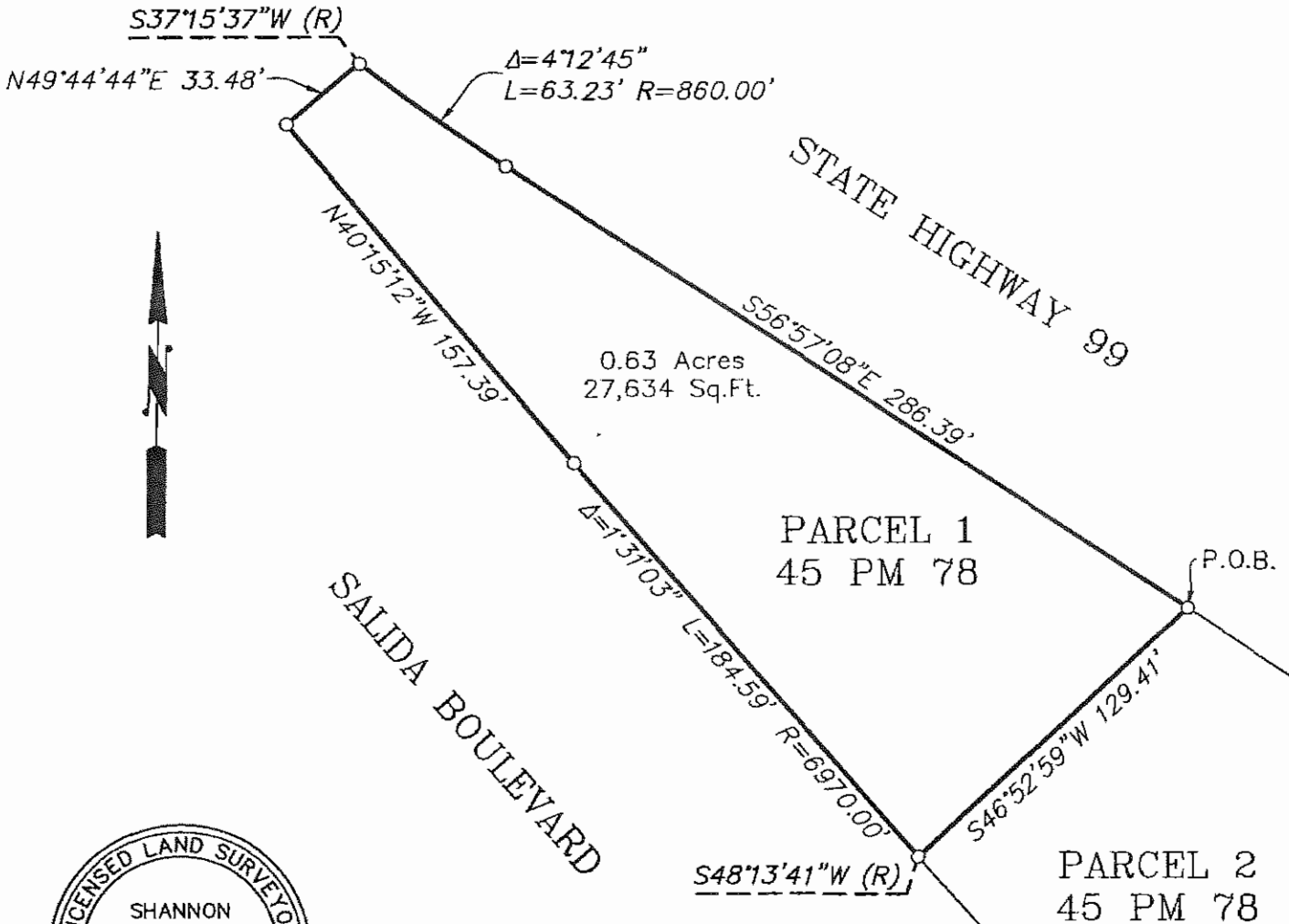
The Basis of Bearings for this map is the California State Plane Coordinate System, zone 3, North American Datum 1983 adjusted to the 2007.00 epoch, holding monuments "HPGN D CA 10 HG", "HPGN D CA 10 JL" and "HPGN CA 10 04". To obtain ground values apply the combination factor of 1.000068880.

Prepared by:
Jacobs
Shannon K. Conaway, PLS 7537
License Expires 12-31-2013
Date: 4-27-2012



EXHIBIT "B"

RIGHT OF WAY ACQUISITION



LEGEND

- (R) RADIAL
- o DIMENSION POINT
- P.O.B. POINT OF BEGINNING

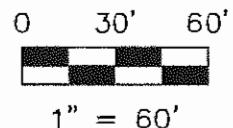
P: \Projects\W9X13300_Pela\400_INTRA_DESIGN_CORR\470_SURVEYS\472_Data\zDrawings\W9X13300_Survey\W9X13300 -- 135-029-040.dwg
 4/27/2012 10:08 AM

JACOBS™

JACOBS
 180 Promenade Circle, Suite 300 Sacramento, CA 95834
 Phone (916) 929-3323 Fax (916) 929-1772

RIGHT OF WAY ACQUISITION
 PELENDALE INTERCHANGE

CITY OF MODESTO



DATE: 4/25/12
 PAGE: 1 of 1

Name: LOT 1
Description: 135-029-040

North: 2077212.78' East: 6396446.31'

Segment #1 : Line

Course: S46°52'59"W Length: 129.41'
North: 2077124.33' East: 6396351.84'

Segment #2 : Curve

Length: 184.59' Radius: 6970.00'
Delta: 1°31'03" Tangent: 92.30'
Chord: 184.58' Course: N41°00'47"W
Course In: N48°13'41"E Course Out: S49°44'44"W
RP North: 2081767.51' East: 6401550.08'
End North: 2077263.60' East: 6396230.72'



Segment #3 : Line

Course: N40°15'12"W Length: 157.39'
North: 2077383.72' East: 6396129.02'

Segment #4 : Line

Course: N49°44'44"E Length: 33.48'
North: 2077405.36' East: 6396154.57'

Segment #5 : Curve

Length: 63.23' Radius: 860.00'
Delta: 4°12'45" Tangent: 31.63'
Chord: 63.21' Course: S54°50'45"E
Course In: N37°15'37"E Course Out: S33°02'52"W
RP North: 2078089.82' East: 6396675.24'
End North: 2077368.96' East: 6396206.25'

Segment #6 : Line

Course: S56°57'08"E Length: 286.39'
North: 2077212.78' East: 6396446.30'

Perimeter: 854.50' Area: 27634 Sq. Ft.
Error Closure: 0.01 Course: N27°19'38"W
Error North: 0.005 East: -0.003

Precision 1: 85446.00

EXHIBIT A

All of Parcel 2 as shown upon that certain Parcel Map filed for record March 1, 1993 in Book 45 of Parcel Maps, at Page 78, Stanislaus county records. Located in the City of Modesto, Stanislaus County, State of California more particularly described as follows:

Beginning at the most northerly corner of said Parcel 2; thence from the Point of Beginning and coincident with the westerly right of way line of State Highway 99 South $56^{\circ}57'08''$ East 161.69 feet; thence coincident with the southeasterly line of said Parcel 2 also being the northwesterly line of Parcel 3 of said Parcel Map South $46^{\circ}53'00''$ 170.00 feet to the most southerly corner of said Parcel 2 and the northeasterly right of way of Salida Boulevard as shown on said Parcel Map also being the beginning of a non tangent curve to the right having a radius of 6970 feet to which a radial lines bears South $46^{\circ}56'15''$ West; thence coincident with said right of way along said curve 157.00 feet through a central angle of $01^{\circ}17'26''$ to the most westerly corner of said Parcel 2; thence coincident with the northwesterly line of said Parcel 2 North $46^{\circ}52'59''$ East 129.41 feet to the POINT OF BEGINNING.

Containing 0.54 acres, more or less.
Exhibit B attached herewith and made a part hereof.

The Basis of Bearings for this map is the California State Plane Coordinate System, zone 3, North American Datum 1983 adjusted to the 2007.00 epoch, holding monuments "HPGN D CA 10 HG", "HPGN D CA 10 JL" and "HPGN CA 10 04". To obtain ground values apply the combination factor of 1.000068880.

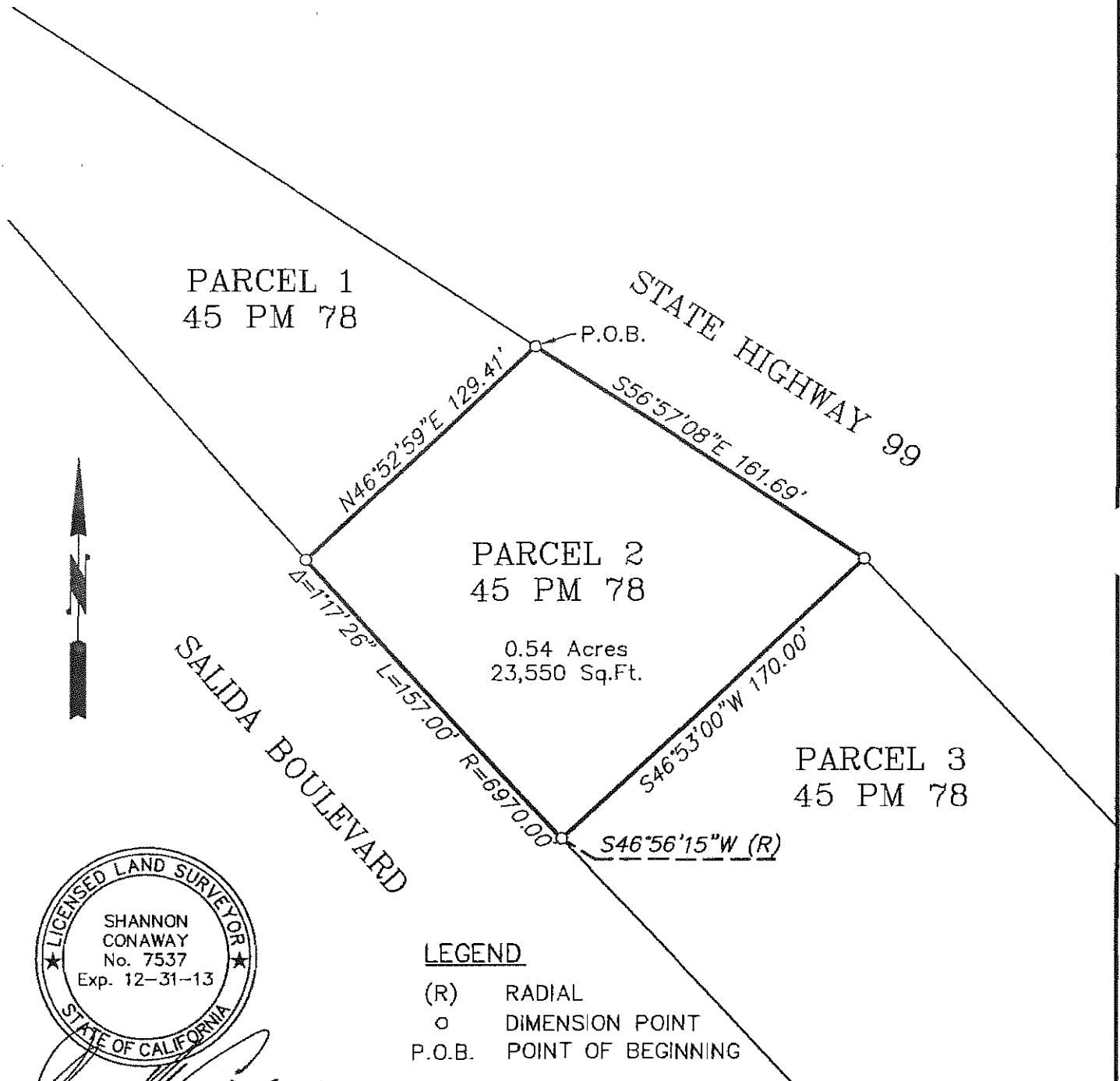
Prepared by:
Jacobs
Shannon K. Conaway, PLS 7537
License Expires 12-31-2013
Date: 4-27-2012



A handwritten signature in black ink, appearing to read "Shannon K. Conaway", written over the bottom portion of the professional seal.

EXHIBIT "B"

RIGHT OF WAY ACQUISITION



LEGEND

- (R) RADIAL
- o DIMENSION POINT
- P.O.B. POINT OF BEGINNING

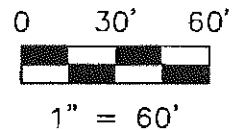
P:\Projects\W9X13300_Pelo\400_INTRA_DESIGN_CORR\470_SURVEYS\472_Data\zDrawings\W9X13300_Survey\W9X13300 - 135-029-041.dwg, 4/23/2012 11:30 AM

JACOBS™

JACOBS
180 Promenade Circle, Suite 300 Sacramento, CA 95834
Phone (916) 929-3323 Fax (916) 929-1772

RIGHT OF WAY ACQUISITION
PELENDALE INTERCHANGE

CITY OF MODESTO



PAGE: 1 of 1
DATE: 4/24/12

Name: LOT 2
Description: 135-029-041

North: 2077212.78' East: 6396446.31'

Segment #1 : Line

Course: 556°57'08"E Length: 161.69'
North: 2077124.60' East: 6396581.84'

Segment #2 : Line

Course: S46°53'00"W Length: 170.00'
North: 2077008.41' East: 6396457.74'

Segment #3 : Curve

Length: 157.00' Radius: 6970.00'
Delta: 1°17'26" Tangent: 78.51'
Chord: 157.01' Course: N42°25'02"W
Course In: N46°56'15"E Course Out: S48°13'41"W
RP North: 2081767.49' East: 6401550.09'
End North: 2077124.32' East: 6396351.84'

Segment #4 : Line

Course: N46°52'59"E Length: 129.41'
North: 2077212.77' East: 6396446.30'



A handwritten signature in black ink, appearing to read "Shannon K. Conaway", written over the bottom portion of the professional seal.

135-029-041.txt
Perimeter: 618.11' Area: 23550 Sq. Ft.
Error Closure: 0.01 Course: S48°21'25"W
Error North: -0.005 East: -0.006

Precision 1: 61811.00

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-198**

RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(594). (SATELLITE HOUSING/AMERICAN BAPTIST HOMES OF THE WEST)

WHEREAS, a verified application for an amendment to Section 28-3-9 of the Zoning Map was filed by Satellite Housing/American Baptist Homes of the West on January 5, 2012, to reclassify from Medium High Density Residential Zone, R-3, to Planned Development Zone, P-D(594) to allow for a three-story senior housing apartment building, property located at the west corner of 17th and G Streets, described as follows:

R-3 to P-D(594)

All those portions of Lots 7 through 16 in Block 127 as per Map thereof filed December 21, 1942 in Volume 15 of Maps, Stanislaus County Records lying in the southwest quarter of Section 28, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, City of Modesto, County of Stanislaus, State of California, more particularly described as follows:

BEGINNING at the north corner of said Lot 7, said point being on the southwesterly right-of-way line of 80.00 feet wide 17th Street; thence South 43° 12' 09" East 250.05 feet on said right-of-way line to the east corner of aforementioned Lot 16 and the northwesterly right-of-way line of 80.00 feet wide G Street; thence South 46° 49' 09" West 139.94 feet on said northwesterly right-of-way line to the south corner of said Lot 16 and the northeasterly line of the 20.00 feet wide alley through Block 127; thence North 43° 11' 11" West 250.05 feet on said northeasterly alley line; thence leaving said northeasterly alley line, North 46° 49' 12" East 140.00 feet on the northwesterly line of said Lot 7 to the point of beginning.

Also including the southwesterly 40.00 feet of 17th Street, the northwesterly 40.00 feet of G Street, and the northeasterly 10.00 feet of the alley, all being immediately adjacent to the above described property.

APNs: 106-006-012 and 106-006-013

WHEREAS, after a public hearing held on April 2, 2012, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 2012-03, that rezoning of the property as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed zone change to Planned Development is consistent with the Modesto Urban Area General Plan. The General Plan designates this area as “RPD” (Redevelopment Planning District), which allows for and encourages a mixture of commercial, professional office and residential uses. Rezoning to allow a senior housing development will be consistent with the Redevelopment Master Plan and the General Plan in land use and intensity.
2. The proposed project will provide much needed affordable housing in Modesto and contribute towards meeting the City’s share of the Regional Housing Needs Allocation.
3. The conditions of approval will ensure that the proposed project is compatible with the adjacent residential and commercial uses.

WHEREAS, said matter was set for a public hearing of the City Council to be held on May 22, 2012, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which date and time said duly noticed public hearing was held, and

WHEREAS, after said public hearing the Council found and determined that the application of Satellite Housing/American Baptist Homes of the West for a Planned Development Zone should be granted as consistent with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2012-03 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3564-C.S. on the 22nd day of May, 2012, reclassifying the above-described property from Medium High Density Residential Zone, R-3, to Planned Development Zone, P-D(594),

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

SECTION 1. DEVELOPMENT PLAN. The development plan for Planned
Development Zone, P-D(594), is hereby approved subject to the following conditions:

1. Prior to the issuance of a building permit, all development shall conform to the development plan and building elevations titled "Tower Park Senior Apartments" stamped approved by the City Council.
2. Prior to issuance of a building permit, any variation from the approved site plan or building elevations on file with the City must be reviewed and approved by the Director of Community and Economic Development.
3. Prior to occupancy of any structure, striping of parking stalls, aisles and driveways shall conform to the provisions of MMC Section 10-2.2004, Parking Lot Design.
4. Parking lot shade trees shall be provided in all new parking areas to meet current parking lot shading requirements (1 tree per 8 stalls, 50% coverage within 10 years).
5. Prior to issuance of a building permit, the developer shall submit a lighting plan that includes the location and design of proposed lighting fixtures for review and approval by the Director of Community and Economic Development. The design of light fixtures and their structural supports should be architecturally compatible with the building, and should be architecturally integrated into the design of the building to the satisfaction of the Director of Community and Economic Development.
6. Along pedestrian corridors, the use of low mounted bollard light standards, which reinforce pedestrian scale, shall be used. Steps and ramps should be illuminated wherever possible, with built-in light fixtures to the satisfaction of the Director of Community and Economic Development.
7. Prior to Certificate of Occupancy of any structure, all ground mounted utility structures such as transformers and HVAC equipment shall be located out of view from a public street to the satisfaction of the Director of Community and Economic Development. Any additional equipment required by the utility companies shall be placed underground or adequately screened though the use of landscaping or masonry walls.
8. Signage shall be as shown on the 17th and G Street first-floor entrance elevation, and as allowed in the R-3 Zone.

9. Exterior building walls shall be provided with a graffiti-resistant coating or paint, to a height of 12-feet, at the following locations: (a) 17th Street frontage and (b) G Street frontage.
10. Exterior building elevations showing building wall materials, roof types, exterior colors and appropriate vertical dimensions shall be included in the development construction drawings.
11. Construction drawings shall demonstrate that all building drainage gutters, down spouts, vents, etc. located on exterior walls, are completely concealed from public view or designed to be architecturally compatible (decorative) with the exterior building design and color to the satisfaction of the Director of Community and Economic Development or designee.
12. Construction drawings shall demonstrate that new ladders for roof access are mounted on the inside of the building to the satisfaction of the Director of Community and Economic Development.
13. Prior to the issuance of a building permit, improvement plans for any required improvements shall be prepared by a Registered Civil Engineer and approved by the City Engineer or designee. Improvements shall be constructed in accordance with the approved plans. Improvement plans shall include but not be limited to the following:
 - a. The existing 6-inch sewer main in the alley is undersized and shall be upgraded to a minimum of 8-inch main according to current City standards.
 - b. All domestic, landscape and fire water connections shall be made from the water main lines located under 17th Street and G Street. No connections shall be made from the smaller line under the alley.
 - c. A horizontal drain shall be designed and utilized to store and percolate all storm water runoff generated from the impervious area of the proposed development. The capacity of the horizontal drains shall be designed to Storm Drainage Design Interim Policy for Infill development that is less than 3 acres in size.
 - d. Curb ramps on 17th Street and G Street shall be installed, per City Standards.
 - e. A fire hydrant shall be installed at the northeast corner of the site on 17th Street.
 - f. Driveway entrances into the alley shall demonstrate a fire apparatus turning radii of 25-feet inside and 45-feet outside.

14. Prior to the issuance of a Grading or Building Permit, Developer shall prepare and submit a Water Pollution Control Plan (WPCP) or local SWPPP to Land Development Engineering, Stormwater for review. The submittal shall include a description of all stormwater, erosion, sediment, and pollution control BMPs to be used to prevent sediment and other sources of pollution from entering the City storm drain system as well as a site plan showing their placement.
15. Prior to the issuance of a Grading or Building Permit, Developer shall provide plans for a linear drain at the trash pick-up area to collect and route stormwater runoff into adjacent landscape area(s).
16. Prior to the issuance of a Grading or Building Permit, Developer shall submit a plan to provide permanent, post-construction treatment (grass swale, vegetative strip, or other approved proprietary device) to remove pollutants from the first ½" of stormwater run-off from site.
17. Prior to the issuance of a Grading or Building Permit, property owner shall provide a signed and notarized Stormwater Treatment Device Access and Maintenance Agreement to Land Development Engineering, Stormwater for recording.
18. All public improvements shall be designed and constructed according to City of Modesto Standard Specifications or as required for the public health and safety by the City Engineer or designee.
19. All existing underground and aboveground utilities and electrical lines shall be protected, relocated, or removed as required by the City Engineer or designee. Easements for utilities and electrical lines to remain shall be reserved as required.
20. The driveway leading from the gates to the trash pick-up area shall be strong enough to withstand the weight of a garbage truck providing regular service to the site. The garbage collection company cannot be faulted for damaging the concrete.
21. The 20-foot width of the alley shall be kept free of any obstructions, including parked cars. Both sides of the alley shall be posted with no parking signs.
22. KNOX brand keypads shall be installed for electronic gates.
23. All aspects of this project to comply with current City of Modesto Standards and also current California Building, Electrical, Mechanical, Plumbing, Energy codes adopted by the City of Modesto.
24. All department Conditions of Approval for the project shall be included with building plans and shall be continuously maintained on-site during project construction to the satisfaction of the Chief Building Official.

25. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
26. At the time of issuance of a building permit, the developer shall pay development impact fees at the established rate. Such fees may include but are not limited to, sewer and water connection fees, community facility fees, building permit and plan check fees.
27. Prior to Certificate of Occupancy for any structure, cable television service shall be stubbed into all units.
28. Prior to start of construction, all-weather, hard-surfaced roadways shall be constructed and maintained free of obstructions at all times during construction as required by Director of Community and Economic Development.
29. The property owner and developer shall, at their sole expense, defend, indemnify and hold harmless the City of Modesto, its agents, officers, directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of attorneys' fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include but is not limited to any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Modesto shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense.

In addition, the following recommended Conditions of Approval are mitigation measures from the Modesto Urban Area General Plan Master Environmental Impact Report that should be applied to the project:

30. AQ-42: All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover. (General Plan Policy VII-H.2[kk])
31. AQ-43: All onsite unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant. (General Plan Policy VII-H.2[l])
32. AQ-44: All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking. (General Plan Policy VII-H.2[mm])

33. AQ-45: With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition. (General Plan Policy VII-H.2[nn])
34. AQ-46: When materials are transported off site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained. (General Plan Policy VII-H.2[oo])
35. AQ-47: All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday (the use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.) (General Plan Policy VII-H.2[pp])
36. AQ-48: Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant. (General Plan Policy VII-H.2[qq])
37. AQ-49: Within urban areas, trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday. (General Plan Policy VII-H.2[rr])
38. AQ-50: Any site with 150 or more vehicle trips per day shall prevent carryout and trackout. (General Plan Policy VII-H.2[ss])
39. N-1: The City has also established a noise ordinance to control noise within the City. The City's noise ordinance (Modesto Municipal Code Section 4-9.101) prohibits the "loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine."
40. N-2: Additionally, the noise ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and state or federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):
 - a. A hammer, or any other device or implement used to pound or strike an object.
 - b. An impact wrench, or other tool or equipment powered by compressed air.
 - c. A hand-powered saw.
 - d. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.

- e. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.
 - f. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.
 - g. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.
42. N-3: The City of Modesto shall require construction activities to comply with the City's noise ordinance (Title 4, Chapter 9), and noise-reducing construction practices to be implemented as conditions of approval for development projects where substantial construction-related noise impacts would be likely to occur (e.g., where construction would include extended periods of pile driving, where construction would occur over an unusually long period, or where noise-sensitive uses like homes and schools would be in the immediate vicinity, etc.). The city should consider potential mitigation measures, including, but not limited to, the following: Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields. Equipment that is quieter than standard equipment should be utilized. Haul routes that affect the fewest number of people should be selected. (UAGP VIIG.3[a])
43. SD-7: New development shall comply with City requirements for conveyance, retention and detention. New development shall include onsite storage of stormwater as necessary. Rockwells shall not be allowed

for new development except at infill areas smaller than three acres where no other feasible alternative is available. (UAGP Policy V-E.3[f])

44. FWQ-12: New development shall comply with City requirements for conveyance, retention and detention. New development shall include onsite storage of stormwater as necessary. Rockwells shall not be allowed for new development except at infill areas smaller than three acres where no other feasible alternative is available. (UAGP Policy V.E.3[f])
45. FWQ-13: Construction activities shall comply with the requirements of the City's Storm Water Management Plan under its municipal NPDES stormwater permit, and the State Water Resources Control Board's General Permit for Discharges of Storm Water Associated with Construction Activity. (UAGP Policy V.E.3[h])
46. FWQ-15: New developments shall be required to implement an appropriate selection of permanent pollution control measures in accordance with the City's implementation policies for the municipal NPDES stormwater permit. Permanent erosion control measures such as seeding and planting vegetation for new cut-and-fill slopes, directing runoff through vegetation, or otherwise reducing the offsite discharge of particulates and sediment are the most effective method of controlling offsite discharges of urban pollutants. (UAGP Policy V.E.4[f])
47. HM-15: New development shall comply with City requirements for conveyance, retention and detention. New development shall include onsite storage of stormwater as necessary. Rockwells shall not be allowed for new development except at infill areas smaller than three acres where no other feasible alternative is available. (UAGP Policy V-E.3[f])
48. HM-17: Construction activities shall comply with the requirements of the City's Storm Water Management Plan under its municipal NPDES stormwater permit, and the State Water Resources Control Board's General Permit for Discharges of Storm Water Associated with Construction Activity. (UAGP Policy V-E.3[h])
49. GSM-2: The City shall require all new buildings in the City to be built to the seismic requirements of the 2007 California Building Code (or subsequent editions). (UAGP Policy VI-B.2[b])
50. GSM-9: All building permits shall be reviewed to ensure compliance with the current adopted edition of the California Fire Code, California Building Code, California Mechanical Code, California Electrical Code, California Plumbing Code, Title 19, Title 24, and the City of Modesto Municipal Code. (UAGP Policy VI-E.1[d])

SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(594):

The entire construction program be accomplished in one phase, construction to begin on or before May 22, 2014, and completion to be not later than May 22, 2016.

SECTION 3. CHANGES IN DEVELOPMENT PLAN. Any changes in the above approved development plan shall be made in accordance with the provisions of Section 10-7.108 of the Modesto Municipal Code.

SECTION 4. COMPLIANCE WITH CODE PROVISIONS, ETC. In all other respects said planned development shall be accomplished in accordance with and in strict adherence to the provisions of Chapter 7, Article 1 of Title 10 of the Modesto Municipal Code relating to Planned Development Zones and other applicable City laws, rules, regulations and procedures.

SECTION 5. EFFECTIVE DATE. This resolution shall not become effective unless and until the ordinance reclassifying the above-described property to Planned Development Zone, P-D(594), becomes effective.

BE IT FURTHER RESOLVED that the conditions of project approval set forth herein include certain fees, dedication requirements, reservations requirements, and other exactions, and that pursuant to Government Code Section 66020(d)(1), these conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions.

BE IT FURTHER RESOLVED that the applicant is hereby further notified that the ninety (90) days approval period in which a protest of these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a) can be

filed, begins on May 22, 2012, and that if a protest is not filed within this ninety (90)-day period complying with all of the requirements of Section 66020, the applicant will be legally barred from later challenging such exactions.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

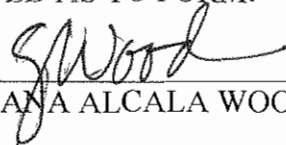
NOES: Councilmembers: None

ABSENT: Councilmembers: None

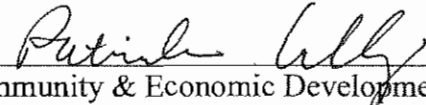
ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO LEGAL DESCRIPTION

By: 
Community & Economic Development Department
Planning Division

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-199**

RESOLUTION FINDING THAT THE FOLLOWING SUBSEQUENT PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 2007072023): AMENDMENT OF SECTION 28-3-9 OF THE ZONING MAP TO REZONE FROM MEDIUM HIGH DENSITY RESIDENTIAL ZONE, R-3, TO PLANNED DEVELOPMENT ZONE, P-D(594), PROPERTY LOCATED AT THE WEST CORNER OF 17TH STREET AND G STREET (SATELLITE HOUSING/AMERICAN BAPTIST HOMES OF THE WEST)

WHEREAS, on October 14, 2008, the City Council of the City of Modesto certified the Final Master Environmental Impact Report (“Master EIR”) (SCH No. 2007072023) for the Modesto Urban Area General Plan, and

WHEREAS, Satellite Housing/American Baptist Homes of the West has proposed that the zoning designation for property located at the west corner of 17th Street and G Street be amended to rezone from Medium High Density Residential Zone, R-3, to Planned Development Zone, P-D(594), in the City of Modesto (“Project”) to allow for a three-story senior housing apartment building, and

WHEREAS, pursuant to Section 21157.1 of the Public Resources Code, the City of Modesto’s Community & Economic Development Department prepared an Environmental Assessment Initial Study EA/C&ED 2012-08 (“Initial Study”) which analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report, and

WHEREAS, in accordance with CEQA guidelines beginning on May 2, 2012, the City caused to be published a 20-day notice of the City’s intent to make a finding that the subsequent project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on May 22, 2012, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed rezone to Planned Development, P-D(594), a copy of which is **attached** hereto as **Exhibit "A"**, and incorporated herein by reference, and based on substantial evidence in the Initial Study makes the following findings:

1. An Initial Study was prepared by the City of Modesto that analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report.
2. The subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158 of the Public Resources Code, that was not identified in the Master EIR.
3. No new or additional mitigation measures or alternatives are required.
4. The subsequent project is within the scope of the project covered by the Master EIR.
5. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

Initial Study

EA/C&ED 2012-08

City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study Environmental Checklist C&ED No. 2012-08

For the proposed:

**Rezone from Medium-High Density Residential Zone, R-3,
to Planned Development Zone
for a three-story 50-Unit senior affordable-housing
apartment building
on 0.75 acres at the west corner of 17th and G St.**

PDZ-11-001

**Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division**

February 14, 2012

Contents

I. Purpose	Pg. 3
II. Project Description	Pg. 3
III. Findings/Determination	Pg. 4
IV. Environmental Analysis	Pg. 7
V. Mitigation Measures Applied to the Proposed Project	Pg. 43
APPENDIX	Pg. 48

City of Modesto

Master EIR Initial Study Environmental Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master Environmental Impact Report ("Master EIR" or "MEIR"). This Initial Study Environmental Checklist ("Initial Study") is used in determining whether the rezone from Medium-High Density Residential Zone (R-3) to Planned Development for a 50-unit three-story senior-living apartment building is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 2007072023) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformance.

A subsequent project is "within the scope" of the Master EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and
2. no new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. [Public Resources Code Section 21158(d)]

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (CEQA Guidelines Section 15384)

II. PROJECT DESCRIPTION

- A. Title: PDZ-11-001 – Rezone from Medium-High Density (R-3) Zone to Planned Development Zone for a three-story 50-unit senior-living apartment building on 0.75 acres at the west corner of 17th and G St
- B. Address or Location: West corner of 17th and G Streets, Modesto, CA 95354 (APN 106-006-012, 013)
- C. Applicant: Satellite Housing, Inc./ABHOW 1521 University Ave., Berkeley, CA 94703
- D. City Contact Person: Katharine Martin, Associate Planner

Project Manager: Katharine Martin
Department: City of Modesto Community and Economic Development
Phone Number: 209-577-5465
E-mail address: kamartin@modestogov.com

- E. Current General Plan Designation(s): Redevelopment Planning District (RPD)

- F. Current Zoning Classification(s): Medium-High Density Residential (R-3)
- G. Surrounding Land Uses:
 - North: Commercial shopping center and Medical Office uses
 - South: Church buildings and Professional Office uses
 - East: Medical Office uses and Parking Lots
 - West: Church buildings and Commercial retail shops
- H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

Rezone of a 0.75-acre site located at 17th and G Streets within the Baseline Urbanized Area from Medium-High Density Residential (R-3) Zone to Planned Development Zone, to allow for the development of a three-story apartment building comprised of 49 affordable-housing single-bedroom dwelling units for senior tenants who are at or below 50% of the area median income, and one two-bedroom manager's residence. The site contains a 130-foot high steel water storage tank that was decommissioned in 1995 and is to be removed. The site was formerly the Water Tower Park (17th & G St Park) which was declared as surplus property by City Council Resolution 2005-243 on May 10, 2005. The property was purchased by the Modesto Redevelopment Agency in 2006 with the intent to utilize it as an affordable housing project site. The site has been maintained as a green space to avoid blight since purchase by the Redevelopment Agency, but has no playground equipment or formal gathering areas.
- I. Other Public Agencies Whose Approval is Required: None

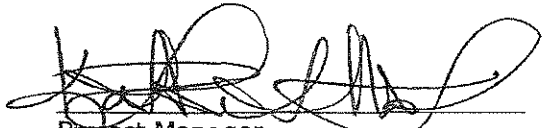
III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

- 1. **Within the Scope** - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. All of the following statements are found to be true:
 - A. The subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158 of the Public Resources Code, that was not identified in the Master EIR.
 - B. No new or additional mitigation measures or alternatives are required.
 - C. The subsequent project is within the scope of the project covered by the Master EIR.
 - D. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.
- 2. **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following statements are all found to be true:
 - A. The subsequent project is within the scope of the project covered by the Master EIR.

- B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.
- C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

3. **Focused EIR Required**- On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. All of the following statements are found to be true:

- A. The subsequent project is within the scope of the project covered by the Master EIR.
- B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.
- C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.



Project Manager

Associate Planner
Title

February 28, 2012
Date

4. Within the Scope Analysis of this Document:

The Master EIR allows projects to be found within the scope of the MEIR if certain criteria are met. If the following statements are found to be true for all 21 impact categories included in this Initial Study, then the proposed project is addressed by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

	YES	NO
(1) The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(2) City policies which reduce, avoid, or mitigate environmental effects will continue to be in effect and, therefore, would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template. Project impacts would be mitigated to a less-than-significant level using MEIR mitigations only.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(3) Federal, State, regional, and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(4) No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(5) The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(6) Development within the project will comply with all appropriate mitigation measures contained and enumerated in the 2008 General Plan Master EIR.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed Sections 1 through 21 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any "no" response must be explained.

	YES	NO
(1) Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(2) This project is described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(a) No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(b) No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(c) Policies remain in effect which require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, discloses whether the proposed project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is "within the scope" of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR. Adoption of the findings specified in Section III.1, above after completion of the Initial Study fulfills the City's obligation in that situation.

All environmental effects cited reflect 2025 conditions resulting from the Urban Area General Plan, as identified in the Master EIR.

The environmental impact analysis in the Master EIR for the Urban Area General Plan is organized in twenty-one subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of reference, the sections are numbered in the same order as the analyses in Chapter V.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable traffic and circulation impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Increased automobile traffic will result in roadway segments (see MEIR on Table 1-7, pages V-1-32 to V-1-34) operating at LOS D, Modesto's significance threshold for automobile traffic, or lower (LOS E or F).

Effect: The substantial increase in traffic relative to the existing load and capacity of the street system will cause, either individually or cumulatively, the violation of automobile service standards established by StanCOG's Congestion Management Plan for designated roads and highways.

Effect: A substantial increase in automobile vehicle miles traveled and automobile vehicle hours of travel and a decrease in average automobile vehicle speed (see MEIR Table 1-6, page V-1-31).

Cumulative Impacts

Effect: Potential for growth inducement or acceleration of development resulting from highway and local road projects.

Effect: Substantial increase in traffic in relation to the existing traffic load and capacity of the street system, including a violation, either individually or cumulatively, of an automobile LOS standard established by the Congestion Management Plan for designated roads and highways.

Effect: Increased demand for capacity-enhancing alterations to existing roads or automobile traffic reduction.

Other impact categories affected by Traffic and Circulation are addressed throughout this Initial Study (see also Section 2, Degradation of Air Quality; Section 3, Generation of Noise; Section 7 Loss of Sensitive Wildlife and Plant Habitat; Section 8, Disturbance of Archaeological/Historic Sites; Section 14 Increased Demand for Fire Services; Section 18, Energy; Section 19, Visual Resources; Section 20, Land Use and Planning, and Section 21, Climate Change).

b. Master EIR and/or New Mitigation Measures Applied to the Project

Traffic and Circulation mitigation measures pertinent to this project are found on MEIR pages V-1-9 through V-1-28. All mitigation measures appropriate to the project, including any new measures, will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The project does not require any mitigation measures from the MEIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-1.B of the Master EIR provides analysis of Traffic and Circulation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
1. TRAFFIC AND CIRCULATION				
1) The proposed project exceeds traffic generation assumptions in the Master EIR for the site by 100 trips or more and City Engineering and Transportation staff has determined that the project would have additional potentially significant project-specific effects that are not avoided or reduced by the Master EIR's mitigation measures.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would cause additional roadway segments in the General Plan area to exceed LOS D and/or cause additional violations of standards in the Congestion Management Plan, and/or cause an increase in automobile vehicle miles or vehicle hours of travel or a decrease in automobile travel speed, as compared to the impacts disclosed in the Master EIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project would cause emergency response times to exceed acceptable standards established by the Fire Department, as compared to impacts disclosed in the Master EIR (see Section 14, Increased Demand for Fire Services).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5) The proposed project would result in less parking than required by the Municipal Code or as determined by staff.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6) The proposed project would conflict with adopted policies, plans, or programs that support alternative transportation, including, but not limited to the Regional Transportation Plan, the Sustainable Communities Strategy, the Bicycle Action Plan, and so on.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7) The proposed project would result in an increase	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
in automobile vehicle miles traveled on a per capita basis, in excess of that considered in the Urban Area General Plan MEIR.				

Discussion:

- (1) The proposed rezone and 50-unit senior housing development is consistent with the General Plan designation and the traffic volumes assumed in the MEIR. The project will not result in an increase of 100 additional trips than what was assumed in the MEIR. No mitigation is required.
- (2-3) The project was evaluated by the City's Land Development Engineering and Traffic Department, who indicated no issues with the site that would cause an increase in traffic level of service or an increase in vehicle miles.
- (4) The project was evaluated by the City's Police and Fire Departments, who indicated no issues with emergency access.
- (5) There is no standard for senior housing parking requirements in the City's Code. However, Staff has determined that as the site is within a five minute walk of existing downtown neighborhood-serving commercial and professional office uses, arts and cultural centers, and is served by three Modesto Area Express bus transit routes (Routes 25, 32 and 24/34), the proposed number of parking spaces is adequate to serve the site.
- (6) The project has been reviewed by Planning, Traffic and Transit staff, and no indication was given that the project would conflict with adopted plans for alternative transportation.
- (7) The project would not result in an increase in energy consumption in excess of what was considered in the MEIR.

2. DEGRADATION OF AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable air quality impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Expected automobile traffic will result in increased operational emissions of reactive organic gases (ROG) and oxides of nitrogen (NO_x) (see MEIR Table 2-8, page V-2-27).

Effect: Expected automobile traffic will result in increased emissions of particulate matter 10 microns or less (PM₁₀) and 2.5 microns or less in diameter (PM_{2.5}) (see MEIR Table 2-8, page V-2-27).

Effect: Expected automobile traffic will result in increased carbon monoxide (CO) levels in the project area (see MEIR Table 2-7, page V-2-26, and Table 2-8, page V-2-27).

Cumulative Impacts

The Master EIR indicates the same impacts identified as direct impacts above will contribute to regional impacts on air quality for the criteria pollutants ROG, NO_x, PM₁₀, and PM_{2.5}.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Air quality mitigation measure(s) pertinent to the proposed project are found on pages V-2-13 through V-2-24 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes AQ-42 through AQ-50 from the MEIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-2.B of the Master EIR is the analysis of air quality impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
2. DEGRADATION OF AIR QUALITY				
1) The proposed project exceeds the project-level emissions thresholds established for CO, ROG, NO _x , PM ₁₀ , and PM _{2.5} by the San Joaquin Valley Air Pollution Control District (SJVAPCD) and is not consistent with the development assumptions for the project site, as established in the Urban Area General Plan and Master EIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project does not incorporate the best management practices established by the SJVAPCD for CO, ROG, NO _x , PM ₁₀ , and PM _{2.5} .	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project does not comply with the air quality policies in the Modesto Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project would expose sensitive receptors to pollutant concentrations in excess of those expected to occur as a result of	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
implementation of the Urban Area General Plan.				
5) The proposed project would create objectionable odors affecting a substantial number of people.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project was referred to the San Joaquin Valley Unified Air Pollution Control District who indicated no significant effect on the ambient air quality with the incorporation of the mitigation measures listed above.
- (2) The project will incorporate the best management practices for PM10 reduction established by the SJVUAPD by utilizing mitigation measures AQ-42 through AQ-50 during the construction process.
- (3) Applicable General Plan Policies will be applied to the project; therefore, project-specific effects will be less than significant for this impact (see mitigation measures above).
- (4) The project would not expose sensitive receptors to pollutant levels beyond those expected by implementation of the City's General Plan.
- (5) The project would not create objectionable odors.

3. GENERATION OF NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable noise impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Future automobile traffic noise levels and roadway construction and maintenance activities resulting from development of the Urban Area General Plan will exceed the City's noise thresholds at various locations, but particularly in areas adjacent to heavily traveled roadways (see MEIR Table 3-3, page V-3-10, and Figure VII-2 and Table 3-6, pages V-3-18 and V-3-19).

Effect: Expected noise from airport operations and airport construction projects may expose up to 468 dwellings and three churches to noise levels of 65 dB CNEL and up to eight dwellings to noise levels of 70 dB CNEL.

Effect: Expose noise-sensitive land uses to noise from the construction of bicycle and transit projects.

Effect: Expose noise-sensitive land uses to noise from freight and passenger rail operations.

Cumulative Impacts

Effect: Traffic from development in the City of Modesto would, when combined with traffic from new development in the County and other cities, contribute to a cumulative increase in roadside noise levels on major roads and highways throughout Stanislaus County.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-11 through V-3-15 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes N-1 through N-3 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-3.B of the MEIR discloses noise impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of the proposed project's effects are based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3. GENERATION OF NOISE				
1) The proposed project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project will not comply with the noise policies of, or otherwise be inconsistent with, the Modesto Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project will result in an increase in ambient noise levels in the project vicinity above those disclosed in the Master EIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels disclosed in the Master EIR implementation of the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1-3) The project is consistent with the noise policies of the General Plan. For multi-family residential, the "normally acceptable" level of noise is between 50 and 65dBA. Mitigation measure N-3 will require that construction-related noise comply with the City's Noise Ordinance.
- (4) The project will not result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity. There will be some construction related noise, but the noise mitigation measure N-3 called for by the General Plan for projects within the baseline developed area, has been incorporated.

4. EFFECTS ON AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on agricultural lands expected after application of mitigations/policies:

Direct Impacts

Effect: Between 1995 and 2025, development of the Urban Area General Plan may convert up to approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area to urban uses.

Effect: Approximately 1,200 acres of urban development along a 28.5-mile boundary 350 feet wide between urban and agricultural uses could be affected by continued agricultural operations, including noise, dust, and chemical overspray or drift.

Cumulative Impacts

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County, accounting for the conversion of as much as approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area from 1995 to 2025.

b. Master EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural land mitigation measures pertinent to the proposed project are found on pages V-4-6 to and V-4-8 of the Master EIR. All mitigation measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

The project does not require any mitigation measures from the MEIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-4.B of the Master EIR discloses the impacts resulting from the implementation of the Urban Area General Plan on agricultural lands. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
4. EFFECTS ON AGRICULTURAL LANDS				
1) The proposed project is inconsistent with the Urban Area General Plan's policies relating to agricultural land.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project will either directly or indirectly result in the development of land outside the 2008 Urban Area General Plan's planning area boundary.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project will conflict with existing zoning for agricultural use, or there is an existing Williamson Act contract on the project site.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project will involve other changes in the existing environment not anticipated in the Master EIR which, due to their location or nature, could result in conversion of farmland to non-agricultural use.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1-2) The project is a 0.75-acre infill site within the City's Baseline Urbanized Area. The site is currently vacant and no agricultural land would be converted for the development of the site.
- (3) The site is not zoned for agricultural use nor is under a Williamson Act contract.
- (4) The project will not involve changes to the existing environment that could result in the conversion of farmland into non-agricultural uses. The General Plan designates this site as being within the Redevelopment Planning District. The site is within the Downtown North area of the City's Redevelopment Master Plan, which encourages mixed uses for the site and surrounding area.

5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on long-term water supplies expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts have been disclosed in the Master EIR.

Cumulative Impacts

Effect: Operational yields of the Modesto and Turlock subbasins, both of which underlie the City of Modesto, are unknown, although the City is participating in a study with the United States Geological Survey in order to quantify the operational yields of both subbasins. Groundwater withdrawals from both basins by the City, when combined with other users' withdrawals, may result in overdrafting both subbasins.

Effect: Despite available options, during drought years, significant water shortages are forecast for the San Joaquin River basin, which includes both the Modesto and Turlock subbasins, by 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Water supply mitigation measures pertinent to the proposed project are found on pages V-5-6 through V-5-12 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The project does not require any mitigation measures from the MEIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-5.B of the Master EIR discloses impacts on long-term water supplies resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES				
1) The proposed project is inconsistent with water supply policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) Water demand for the proposed project will	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
exceed estimates for similar projects or for development on the project site anticipated in the Urban Area General Plan or sufficient water supplies are not otherwise available to serve the project from existing entitlements and resources.				
3) The proposed project would deplete groundwater supplies to a greater degree than anticipated in the Urban Area General Plan or would interfere with groundwater recharge.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project is consistent with the water supply policies in the General Plan.
- (2) The project was referred to Land Development Engineering staff who determined that the project could be adequately served by water supplies.
- (3) The project is consistent with the land uses and water demands assumed in the General Plan and would not have a significant effect on ground water recharge or depletion of long-term water supplies.

6. INCREASED DEMAND FOR SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on sanitary sewer services after application of mitigations/policies:

Direct Impacts

Effect: Development resulting from implementation of the Urban Area General Plan will require substantial new sewage treatment and disposal capacity, treatment plant improvements, sewer mains and collection lines, and pump stations. The Wastewater Master Plan anticipates the need for these facilities and its EIR evaluates the impact of developing those facilities. Potential impacts include degradation of water quality through erosion and chemical releases; localized flooding; construction noise; exposure of construction workers and the public to hazardous materials; and on the habitat of the elderberry longhorn beetle, burrowing owl, and Swainson's hawk, as well as certain other regulated habitats. All of these impacts are mitigated to a less-than-significant level.

Additional impacts that are not mitigated to a less-than-significant level include loss of farmland cause by construction of the Phase IA tertiary treatment facility at the Jennings Road Secondary Treatment Facility, an increase in pollutant loads from increased wastewater flows to the San Joaquin River, and an increase in noise and criteria air pollutants due to construction activities, including traffic.

Cumulative Impacts

Effect: No additional cumulative impacts were identified in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Sewer service mitigation measures pertinent to the proposed project are found on pages V-6-3 through V-6-8 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The project does not require any mitigation measures from the MEIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-6.B of the Master EIR discloses impacts on the Increased Demand for Sanitary Sewer Service resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
6. INCREASED DEMAND FOR SANITARY SEWER SERVICES				
1) The proposed project is inconsistent with wastewater policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project will generate sewage flows greater than those anticipated in the Urban Area General Plan for the project site.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Discussion:

(1-2) The General Plan designation for the site is "RPD" as part of the Redevelopment Planning District. The site is within the Downtown North area of the City's Redevelopment Master Plan, which encourages and anticipates a mixture of commercial, office and residential uses. The project is consistent with the General Plan in both land use and intensity, and will not generate any sewer flows greater than what is anticipated in the General Plan.

- (3) There are down-stream surcharge conditions under peak wet weather demands that have been identified in the City's 2007 Wastewater Master Plan; however, the shortage of this capacity has been compensated with the City's removal of the H Street direct storm drainage inlet from the 10th and H Street Mixed Use Development project that has since been abandoned. The proposed Tower Park Senior Apartment project's impact on the downstream sewer system would be negligible compared to the calculated benefit provided by the removal of the storm drain inlet, as well as compared to the impact estimated for the now abandoned 10th and H Street project.¹

7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on sensitive wildlife and plant habitat expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant impacts on sensitive wildlife and plan habitat are expected to occur with the application of the policies contained in the Urban Area General Plan.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will contribute to the cumulative impact of habitat loss in the San Joaquin Valley. Requiring density development than has occurred in the past or that is expected in the future would minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Wildlife and plant habitat mitigation measures pertinent to the proposed project are found on pages V-7-17 through V-7-24 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The project does not require any mitigation measures from the MEIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-7.B of the Master EIR discloses impacts on the Loss of Sensitive Wildlife and Plant Habitat resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

¹ Jim Alves, Associate Engineer, Utility Planning and Projects Dept, February 7, 2012 Memo to C&ED

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT				
1) The project is inconsistent with the policies pertaining to the loss of sensitive wildlife and plant habitat contained in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on a candidate, sensitive, or special status species in excess of the impact disclosed in the Master EIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption, or other means, in excess of the impact disclosed in the Master EIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project would substantially interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6) The proposed project would conflict with provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project is consistent with the General Plan policies related to the loss of sensitive wildlife and plant habitat.
- (2) The project site is not a biologically sensitive site as defined by Figures V-7-1a through V 7-1e of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.

- (3) The site does not qualify as a federally protected wetland per Section 404 of the Clean Water Act.
- (4) The project site is not a biologically sensitive site as defined by Figures V-7-1a through V 7-1e of the MEIR. The movement of fish or birds or other wildlife would not be significantly effected by the project.
- (5) The project would not conflict with any policies or ordinances protecting biological resources.
- (6) There is no conflict with any adopted habitat conservation plan, natural community conservation plan, or other approved local, regional or state habitat conservation plan.

8. DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on archaeological/historical sites expected after application of mitigations/policies:

Direct Impacts

Effect: Modification resulting in a substantial adverse change in the significance of a historic resource or the demolition of a listed or eligible historic resource.

Effect: The modification or demolition of a structure more than 50 years in age may be significant.

Effect: Discovery of archaeological resources in areas outside of the riparian corridors, as a result of construction activities.

Effect: Construction in an area of high archaeological sensitivity.

Cumulative Impacts

Effect: No additional cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Archaeological or historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-16 through V-8-20 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The project does not require any mitigation measures from the MEIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-8.B of the MEIR discloses impacts on archaeological/historical resources resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
8. DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES				
1) The proposed project is inconsistent with the archaeological/historical resource policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would demolish a building eligible for listing as a historic resource or remove a landmark from the Modesto inventory.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would modify or demolish a structure more than 50 years in age.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project is consistent with the archaeological and historical resource policies in the General Plan.
- (2-4) The project involves the removal of an existing 130-foot water storage tower constructed in 1915 and decommissioned in 1995. The removal of the tower was analyzed for historic significance prior to the sale of the park to the Redevelopment Agency, and was found to not have met the criteria for inclusion on California Register of Historic Resources.² The tower is therefore not considered to be a historical resource and is not listed as a cultural or historic resource in the City's General Plan.
- (5) The project does not conflict with local policies affecting biological resources.

9. INCREASED DEMAND FOR STORM DRAINAGE

² Cultural Resource Assessment of a Water Tank at Tower Park: Peak & Associates, April 2006.

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on storm drainage expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious surface area and associated increases in storm water runoff. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. This cumulative impact is considered significant and unavoidable.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Storm Drainage mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-9. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes: SD-7 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-9.B of the MEIR discloses impacts on the demand for storm drainage resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
9. INCREASED DEMAND FOR STORM DRAINAGE				
1) The proposed project is inconsistent with the storm drainage policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite, as compared to impacts anticipated to result from the Urban Area General Plan or create substantial unanticipated sources of polluted runoff.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project does not utilize Low Impact Development strategies to reduce runoff from the site and increase infiltration, resulting in no net increase in runoff before and after development.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project is consistent with the storm drain policies in the Urban Area General Plan.
- (2) The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system. The project was referred to Land Development Engineering, who indicated no concerns with storm water runoff.
- (3) The project will utilize low impact strategies and meet the standards contained in the "Guidance Manual for New Development-Storm Water Quality Control Measures."

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on flooding and water quality expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Flooding and Water Quality mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-10-6 through V-10-9 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes: FWQ-12, FWQ-13, and FWQ-15 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-10.B of the Master EIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
10. FLOODING AND WATER QUALITY				
1) The proposed project is inconsistent with the flooding and water quality policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would place more housing within a 100-year flood hazard zone than assumed in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project would place structure within a 100-year flood hazard area so that they would impede or redirect floodwater or would substantially alter the existing on-site drainage pattern or a watercourse, in such a way as to cause flooding on- or offsite.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5) The proposed project does not comply with Modesto's Guidance Manual for New Development Storm Water Quality Control Measures.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6) The proposed project would violate water quality standards or waste discharge requirements.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7) The proposed project would substantially alter the existing drainage pattern of the site or area or a watercourse in a manner that would result in	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
substantial erosion or siltation on- or offsite in excess of the assumptions of the Urban Area General Plan.				
8) The proposed project would create or contribute runoff, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff, not expected as part of Urban Area General Plan implementation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project is consistent with the flooding and water quality policies in the General Plan.
- (2) The project would comply with the Federal Clean Water Act and the Porter Cologne Act requirements.
- (3-4) The project is not located within a 100-year flood plain.
- (5) The project will comply with the Guidance Manual for New Development Storm Water Quality Control Measures.
- (6) The project will not violate water quality standards or waste discharge requirements.
- (7) The project would not substantially alter the existing drainage pattern of the site, area or a watercourse in a manner that would result in erosion or siltation.
- (8) The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system or provide substantial additional sources of polluted runoff.

11. INCREASED DEMAND FOR PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on parks and open space expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Parks and open space mitigation measures pertinent to the proposed project are found on pages V-11-3 through V-11-9 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The project does not require any mitigation measures from the MEIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-11.B of the MEIR discloses impacts of the Urban Area General Plan on parks and open space. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
11. INCREASED DEMAND FOR PARKS AND OPEN SPACE				
1) The proposed project is inconsistent with the parks and open space policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would eliminate parks or open space.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would cause an increase in the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility in question would occur or be accelerated or the proposed project would include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

(1-2) By Resolution 2005-243 on May 10, 2005, the City Council declared the 0.75 acre Tower Park as surplus property to be sold. Although the site has since been maintained as a green-space to prevent blight, the Council's declaration of the park as surplus property removed it from the City's inventory. The park was sold to the Redevelopment Agency in 2006, with the intention to utilize the site as urban infill housing development for low- to moderate-income tenants. The project is consistent with the parks and open space policies of the General Plan, as there

are three parks that remain within a half-mile radius of the project (Ralston Tower Park, McClatchy Square Park and George Lucas Plaza), and the project would not eliminate parks or open space.

- (3) The project was referred to the City's Parks, Recreation and Neighborhoods Department, who indicated no concerns with the project towards any potential increase in use of the existing parks in proximity to the site.

12. INCREASED DEMAND FOR SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on school facilities expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR. By statute, the impact of new students is considered to be mitigated below a level of significance by payment of school impact fees and the exercise of any or all of the financing options set out in Government Code Section 65997.

Cumulative Impacts

Effect: Similar to direct impacts of implementation of the Urban Area General Plan, no residual significant direct impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. As long these policies are applied to all subsequent projects, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995).

The following schools mitigation measures on pages V-12-5 through V-12-7 of the Master EIR are pertinent to the proposed project. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures are listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-12.B of the Master EIR discloses impacts resulting from implementation of the Urban Area General Plan associated with increased demand for schools. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
12. INCREASED DEMAND FOR SCHOOLS				
1) The proposed project is inconsistent with the policies relating to schools in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which state that compliance results in less-than-significant impacts on schools.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project is consistent with school policies in the General Plan.
- (2) The project was referred to Modesto City Schools who indicated no opposition to the project.

13. INCREASED DEMAND FOR POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on police services expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Police services mitigation measures pertinent to the proposed project are found on pages V-13-2 through V-13-5 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-13.B of the Master EIR discloses impacts on police services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
13. INCREASED DEMAND FOR POLICE SERVICES				
1) The proposed project is inconsistent with policies relating to police services in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project is consistent with policies in the General Plan related to police services.
- (2) The project was referred to the City of Modesto Police Department, who indicated no concerns with impact to service ratios or response times.

14. INCREASED DEMAND FOR FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on fire services expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-4 through V-14-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-14.B of the Master EIR discloses impacts on fire services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
14. INCREASED DEMAND FOR FIRE SERVICES				
1) The proposed project is inconsistent with the fire service policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project, based upon substantial evidence, would cause the erosion or elimination of fire protection services in adjoining fire protection districts.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

(1) The project is consistent with policies in the General Plan related to fire services.

- (2) The project was referred to the City of Modesto Fire Department, who indicated no concerns with impact to service ratios, response times or erosion of fire protection services.
- (3) The project would not significantly impact adjacent fire districts or result in the elimination of fire projection services.

15. GENERATION OF SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on solid waste expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Solid waste mitigation measures pertinent to the proposed project are found on pages V-15-4 through V-15-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-15.B of the Master EIR discloses solid waste impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
15. GENERATION OF SOLID WASTE				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
1) The project is inconsistent with the solid waste policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The County is unable to expand its solid waste disposal capacity, as expected, causing all new development to result in cumulative impacts on the County's disposal capacity.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project is consistent with policies in the General Plan related to solid waste.
- (2) This project was referred to the Solid Waste Division for review, and no indication was given that there would be a problem serving this project.

16. GENERATION OF HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts regarding hazardous materials expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Hazardous materials mitigation measures pertinent to the proposed project are found on pages V-16-8 through V-16-13 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes HM-15 and HM-17 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-16.B of the Master EIR discloses impacts on hazardous materials resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
16. GENERATION OF HAZARDOUS MATERIALS				
1) The project is inconsistent with the hazardous materials policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project would be constructed on a contaminated site not known to the State of California as of March 2008.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project is consistent with the hazardous materials policies in the General Plan.
- (2) No hazardous materials will be involved with this project.
- (3) The project is not located on a site included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.
- (4) The project site is not known to contain any contaminants.

17. GEOLOGY, SOILS, AND MINERAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts related to geology, soils, and mineral resources expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Geology, soils, and mineral resource mitigation measures pertinent to the proposed project are found on pages V-17-9 and V-17-10 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of the proposed project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes GSM-2 and GSM-9 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-17.B of the Master EIR discloses geology, soils, and mineral resource impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
17. GEOLOGY, SOILS, AND MINERAL RESOURCES				
1) The project is inconsistent with policies relating to geology, soils, and mineral resources contained in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would expose people or structures to potential substantial adverse effects including the risk off loss, injury, or death involving fault rupture, strong seismic activity; location on an expansive soil; result in the loss of topsoil; location on soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater; result in the loss of known mineral resources that would be of value to the region and the state; or result in the loss of	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan.				

Discussion:

- (1) The project is consistent with the hazardous materials policies in the General Plan.
- (2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project. There are no known mineral resources of value to the region and the state on the property.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to energy expected after application of mitigations/policies:

Direct Impacts

Effect: Continued development in the Planned Urbanizing Area would have an impact on available energy supplies. Energy consumption likely would increase substantially by 2025 as a result of implementation of the Urban Area General Plan.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on energy consumption.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following energy mitigation measures pertinent to the proposed project are found on pages V-18-2 through V-18-8 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
18. ENERGY				
1) The proposed project is inconsistent with policies relating to energy in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would result in energy consumption during construction, operation, maintenance, or removal that is more wasteful, inefficient, and unnecessary than assumed in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project is consistent with the energy policies in the General Plan.
- (2) The project would not result in energy consumption during construction, operation, maintenance or removal that is more wasteful, inefficient and unnecessary than assumed in the General Plan. The project incorporates energy-saving measures in the building design and amenities, is walking distance from existing commercial and office uses, and is served by public transit.

19. EFFECTS ON VISUAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on visual resources expected after application of mitigations/policies:

Direct Impacts

Effect: New development in the Planned Urbanizing Area will occur in areas that are in agricultural production or are otherwise lightly developed, which could lead to the introduction of light and glare in areas that have little nighttime illumination.

Cumulative Impacts

Effect: No additional cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following visual resources mitigation measures pertinent to the proposed project are found on pages V-19-3 and V-19-4 in the Master EIR. All mitigation measures appropriate to the proposed project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
19. EFFECTS ON VISUAL RESOURCES				
1) The proposed project is inconsistent with policies relating to visual resources in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would degrade views from riverside areas and parks to a greater degree than assumed in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would degrade views of riverside areas from public roadways and nearby properties to a greater degree than assumed in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project is consistent with the policies relating the visual resources in the General Plan.
- (2) The project is located in an urban area that is not in near proximity to a riverside area. The project would not impact views from riverside areas and parks.
- (3) The project would not impact views of riverside areas from roadways or nearby properties.

20. LAND USE AND PLANNING

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to land use and planning expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following land use and planning mitigation measures pertinent to the proposed project are found on pages V-20-6 through V-20-17 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-20.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on land use and planning. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
20. LAND USE AND PLANNING				
1) The proposed project is inconsistent with land use and planning policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project contains elements that would physically divide an established community in a way not assumed in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project conflicts with a land use plan, policy or regulation established for the purpose of avoiding or mitigating an environmental	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
impact by an agency that has jurisdiction over the proposed project.				
4) The proposed project conflicts with an applicable habitat conservation plan or natural community conservation plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project is consistent with land use and planning policies in the Urban Area General Plan.
- (2) The project would not divide an established community. The site is in an urban area within the Redevelopment Planning District which assumes a mixture of office, commercial and residential uses. The proposed project would add affordable housing for senior tenants in an area surrounded by existing commercial, office and residential uses.
- (3) The project is consistent with the land use plan, policies and regulations of the City of Modesto designed to mitigate project impacts.
- (4) The project does not conflict with applicable habitat conservation plans or natural community conservation plans.

21. CLIMATE CHANGE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to climate change expected after application of mitigations/policies:

Direct Impacts

Effect: Impacts resulting from implementation of the Urban Area General Plan are not substantial enough to result in a significant direct impact on climate change, as disclosed in the Master EIR.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on climate change.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following climate change mitigation measures pertinent to the proposed project are found on pages V-21-7 through V-21-10 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on climate change. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
21. CLIMATE CHANGE				
1) The proposed project is inconsistent with policies relating to climate change in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2) The proposed project would result in average automobile trip lengths or CO ₂ emissions higher than those assumed in the Master EIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3) The proposed project would conflict with the Sustainable Communities Strategy or Alternative Planning Strategy that the Air Resources Board has agreed will achieve the goals of AB 32.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Discussion:

- (1) The City of Modesto General Plan Master EIR addressed potential climate change impacts due to development and other activities associated with the Urban Area General Plan (UAGP). The Urban Area General Plan Master EIR (MEIR) determined that buildout of the UAGP would make a cumulatively considerable contribution to global climate change. The UAGP nonetheless authorizes development that will contribute to global climate change by virtue of the production of greenhouse gases. The MEIR states the projected rate of growth of vehicle miles traveled (VMT) will increase the City's contribution to global climate change as the City develops. Development under the UAGP is expected to generate approximately 1,096,226.4 metric tons per year above 2005 emissions. The City Council adopted a Statement of Overriding Considerations in 2008, finding that the benefits of the UAGP outweighed the City's increased contribution to global climate change.

The MEIR identifies policies CL-3 through CL-26 as policies in effect that have been determined to reduce, avoid or mitigate air quality environmental impacts within the existing City limits and within the Planned Urbanizing Areas as they annex and develop. These policies include but are not limited to, the use of shade trees to reduce the heat island effect, current

energy efficient building standards to reduce energy consumption, and the inclusion of facilities for alternative transportation. The proposed project will develop in accordance with climate change policies included in the UAGP and the MIER.

The project is located within the Redevelopment Planning District of the General Plan, a designation which assumes and encourages development of a mixture of office, commercial and residential uses. The proposed project incorporates energy-saving measures in the building design and amenities, adds affordable housing for senior tenants within walking distance to existing commercial and office uses, and the project location is served by existing public transit.

- (2) Climate change is an inherently cumulative impact because no single project can produce enough greenhouse gases to substantially alter the global climate. No thresholds have been set for individual or cumulative greenhouse gases. Nonetheless, the proposed project would result in greenhouse gas emissions due primarily to automobile travel and energy use for lighting, heating, cooling and other activities. The primary source of CO₂ emissions generated from the project would be related to automobile trips. As identified under the traffic and circulation discussion, traffic engineering staff has determined that the project will be in substantial conformance with the GP MEIR assumptions for traffic generation, the CO₂ emissions generated from the project would also be in substantial conformance with that which was assumed under the GP MEIR analysis.
- (3) A Sustainable Communities Strategy has not yet been implemented by the ARB. Future development will be required to comply with the provisions of the Sustainable Communities Strategy once it is established.

V. MITIGATION MEASURES APPLIED TO THE PROPOSED PROJECT

If the Initial Study results in the determination that a Finding of Conformance can be adopted for the proposed project Section A below applies. If the Initial Study results in the determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration/EIR must be prepared for the project then Section B, below applies.

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to Public Resources Code Section 21157.1(c), in order for a Finding of Conformance to be made, all appropriate mitigation measures from the Master EIR shall be incorporated into the proposed project. Urban Area General Plan Policies/Master EIR mitigation measures shall be made part of the proposed project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan.

All applicable and appropriate mitigation measures have been applied to the project (see mitigation measures listed below).

Traffic and Circulation:

N/A

Degradation of Air Quality:

AQ-42: All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover. (General Plan Policy VII-H.2[kk])

AQ-43: All onsite unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant. (General Plan Policy VII-H.2[l])

AQ-44: All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking. (General Plan Policy VII-H.2[m])

AQ-45: With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition. (General Plan Policy VII-H.2[n])

AQ-46: When materials are transported off site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained. (General Plan Policy VII-H.2[o])

AQ-47: All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday (the use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.) (General Plan Policy VII-H.2[p])

AQ-48: Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant. (General Plan Policy VII-H.2[qq])

AQ-49: Within urban areas, trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday. (General Plan Policy VII-H.2[rr])

AQ-50: Any site with 150 or more vehicle trips per day shall prevent carryout and trackout. (General Plan Policy VII-H.2[ss])

Generation of Noise:

N-1: The City has also established a noise ordinance to control noise within the City. The City's noise ordinance (Modesto Municipal Code Section 4-9.101) prohibits the "loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine."

N-2: Additionally, the noise ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and state or federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):

A hammer, or any other device or implement used to pound or strike an object.

1. An impact wrench, or other tool or equipment powered by compressed air.
2. A hand-powered saw.
3. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.
4. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.
5. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.
6. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.

In addition, the City has adopted the following policies as part of its UAGP. All development projects located within the Baseline Developed Area (and Redevelopment Area) are required to incorporate the policies listed below into the project.

N-3: The City of Modesto shall require construction activities to comply with the City's noise ordinance (Title 4, Chapter 9), and noise-reducing construction practices to be implemented as conditions of approval for development projects where substantial construction-related noise impacts would be likely to occur (e.g., where construction would include extended periods of pile driving, where construction would occur over an unusually long period, or where noise-sensitive uses like

homes and schools would be in the immediate vicinity, etc.). The city should consider potential mitigation measures, including, but not limited to, the following: Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields. Equipment that is quieter than standard equipment should be utilized. Haul routes that affect the fewest number of people should be selected. (UAGP VIIG.3[a])

Effects on Agricultural Lands:

N/A

Increased Demand for Long-Term Water Supplies:

N/A

Increased Demand for Sanitary Sewer Services:

N/A

Loss of Sensitive Wildlife and Plant Habitat:

N/A

Disturbance of Archaeological/Historic Sites:

N/A

Increased Demand for Storm Drainage:

SD-7: New development shall comply with City requirements for conveyance, retention and detention. New development shall include onsite storage of stormwater as necessary. Rockwells shall not be allowed for new development except at infill areas smaller than three acres where no other feasible alternative is available. (UAGP Policy V-E.3[f])

Flooding and Water Quality:

FWQ-12: New development shall comply with City requirements for conveyance, retention and detention. New development shall include onsite storage of stormwater as necessary. Rockwells shall not be allowed for new development except at infill areas smaller than three acres where no other feasible alternative is available. (UAGP Policy V.E.3[f])

FWQ-13: Construction activities shall comply with the requirements of the City's Storm Water Management Plan under its municipal NPDES stormwater permit, and the State Water Resources Control Board's General Permit for Discharges of Storm Water Associated with Construction Activity. (UAGP Policy V.E.3[h])

FWQ-15: New developments shall be required to implement an appropriate selection of permanent pollution control measures in accordance with the City's implementation policies for the municipal NPDES stormwater permit. Permanent erosion control measures such as seeding and planting vegetation for new cut-and-fill slopes, directing runoff through vegetation, or otherwise reducing the

offsite discharge of particulates and sediment are the most effective method of controlling offsite discharges of urban pollutants. (UAGP Policy V.E.4[f])

Increased Demand for Parks and Open Space:

N/A

Increased Demand for Schools:

N/A

Increased Demand for Police Services:

N/A

Increased Demand for Fire Services:

N/A

Generation of Solid Waste:

N/A

Generation of Hazardous Materials:

HM-15: New development shall comply with City requirements for conveyance, retention and detention. New development shall include onsite storage of stormwater as necessary. Rockwells shall not be allowed for new development except at infill areas smaller than three acres where no other feasible alternative is available. (UAGP Policy V-E.3[f])

HM-17: Construction activities shall comply with the requirements of the City's Storm Water Management Plan under its municipal NPDES stormwater permit, and the State Water Resources Control Board's General Permit for Discharges of Storm Water Associated with Construction Activity. (UAGP Policy V-E.3[h])

Geology, Soils, and Mineral Resources:

GSM-2: The City shall require all new buildings in the City to be built to the seismic requirements of the 2007 California Building Code (or subsequent editions). (UAGP Policy VI-B.2[b])

GSM-9: All building permits shall be reviewed to ensure compliance with the current adopted edition of the California Fire Code, California Building Code, California Mechanical Code, California Electrical Code, California Plumbing Code, Title 19, Title 24, and the City of Modesto Municipal Code. (UAGP Policy VI-E.1[d])

Energy:

N/A

Effects on Visual Resources:

N/A

Land Use and Planning:

N/A

Climate Change:

N/A

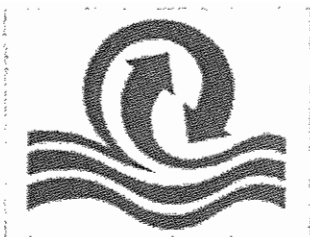
B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the significance criteria for each environmental impact category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against the significance criteria thresholds established in the Master EIR for all impact categories in this Initial Study.

A Mitigated Negative Declaration or Focused EIR shall be prepared for the project. The following additional project-specific mitigation measures listed below are necessary to reduce the identified new significant effect: **none.**

APPENDIX

- A.1** Memo to C&ED by Jim Alves, Associate Engineer, Utility Planning and Projects Dept, February 7, 2012
- A.2** Cultural Resource Assessment of a Water Tank at Tower Park by Peak & Associates, April 2006.



**CITY OF MODESTO
UTILITY PLANNING AND
PROJECTS DEPARTMENT**

EMBRACE IT

Date: February 7, 2012

TO: Katherine Martin, C&ED
FROM: Jim Alves, UP&P
SUBJECT: Tower Park Sewer Impact Review

Katherine,

UP&P Staff conducted a brief review of the City's sewer model in regard to the proposed Tower Park Senior Housing Project's estimated sewer demand impact on the City's existing sewer system, specifically the relative impact on the existing identified F Street subtrunk capacity constraint under peak wet weather flow conditions. As part of and integral to UP&P's review, discussions and, conclusion regarding this project impact was analysis conducted by Chuck Covolo in 2009 on the benefit of the City's removal of an H Street direct storm drainage inlet from the H Street sewer system. Chuck's analysis was completed as part of a previously proposed H Street development project that has since been abandoned.

Based on the information made available by C&ED from Land Development Engineering (LDE) staff, a review of Tower Park's estimated sewer demand and, what we can determine from our sewer model's existing peak wet weather flow condition, UP&P concludes the following. The proposed Tower Park project's relative impact on the downstream sewer system, specifically for 9th & F Streets, would be negligible compared to the calculated benefit provided by the removal of the storm inlet as well as compared to the impact estimated for the now abandoned 10th & H Street project.

If C&ED staff desires to discuss specifics and details of UP&P's review effort, please contact me, however, LDE staff should also be included to discuss their previous effort regarding the storm drain inlet removal analysis.

Regards,

Jim Alves

CC: Jack Bond, UP&P
Will Wong, UP&P
Chuck Covolo, C&ED
Eva Dankha-Kelly, C&ED
Glenn Prasad, UP&P

**CULTURAL RESOURCE ASSESSMENT OF
A WATER TANK AT TOWER PARK,
CITY OF MODESTO, CALIFORNIA**

Prepared by

Peak & Associates, Inc.
3941 Park Drive, Suite 20 PMB329
El Dorado Hills, California 95762
(916) 939-2405

Prepared for

Adrienne L. Graham
4724 U Street
Sacramento, California 95817

April 2006
(Job #06-021)

INTRODUCTION

The project involves the proposed demolition of an existing water tower located in Tower Park, at the northwesterly corner of Seventeenth and G Streets in the City of Modesto (Assessor's Parcel Number 106-006-002). The site has approximately 250 feet along Seventeenth Street, and 140 feet along G Street. The property also fronts a 20 foot wide paved, maintained city alley. The project area is located in the southwest quarter of section 28, Township 3 South, Range 9 East. The park area will be sold, with land to be utilized for a possible housing project (Figures 1, 2 and 3).

Melinda Peak served as principal investigator, conducting a site visit and completing the research (resumes, Appendix 1)

RESEARCH

Research on the historic background of the construction and use the site was conducted at the California Room of the California State Library, McHenry Museum, City Records and the California State University, Stanislaus Special Collections Department. Very little is available in the archival record on the site.

HISTORIC CONTEXT

The City of Modesto was founded in 1870 on the route of the Central Pacific's San Joaquin Branch. When newcomers arrived on the train, they found a village of about 25 buildings, either hastily built, or moved from other locations when the Central Pacific announced its routing through this site. It took another two years for the rail line to be extended to Merced. The town was described as "a bleak settlement on the plains without trees or vegetation, but an abundance of wind-blown sand" (Maino 1970: 14).

Modesto was voted the County seat of Stanislaus County in 1871. Public buildings were soon constructed, and the City incorporated in 1884. The Modesto City Water Works were located on Tenth Street near G, with a pumping station and a 40-foot deep concrete cistern with an artesian well placed through the floor (Bare 1999: 39).

The LaGrange Dam on the Tuolumne River was completed in 1893, but the canal system that brought irrigation water to Modesto was not completed until 1903 (Maino 1970). The introduction of irrigation brought prosperity to the City by providing the farmers of the region a reliable water supply, lessening their ears of flooding and drought. Alfalfa became an important crop, and dairying also grew in importance in the region (Bare 1999:47-48).

NEIGHBORHOOD LOCATION MAP

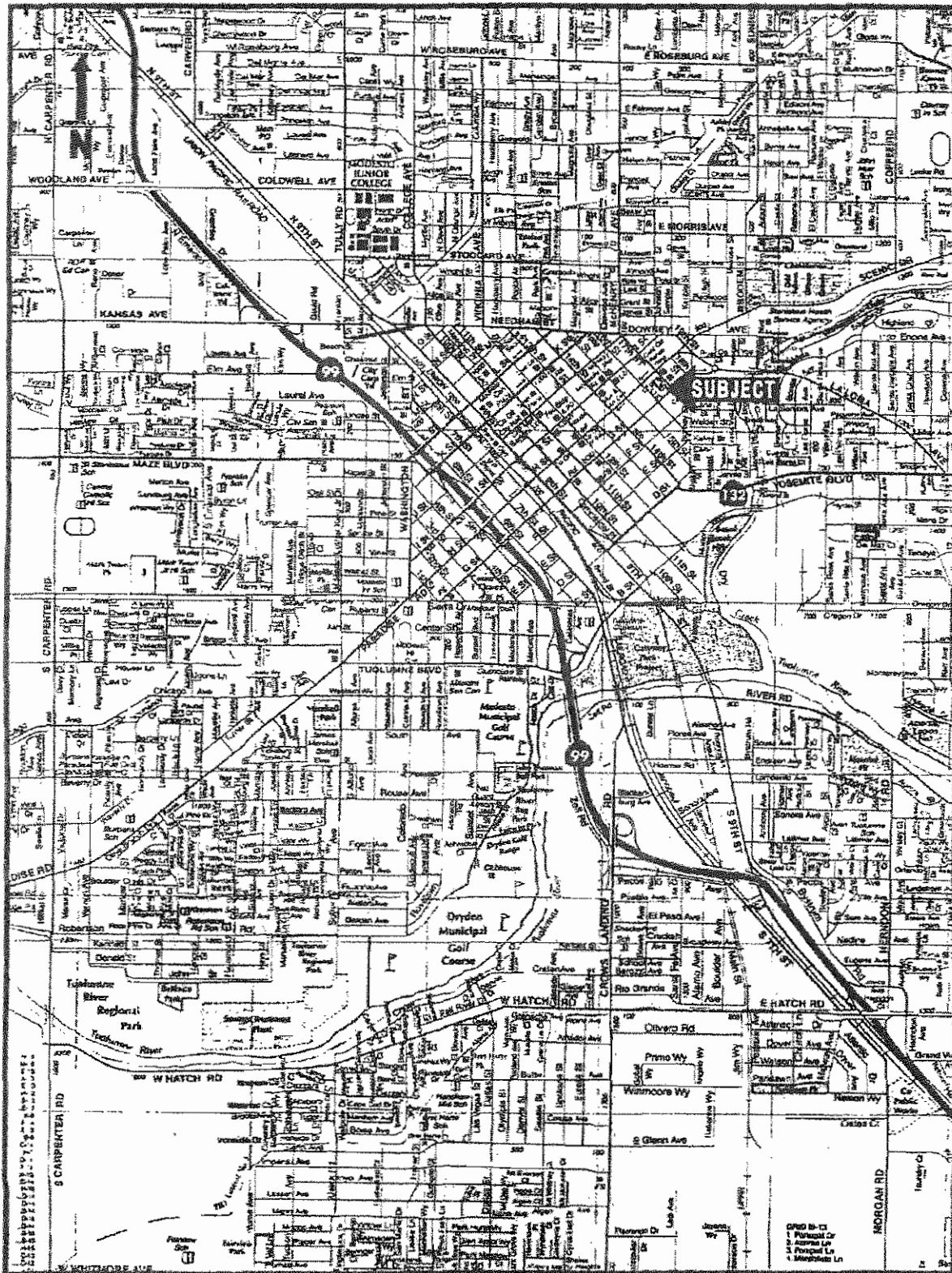
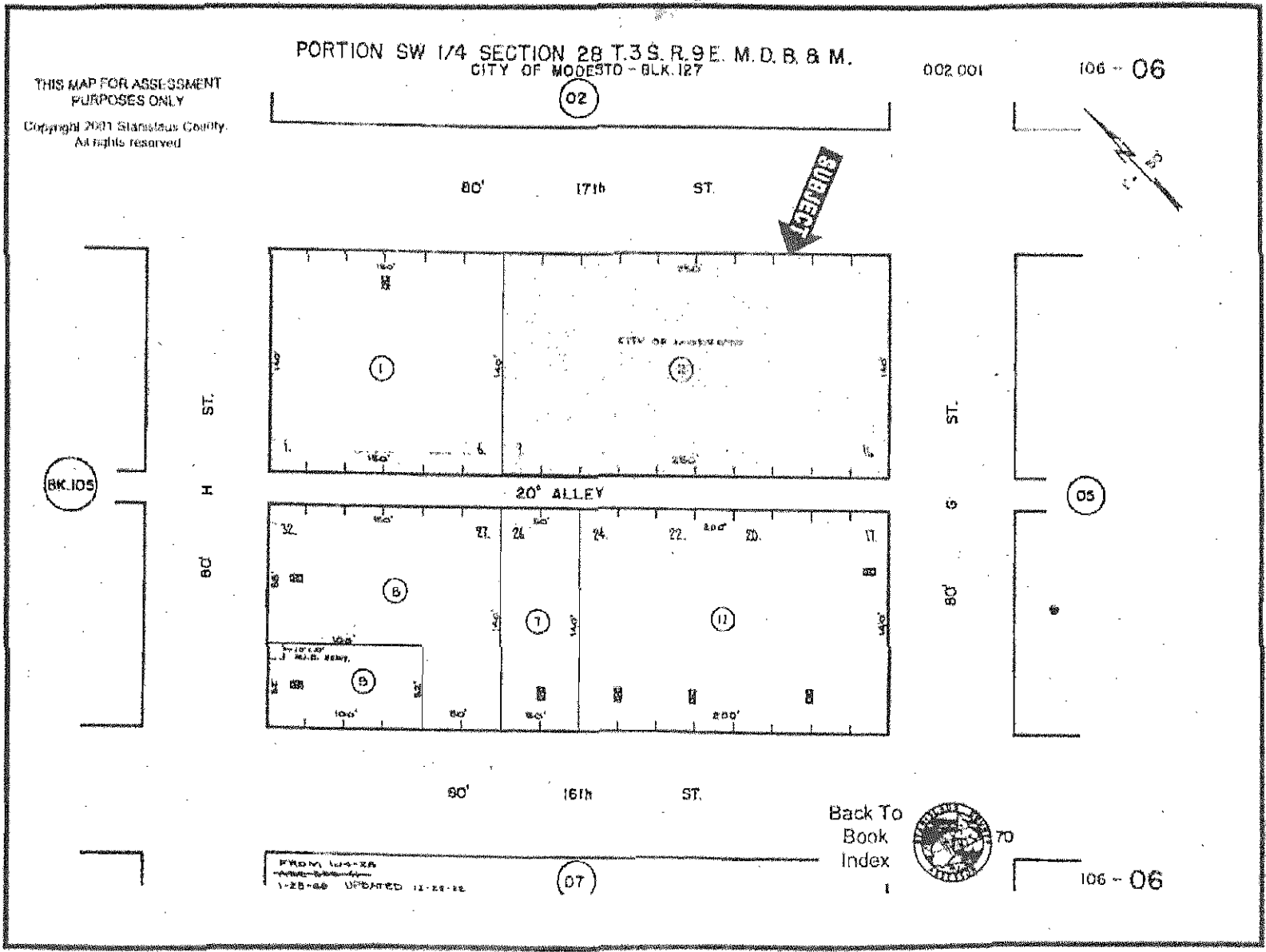


FIGURE 1







ASSESSOR'S PARCEL MAP

FIGURE 2



By 1911, the City had acquired the lots that now comprise Tower Park. At that point, the most southerly portion of the site contained City Water Works Pump Station No. 3, with a 12' water pipe extending southward in G Street, then westward (Sanborn Fire Insurance Map, Block 127, 1911).

In 1915, the existing water tower was added to the site. One expert on water towers believes that the municipal water tower was the natural offshoot of the railroad water towers, that went from wood construction to steel tanks around the time of the Civil War (http://www.texasescapes.com/Texas_architecture/Forty-Years-in-the-Water-Tower-Business).

The purpose of a water tower is to hold a supply of water at a height sufficient to pressurize a water system. Typically the water tower's tank is sized to hold about a day's worth of water for the community it serves. If the pumps associated fail, the water tower holds enough water to keep the system flowing for a day. A water tower provides an advantage for a community by allowing the municipality to size its pumps for average rather than peak demand. The water tower can supply the water at peak demand with the tank refilled at night or other times of low demand, with cheaper power costs for pumping.

An identical water tower was built somewhere on Eight Street. This tower is no longer standing. Plans are available in City records showing the "Steel Water Tower for 8th Street and 17th Street Pumping Stations." The plans include the dimensions of the concrete piers and the water tank and tower.

By 1919, the Sanborn Fire Insurance Map for Modesto reflected the addition of the water tower with 100,000-gallon capacity on the alley side of what is now the park. The site had moved up to be City Water Works Pump Station No. 2. The plan shows it as a 30-foot deep concrete pit with pumps on the southern lots of the park area, with a connection to a water line running both directions on G Street. Another water line had been added along the alley with a connection extending westward from the water tower. The surrounding neighborhood was primarily residential.

The City's population was growing rapidly at this time. The 1900 population of 2,204 had grown to 4,034 in 1910, and 9,231 by 1920. By 1930, the population had expanded to 13,842 (Bare 1999: 146).

In 1935, the City had an appraisal done of the pumping plant associated with the water tower. Its replacement value was \$4,358.00, with one-third of the value being the pump. The insurable value was estimated at \$2,568.20 (Barry 1935).

By 1950, the site had become City Water works Station No. 1, presumably from the replacement of the other sites. In the 1950, the facility was little changed from 1919. A few additional details on the site were published, with the site being served by a Byron-Jennings centrifugal pump, with a capacity of 1,200 gallons per minute from four 12 inch bored wells. The wells had depths of 70', 160', 170', and 300'. The surrounding neighborhood was unchanged and residential for the most

part, although the Seventh Day Adventist Church had been constructed on the lots to the north of the water facilities (Sanborn Fire Insurance Map 1950).

At some point, the City created a park over its water facility. It does not show on the 1950 map as a park, suggesting that its conversion may have occurred somewhat later in time. Park improvements are minimal, with some landscaping and picnic tables.

According to a newspaper report, the water tower was decommissioned in 1995 amid concerns that it could not withstand the impact of a major earthquake (*The Modesto Bee* June 3, 2005).

FIELD SURVEY AND RESULTS

The project area was field checked in March 2005 by Melinda Peak. The water tower was photographed from all sides. A site form will be prepared and filed with the Central California Information Center of the California Historical Resources Information System.

SITE DESCRIPTION

The four piers of the tower are concrete, measuring ten feet across at the base and four feet across at the top. The piers are eight feet high, and top 6" portion of the pier is exposed above the ground line.

The total height is 130 feet from the ground to the top of the water tank. The tank itself is 23'2" high, and 28'8" in diameter. The water line in the center of the structure is a 12' flanged pipe, with an automatic check valve near the ground.

There is a guard railing around the narrow deck at the base of the water tank. A ladder is affixed to the side of the water tank for access to the roof of the tank. This has been vandalized over the years, with the City repainting the tank over the graffiti. The tank appears to be in fair condition, the tower has been maintained and in fair to good condition.

To the north of the tower along the alley, a pump station facility has been installed. This appears to have been built in conjunction with the decommissioning of the water tower.

SITE EVALUATION

For the purposes of CEQA, an historical resource is a resource listed in, or determined eligible for listing in the California Register of Historical Resources. When a project will impact an archeological site, it needs to be determined whether the site is an historical resource, which is defined as any site which:

- (A.) Is historically or archeologically significant, or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political or cultural annals of California; and
- (B) Meets any of the following criteria:
 - 1. Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;
 - 2. Is associated with the lives of persons important in our past;
 - 3. Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or
 - 4. Has yielded, or may be likely to yield, information important in prehistory or history.

The water tower is not associated with events important in our past, or with individuals important in our past. It is simply a former part of the water supply infrastructure of the City of Modesto, and is no longer functional. It is not recorded in any early photographs, and the local museum was unaware of its existence (Robert Gillette, personal communication, 2006).

The style of the structure is not unique, nor representational of any particular architectural style. There are numerous water towers throughout the West, and new towers continue to be constructed as others are removed. Indeed, there is even a Texas-based firm that specializes in the removal of water towers, as well as a number of companies who build new towers. The tower is not decorated, and is not in any way a symbol for the City. With the addition of multi-story buildings on the block to the east of the site, as well as the taller church building to the north, the tower no longer is distinguishable in the skyline of the City as it may have been when it was constructed.

As a result, it can be concluded that the structure is not eligible for the California Register of Historical Resources.

CONCLUSIONS AND IMPACTS

There are no known properties eligible for or listed on the California Register of Historical Resources within the project area. There will be no impact to historical resources as a result of the removal of the water tower and sale of the site.

REFERENCES

Bare, Colleen Stanley

1999 *Modesto Then and Now*. McHenry Museum Press, Modesto.

Barry, William P.

1935 Appraisalment, City of Modesto, Buildings and Contents. On file, Special Collections Department, California State University, Stanislaus.

Maino, Jeanette Gould

1970 *One Hundred Years...Modesto, California 1870-1970*. Belt Printing & Lithograph Company, Modesto.

Maino, Jeanette and Dena Boer

1990 Scenes of Stanislaus, Postcard Memories. McHenry Museum and Historical Society, Modesto.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-200**

RESOLUTION APPROVING A NEIGHBORHOOD STABILIZATION PROGRAM 3 (NSP3) AMENDMENT AND ITS SUBMISSION TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TO INCLUDE EXPANDING GEOGRAPHIC AREA AND AMENDING ACTIVITY ALLOCATIONS AND AUTHORIZING STAFF TO PREPARE SUB-RECIPIENT AND DEVELOPER AGREEMENTS WITH THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS, HABITAT FOR HUMANITY, STANISLAUS COUNTY, AND STANISLAUS COUNTY AFFORDABLE HOUSING CORPORATION TO BE APPROVED BY COUNCIL, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN ALL RELATED DOCUMENTS AND FUTURE TECHNICAL AMENDMENTS TO NSP3 PLAN IN COORDINATION WITH HUD

WHEREAS, City Council approved the Neighborhood Stabilization Program 3 (NSP3) grant award in the amount of \$2,951,549, on February 8, 2011 (Resolution No. 2011-41), and

WHEREAS, the U.S. Department of Housing and Urban Development (HUD) approved the City's original NSP3 Plan on March 9, 2011 and

WHEREAS, due to extremely limited inventory of properties available for purchase and competition with highly active cash investors, the City will expand the geographic area for community development activities as described in the NSP3 Amendment **attached**, and

WHEREAS, the City of Modesto will complete the required Rehabilitation Environmental Review (RER) for the tiered environmental review of rehabilitation of existing single-family residential structures, per 24 CFR 58.35(a)(3)(i), with or without the acquisition and/or disposition of the existing structure per 24 CFR 58.35(a)(5), and

WHEREAS, this RER tiered review will be used for NSP3 acquisition and rehabilitation activities, and

WHEREAS, the City of Modesto will complete the required NEPA Environmental Assessment, per 24 CFR 58.36, as is required for new construction or for any activities that are not exempt or categorically excluded, and

WHEREAS, this assessment will be used for NSP3 new construction activities, and

WHEREAS, the City of Modesto will complete the appropriate level of environmental review for NSP3 demolition activities per 24 CFR Part 58, and

WHEREAS, this proposal was reviewed and approved by the Citizens' Housing and Community Development Committee on April 18, 2012, and

WHEREAS, approval of the proposed action will help the City meet its goal of spending the NSP3 grant in a timely manner,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the NSP3 Amendment described in the **attached**

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to sign all related documents for its submission to the U.S. Department of Housing and Urban Development and approve future technical amendments to NSP3 grant per direction from HUD.

BE IT FURTHER RESOLVED, that City staff are authorized to prepare sub-recipient and developer agreements with Housing Authority of the County of Stanislaus, Habitat for Humanity, Stanislaus County, and Stanislaus County Affordable Housing Corporation to be approved by Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Geer, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez,
Mayor Marsh

NOES: Couucilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Neighborhood Stabilization Program 3 (NSP3) Amendment

NSP ACTIVITY	CURRENT ALLOCATION	CURRENT OUTPUT	AMENDED ALLOCATION	AMENDED OUTPUT
Acquisition and Rehabilitation	\$738,000 (25% Set-Aside)*	5 Units	\$738,000 (25% Set-Aside)	5 Units
	\$612,000	5 Units	\$818,395	5 Units
Land Banking	\$531,395	11 Properties	–	–
Demolition	\$100,000	10 Demolitions	\$100,000	10 Demolitions
Redevelopment (New Construction)	\$675,000	5 Units**	\$1,000,000	11 Units
Administration	\$295,155	N/A	\$295,155	N/A
TOTAL	\$2,951,550	21 Units / 10 Demolitions	\$2,951,550	21 Units / 10 Demolitions

* Must house households whose incomes do not exceed 50 percent of area median income

** May have included development of land banked properties

NSP3 Grantee and Partners

- Grantee: City of Modesto
- Subrecipient: Housing Authority of the County of Stanislaus
- Developers: Habitat for Humanity, Stanislaus County
Stanislaus County Affordable Housing Corporation (STANCO)

NSP3 Grant \$2,951,549	City of Modesto \$395,154	Administration \$295,154
		Demolition \$100,000
	NSP3 Partners \$2,556,395	Acquisition and Rehabilitation \$1,556,395
		New Construction \$1,000,000

Definitions of NSP3 Activities

- **Acquisition and Rehabilitation**
 - To acquire and rehabilitate homes and residential properties that have been abandoned or foreclosed upon in order to sell or rent these properties.
- **Land Banking**
 - To acquire homes and residential properties (including vacant land) that have been abandoned or foreclosed upon in order to assemble these properties for more productive housing development. Similar to Acquisition and Rehabilitation, except the properties may be held in the land bank and need not be developed into housing until March 2021.
- **Demolition**

Neighborhood Stabilization Program 3 (NSP3) Amendment

- To demolish blighted structures. Also known as stand-alone demolition. Activity is separate and distinct from other NSP3 activities that involve demolition as part of the construction scope of work.
- **Redevelopment**
 - Similar to Acquisition and Rehabilitation, except this activity allows new construction and the acquisition of vacant land or land with vacant structures that need not be abandoned or foreclosed upon or zoned residential.
- **Administration**
 - To administer the NSP3 grant and monitor NSP3 activities. Separate and distinct from project-specific administration, which is considered activity-delivery and is funded from NSP3 non-Administration allocations.

Project 100598 – New Budget

Task Number	Task Name	Current Budget	New Budget	Budget Adjustment
300 Appr Unit C	Discretionary Expense	295,155	295,154	-1
306 Appr Unit C	NSP3 Acq & Rehab 25% Set Aside	0	738,000	+738,000
301 Appr Unit C	NSP3 Acq & Rehab	690,662	818,395	+127,733
302 Appr Unit C	NSP3 Land Bank Usage	1,195,379	0	-1,195,379
303 Appr Unit C	NSP3 Redevelopment	690,662	0	-690,662
304 Appr Unit C	NSP3 Demolition	79,691	100,000	+20,309
305 Appr Unit C	NSP3 New Construction	0	1,000,000	+1,000,000
		2,951,549	2,951,549	0

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-201**

**RESOLUTION AMENDING THE FISCAL YEAR 2011-2012 ANNUAL
OPERATING AND CAPITAL IMPROVEMENT BUDGETS TO REFLECT THE
APPROVED ALLOCATIONS IN THE NEIGHBORHOOD STABILIZATION
PROGRAM 3 PLAN AMENDMENT; AND AUTHORIZING THE FINANCE
DIRECTOR, OR HER DESIGNEE, TO TAKE THE NECESSARY STEPS TO
IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, City Council approved the Neighborhood Stabilization Program 3 (NSP3) grant award in the amount of \$2,951,549, on February 8, 2011 by Resolution No. 2011-41, and

WHEREAS, the U.S. Department of Housing and Urban Development (HUD) approved the City's original NSP3 Plan on March 9, 2011 and

WHEREAS, due to extremely limited inventory of properties available for purchase and competition with highly active cash investors, the City will expand the geographic area for community development activities as described in the NSP3 Amendment **attached**, and

WHEREAS, this proposal was reviewed and approved by the Citizens' Housing and Community Development Committee on April 18, 2012, and

WHEREAS, approval of the proposed action will help the City meet its goal of spending the NSP3 grant in a timely manner,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the NSP3 Amendment described in the **attached**.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Geer, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez,
Mayor Marsh

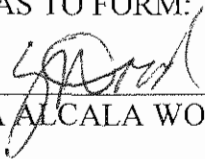
NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Neighborhood Stabilization Program 3 (NSP3) Amendment

NSP ACTIVITY	CURRENT ALLOCATION	CURRENT OUTPUT	AMENDED ALLOCATION	AMENDED OUTPUT
Acquisition and Rehabilitation	\$738,000 (25% Set-Aside)*	5 Units	\$738,000 (25% Set-Aside)	5 Units
	\$612,000	5 Units	\$818,395	5 Units
Land Banking	\$531,395	11 Properties	–	–
Demolition	\$100,000	10 Demolitions	\$100,000	10 Demolitions
Redevelopment (New Construction)	\$675,000	5 Units**	\$1,000,000	11 Units
Administration	\$295,155	N/A	\$295,155	N/A
TOTAL	\$2,951,550	21 Units / 10 Demolitions	\$2,951,550	21 Units / 10 Demolitions

* Must house households whose incomes do not exceed 50 percent of area median income

** May have included development of land banked properties

NSP3 Grantee and Partners

- Grantee: City of Modesto
- Subrecipient: Housing Authority of the County of Stanislaus
- Developers: Habitat for Humanity, Stanislaus County
Stanislaus County Affordable Housing Corporation (STANCO)

NSP3 Grant \$2,951,549	City of Modesto \$395,154	Administration \$295,154
		Demolition \$100,000
	NSP3 Partners \$2,556,395	Acquisition and Rehabilitation \$1,556,395
		New Construction \$1,000,000

Definitions of NSP3 Activities

- **Acquisition and Rehabilitation**
 - To acquire and rehabilitate homes and residential properties that have been abandoned or foreclosed upon in order to sell or rent these properties.
- **Land Banking**
 - To acquire homes and residential properties (including vacant land) that have been abandoned or foreclosed upon in order to assemble these properties for more productive housing development. Similar to Acquisition and Rehabilitation, except the properties may be held in the land bank and need not be developed into housing until March 2021.
- **Demolition**

Neighborhood Stabilization Program 3 (NSP3) Amendment

- To demolish blighted structures. Also known as stand-alone demolition. Activity is separate and distinct from other NSP3 activities that involve demolition as part of the construction scope of work.
- **Redevelopment**
 - Similar to Acquisition and Rehabilitation, except this activity allows new construction and the acquisition of vacant land or land with vacant structures that need not be abandoned or foreclosed upon or zoned residential.
- **Administration**

To administer the NSP3 grant and monitor NSP3 activities. Separate and distinct from project-specific administration, which is considered activity-delivery and is funded from NSP3 non-Administration allocations.

Project 100598 – New Budget

Task Number	Task Name	Current Budget	New Budget	Budget Adjustment
300 Appr Unit C	Discretionary Expense	295,155	295,154	-1
306 Appr Unit C	NSP3 Acq & Rehab 25% Set Aside	0	738,000	+738,000
301 Appr Unit C	NSP3 Acq & Rehab	690,662	818,395	+127,733
302 Appr Unit C	NSP3 Land Bank Usage	1,195,379	0	-1,195,379
303 Appr Unit C	NSP3 Redevelopment	690,662	0	-690,662
304 Appr Unit C	NSP3 Demolition	79,691	100,000	+20,309
305 Appr Unit C	NSP3 New Construction	0	1,000,000	+1,000,000
		2,951,549	2,951,549	0

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-202**

A RESOLUTION AMENDING CITY COUNCIL POLICY 5.001 REQUIRING THAT THE CITY MANAGER, UPON THE RECOMMENDATION OF THE DIRECTOR RESPONSIBLE FOR UTILITY SYSTEM PLANNING, REQUEST CITY COUNCIL APPROVAL FOR ALL EXTENSIONS OF WATER AND SEWER SERVICES INTO UNINCORPORATED AREAS

WHEREAS, the authority to grant the extension of water services into unincorporated areas is contained in Section 11-1.05 of the Modesto Municipal Code and City Council Policy 5.001, and

WHEREAS, City Council Policy 5.001 clarifies the City's position on the extension of water service into unincorporated areas and designates specific conditions that are required before the extension of service, and

WHEREAS, this policy also authorizes the City Manager to approve water service extensions that are consistent with the policy,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending City Council Policy 5.001 requiring that the City Manager, upon the recommendation of the Director responsible for utility system planning, request City Council approval for all extensions of water and sewer services into unincorporated areas.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May, 2012, by Councilmember Muratore, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-203**

A RESOLUTION AMENDING CITY COUNCIL POLICY 5.002 REQUIRING THAT THE CITY MANAGER, UPON THE RECOMMENDATION OF THE DIRECTOR RESPONSIBLE FOR UTILITY SYSTEM PLANNING, REQUEST CITY COUNCIL APPROVAL FOR ALL EXTENSIONS OF WATER AND SEWER SERVICES INTO UNINCORPORATED AREAS

WHEREAS, City Council Policy 5.002 clarifies the City's position on sewer service into unincorporated areas and specifies the implementation of the policy under specific circumstances and conditions, and

WHEREAS, this policy is silent on the authority for granting sewer service extensions,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending City Council Policy 5.002 requiring that the City Manager, upon the recommendation of the Director responsible for utility system planning, request City Council approval for all extensions of water and sewer services into unincorporated areas.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of May 2012, by Councilmember Muratore, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-204**

RESOLUTION APPROVING THE AGREEMENT FOR PURCHASE OF REAL PROPERTY INTEREST OF A TEMPORARY CONSTRUCTION EASEMENT WITH ROGER A. FLORES, CAROL E. FLORES TRUSTEES OF THE ROGER A. OR CAROL E. FLORES TRUST, AND JULIANNE M. POLATI, FOR A 2,420 SQ. FT. (0.0556 ACRES) PORTION OF A PARCEL OF LAND (APN 135-029-051), IN THE AMOUNT OF \$12,000.00, FOR THE PELANDALE AVENUE / SR 99 INTERCHANGE RECONSTRUCTION PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND ALL RELATED DOCUMENTS REQUIRED TO FINALIZE THE ACQUISITION

WHEREAS, the City of Modesto is planning a project to reconstruct the Pelandale Avenue/SR 99 Interchange, and

WHEREAS, the project will alleviate congestion and improve operations of the Pelandale Avenue & SR 99 Interchange, and

WHEREAS, the City of Modesto has obtained lead agency status from the California Department of Transportation for the project, and

WHEREAS, staff has identified a 2,420 sq. ft. (0.0556 acres) portion of a parcel of APN 135-029-051 for a Temporary Construction Easement to improve the roadway on Salida Blvd. as a part of the capital improvements identified for the Pelandale Avenue/SR 99 Interchange Reconstruction Project, and

WHEREAS, staff has completed the required environmental review for the project, and

WHEREAS, an Agreement is needed for the acquisition interests of the property,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the purchase agreement between the City of Modesto and Roger A. Flores, Carol E. Flores, and Julianne M. Polati, for a 2,420 sq. ft. (0.0556 acres)

Temporary Construction Easement, located at 4300 Salida Blvd. (APN 135-029-051), in the amount of \$12,000.00 for the Pelandale Avenue/SR 99 Interchange Reconstruction Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement, and all related documents required to close escrow.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-205**

RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE CERTIFICATE OF ACCEPTANCE FOR THE TEMPORARY CONSTRUCTION EASEMENT FOR THE ACQUISITION OF PROPERTY INTERESTS LOCATED AT 4300 SALIDA BLVD, OWNED BY ROGER A. FLORES AND CAROL E. FLORES AS TRUSTEES OF THE ROGER A. OR CAROL E. FLORES TRUST, AND JULIANNE M. POLATI, (APN 135-029-051) TO BE PURCHASED BY THE CITY OF MODESTO FOR THE PELANDALE AVENUE/SR 99 INTERCHANGE RECONSTRUCTION PROJECT

WHEREAS, Section 27281 of the Government Code requires a public agency to accept real property prior to the recordation of a deed or adopt a resolution accepting real property, and

WHEREAS, the City of Modesto desires to acquire a 2,420 sq. ft. (0.0556 acres) portion of land for a Temporary Construction Easement located on Salida Blvd., owned by Roger A. Flores, Carol E. Flores, and Julianne M. Polati, (APN 135-029-051), to be purchased by the City of Modesto for the Pelandale Avenue/SR 99 Interchange Reconstruction Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign the Certificate of Acceptance for the Temporary Construction Easement for the acquisition of property interests located at 4300 Salida Blvd., owned by Roger A. Flores and Carol E. Flores AS TRUSTEES OF THE ROGER A. OR CAROL E. FLORES TRUST , and Julianne M. Polati, (APN 135-029-051) to be purchased by the City of Modesto for the Pelandale Avenue/SR 99 Interchange Reconstruction Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-206**

RESOLUTION APPROVING THE AGREEMENT FOR PURCHASE OF REAL PROPERTY OF A PARCEL OF LAND IN FEE FROM PAUL ALLEN BAHN, DAVID JOHN SEIFERT AND RUTH ELLA SEIFERT, TRUSTEES AND THE SUCCESSOR TRUSTEES OF THE DAVID JOHN SEIFERT AND RUTH ELLA SEIFERT 1995 LIVING TRUST; W. BLAKE GIBBS AND ESTER M. GIBBS, TRUSTEES AND THE SUCCESSOR TRUSTEES OF THE W.B. & E.M. GIBBS TRUST; TYLER GIBBS AND KRISTINE A. GIBBS, TRUSTEES AND SUCCESSOR TRUSTEES OF THE GIBBS FAMILY TRUST; JONATHAN D. SEIFERT AND KRISTIN B. SEIFERT, DANIEL E. BLACKMAN AND PARI ANNA BLACKMAN FOR AN APPROXIMATELY 17,216 SQ. FT. (0.40 ACRES +/-) PARCEL OF LAND (APN 135-029-038), IN THE AMOUNT OF \$500,000.00, FOR THE PELANDALE AVENUE / SR 99 INTERCHANGE RECONSTRUCTION PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND ALL RELATED DOCUMENTS REQUIRED TO FINALIZE THE ACQUISITION

WHEREAS, the City of Modesto is planning a project to reconstruct the Pelandale Avenue/SR 99 Interchange, and

WHEREAS, the project will alleviate congestion and improve operations of the Pelandale Avenue & SR 99 Interchange, and

WHEREAS, the City of Modesto has obtained lead agency status from the California Department of Transportation for the project, and

WHEREAS, staff has identified a 17,216 sq. ft. (0.40 acres +/-, APN 135-029-038) parcel necessary to improve the roadway on Sisk Road as a part of the capital improvements identified for the Pelandale Avenue/SR 99 Interchange Reconstruction Project, and

WHEREAS, staff has completed the required environmental review for the project, and

WHEREAS, an Agreement is needed for the acquisition interests of the property,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Purchase Agreement between the City of Modesto and Paul Allen Bahn, David John Seifert and Ruth Ella Seifert, trustees and the successor trustees of The David John Seifert and Ruth Ella Seifert 1995 Living Trust; W. Blake Gibbs and Ester M. Gibbs, trustees and the successor trustees of The W.B. & E.M. Gibbs Trust; Tyler Gibbs and Kristine A. Gibbs, trustees and the successor trustees of The Gibbs Family Trust; Jonathan D. Seifert and Kristin B. Seifert, Daniel E. Blackman and Pari Anna Blackman, for a 17,216 sq. ft. (0.40 acres +/-) Grant Deed located at 4259 Sisk Road (APN 135-029-038), in the amount of \$500,000 for the Pelandale Avenue/SR 99 Interchange Reconstruction Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement, and all related documents required to close escrow.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-207**

RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE CERTIFICATE OF ACCEPTANCE FOR THE GRANT DEED, FOR THE ACQUISITION OF PROPERTY LOCATED AT 4259 SISK ROAD, OWNED BY PAUL ALLEN BAHN, DAVID JOHN SEIFERT AND RUTH ELLA SEIFERT, TRUSTEES AND THE SUCCESSOR TRUSTEES OF THE DAVID JOHN SEIFERT AND RUTH ELLA SEIFERT 1995 LIVING TRUST; W. BLAKE GIBBS AND ESTER M. GIBBS, TRUSTEES AND THE SUCCESSOR TRUSTEES OF THE W.B. & E.M. GIBBS TRUST; TYLER GIBBS AND KRISTINE A. GIBBS; TRUSTEES AND THE SUCCESSOR TRUSTEES OF THE GIBBS FAMILY TRUST; JONATHAN D. SEIFERT AND KRISTIN B. SEIFERT, DANIEL E. BLACKMAN AND PARI ANNA BLACKMAN, (APN 135-029-038) TO BE PURCHASED BY THE CITY OF MODESTO FOR THE PELANDALE AVENUE/SR 99 INTERCHANGE RECONSTRUCTION PROJECT

WHEREAS, Section 27281 of the Government Code requires a public agency to accept real property prior to the recordation of a deed or adopt a resolution accepting real property, and

WHEREAS, the City of Modesto desires to acquire a 17,216 sq. ft. (0.40 acres +/-) parcel of land by a Grant Deed located on Sisk Road., by Paul Allen Bahn, David John Seifert and Ruth Ella Seifert, trustees and the successor trustees of The David John Seifert and Ruth Ella Seifert 1995 Living Trust; W. Blake Gibbs and Ester M. Gibbs, trustees and the successor trustees of The W.B. & E.M. Gibbs Trust; Tyler Gibbs and Kristine A. Gibbs, trustees and the successor trustees of The Gibbs Family Trust; Jonathan D. Seifert and Kristin B. Seifert, Daniel E. Blackman and Pari Anna Blackman, (APN 135-029-038), to be purchased by the City of Modesto for the Pelandale Avenue/SR 99 Interchange Reconstruction Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign the Certificate of Acceptance for the Grant Deed for the acquisition of property located at 4259 Sisk Road,

owned by Paul Allen Bahn, David John Seifert and Ruth Ella Seifert, trustees and the successor trustees of The David John Seifert and Ruth Ella Seifert 1995 Living Trust; W. Blake Gibbs and Ester M. Gibbs, trustees and the successor trustees of The W.B. & E.M. Gibbs Trust; Tyler Gibbs and Kristine A. Gibbs, trustees and the successor trustees of The W.B. & E.M. Gibbs Trust; Jonathan D. Seifert and Kristin B. Seifert, Daniel E. Blackman and Pari Anna Blackman, (APN 135-029-038) to be purchased by the City of Modesto for the Pelandale Avenue/SR 99 Interchange Reconstruction Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-208**

RESOLUTION AUTHORIZING THE AWARD OF BIDS FOR THE PURCHASE OF LOW LEAD BRASS SERVICE FITTINGS FOR THE DEPARTMENT OF PUBLIC WORKS, WATER DIVISION, TO GROENIGER CO., MODESTO, CA, MODESTO WINDUSTRIAL CO., MODESTO, CA, AND PACE SUPPLY CORP., STOCKTON, CA, FOR A ONE-YEAR AGREEMENT WITH FOUR (4) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE PURCHASE AGREEMENTS FOR AN ESTIMATED ANNUAL COST OF \$285,000

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of low lead brass service fittings, and

WHEREAS, the Purchasing Division issued RFB No. 1112-18 Low Lead Brass Service Fittings to sixteen (16) prospective bidders, eight (8) of which were local vendors, posted the bid on the City's website and formally advertised as required by law, and

WHEREAS, bids were formally opened in the City Clerk's Office. Three (3) companies chose to respond, two (2) of which were local vendors. All three (3) companies provided responsive and responsible bids, and

WHEREAS, Modesto Municipal Code 8-3.206 Support of Local Vendors (SLV) allows the lowest bid or quote submitted by a local business that is within five (5) percent of the lowest bid, the opportunity to match the lowest bid price. Groeniger Co., Modesto, CA qualified for SLV on a list of inventory items and agreed to match lowest bid price for those items, which represents an additional \$27,000 of product purchased annually through the local vendor, and

WHEREAS, based on providing lowest responsive and responsible bids, City staff recommends the award of bids for the purchase of low lead brass service fittings to

Groeniger Co., Modesto, CA, Modesto Windustrial Co., Modesto, CA, and Pace Supply Corp., Stockton, CA, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. The award of bids for the purchase of low lead brass service fittings to Groeniger Co., Modesto, CA, Modesto Windustrial Co., Modesto, CA, and Pace Supply, Corp., Stockton, CA, conforms to the Modesto Municipal Code, and

WHEREAS, funds shall be budgeted for the purchase of low lead brass service fittings in Appropriation Units: 4100-55050-53150 and 4100-55080-53150.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bids for the purchase of low lead brass service fittings for the Department of Public Works, Water Division, to Groeniger Co., Modesto, CA, Modesto Windustrial, Modesto, CA., and Pace Supply Corp., Stockton, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue purchase agreements for an estimated annual cost of \$285,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh


NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-209**

RESOLUTION AUTHORIZING THE AWARD OF BIDS FOR THE PURCHASE OF CAST IRON AND DUCTILE IRON FITTINGS AND SPOOLS FOR THE DEPARTMENT OF PUBLIC WORKS, WATER DIVISION, TO GROENIGER CO., MODESTO, CA, MODESTO WINDUSTRIAL CO., MODESTO, CA, AND PACE SUPPLY CORP., STOCKTON, CA, FOR A ONE-YEAR AGREEMENT WITH FOUR (4) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE PURCHASE AGREEMENTS FOR AN ESTIMATED TOTAL ANNUAL COST OF \$250,000

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of cast iron and ductile iron fittings and spools, and

WHEREAS, the Purchasing Division issued RFB No. 1112-23 Cast Iron and Ductile Iron Fittings and Spools to seventeen (17) prospective bidders, nine (9) of which were local vendors, posted the bid on the City's website and formally advertised as required by law, and

WHEREAS, bids were formally opened in the City Clerk's Office. Four (4) companies chose to respond, two (2) of which were local vendors. All four (4) companies provided responsive and responsible bids, and

WHEREAS, Modesto Municipal Code Section 8-3.206 Support of Local Vendors (SLV) allows the lowest bid or quote submitted by a local business that is within five percent (5%) of the lowest bid, the opportunity to match the lowest bid price. Groeniger Co., Modesto, CA qualified for SLV on a list of inventory items and agreed to match lowest bid price for those items, which represents an additional \$148,000 of product purchased annually through the local vendor, and

WHEREAS, based on providing lowest responsive and responsible bids, City staff recommends the award of bids for the purchase of cast iron and ductile iron fittings and spools to Groeniger Co., Modesto, CA, Modesto Windustrial Co., Modesto, CA, and Pace Supply Corp., Stockton, CA, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. The award of bids for the purchase of cast iron and ductile iron fittings and spools to Groeniger Co., Modesto, CA, Modesto Windustrial Co., Modesto, CA, and Pace Supply, Corp., Stockton, CA, conforms to the Modesto Municipal Code, and

WHEREAS, funds shall be budgeted for the purchase of cast iron and ductile iron fittings and spools in Appropriation Units: 4100-55050-53150 and 4100-55080-53150,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bids for the purchase of cast iron and ductile iron fittings and spools for the Department of Public Works, Water Division, to Groeniger Co., Modesto, CA, Modesto Windustrial, Modesto, CA., and Pace Supply Corp., Stockton, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue purchase agreements for an estimated total annual cost of \$250,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-210**

A RESOLUTION ACCEPTING THE CALIFORNIA MARIJUANA ERADICATION GRANT FROM THE U.S. DEPARTMENT OF JUSTICE DRUG ENFORCEMENT ADMINISTRATION IN THE AMOUNT OF \$40,000 FOR THE STANISLAUS COUNTY DRUG ENFORCEMENT AGENCY; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL NECESSARY GRANT DOCUMENTS

WHEREAS, on April 17, 2012, the Stanislaus Drug Enforcement Agency (SDEA) was awarded the Domestic Cannabis Eradication/Suppression Program Marijuana Eradication Grant in the amount of \$40,000, and

WHEREAS, the funding will defray costs relating to the eradication and suppression of illicit cannabis, and

WHEREAS, the costs include marijuana eradication, overtime, training, supplies and removal costs, and

WHEREAS, there is no required match to the City of Modesto, and

WHEREAS, the term of this grant will be from January 1, 2012 through December 31, 2012, and

WHEREAS, the City of Modesto will be the fiscal agent,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the California Marijuana Eradication Grant from the U. S. Department of Justice Drug Enforcement Administration in the amount of \$40,000.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-211

A RESOLUTION AMENDING THE STANISLAUS COUNTY DRUG ENFORCEMENT AGENCY'S FISCAL YEAR 2011/12 MULTI-YEAR OPERATING BUDGET ESTIMATING REVENUE IN THE AMOUNT OF \$40,000 FROM THE U. S. DEPARTMENT OF JUSTICE DRUG ENFORCEMENT ADMINISTRATION MARIJUANA ERADICATION GRANT

WHEREAS, on April 17, 2012, the Stanislaus Drug Enforcement Agency (SDEA) was awarded the Domestic Cannabis Eradication/Suppression Program Marijuana Eradication Grant in the amount of \$40,000, and

WHEREAS, the funding will defray costs relating to the eradication and suppression of illicit cannabis, and

WHEREAS, the costs include marijuana eradication, overtime, training, supplies and removal costs, and

WHEREAS, there is no required match to the City of Modesto, and

WHEREAS, the City of Modesto will be the fiscal agent,

WHEREAS, the term of this grant will be from January 1, 2012 through December 31, 2012,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the the Stanislaus County Drug Enforcement Agency's Fiscal Year 2011/12 Multi-Year Operating Budget as indicated on **Attachment A**, which is incorporated by reference herein.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Attachment A: Budget Adjustment

Fund 6600: 2011/12 Multiyear

<u>Expense:</u>			
To:	100704 – Appro. C	\$ 3,500	Training Expense
	100704 – Appro. C	2,500	Tools, Shop & Field Supplies
	100704 – Appro. C	8,000	Fuel, Oil and Lubricants
	100704 – Appro. C	15,000	Other Insurance
	100704 – Appro. A	<u>11,000</u>	Overtime
	Total	\$40,000	
<u>Revenue:</u>			
To:	6600-89999-42090-100704	40,000	Interg.-Federal-Misc.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-212**

RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE SENIOR CITIZENS CENTER ADA UPGRADES PROJECT, ACCEPTING THE BID, AND APPROVING AN AGREEMENT WITH BARHAM, INC. DBA BC CONSTRUCTION, OF CERES, CA IN THE AMOUNT OF \$188,984.00; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on February 7, 2012, the City Council, by Resolution No. 2012-52, approved the Senior Citizens Center ADA Upgrades project as part of the first amendment to the City of Modesto's 2011-12 Annual Action Plan, and

WHEREAS, the project includes remodeling the restrooms to ensure ADA compliance, increasing restroom size and reconfiguring restroom fixtures, and

WHEREAS, the exterior upgrades include path of travel, parking lot signage and striping, and

WHEREAS, the project was advertised for bid on April 6, 2012, and bids were opened on May 8, 2012, and

WHEREAS, staff determined that the apparent lowest bid received from Barham, Inc. dba BC Construction of Ceres was a reasonable and competitive bid for this project, and

WHEREAS, the bidder competition was clearly evident with five (5) responsive bidders within ten percent (10%) of the engineer's estimate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Plans and Specifications for the Senior Citizens Center ADA Upgrades project, accepts the bid, and approves an Agreement with Barham, Inc. dba BC Construction of Ceres, CA in the amount of \$188,984.00,

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None


ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:



SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-213**

RESOLUTION AMENDING THE FISCAL YEAR 2011-2012 CAPITAL IMPROVEMENT PROGRAM BUDGET TO ADJUST THE EXPENSE CATEGORIES WITHIN THE PROJECT ACCOUNT, AND AUTHORIZING THE FINANCE DIRECTOR, OR HER DESIGNEE, TO IMPLEMENT THE PROVISION OF THIS RESOLUTION

WHEREAS, on February 7, 2012, the City Council, by Resolution No. 2012-52, approved an additional allocation of \$300,000 to the Senior Citizens Center ADA Upgrades project as part of the first amendment to the City of Modesto's 2011-12 Annual Action Plan, and

WHEREAS, the project includes remodeling the restrooms to ensure ADA compliance, increasing restroom size and reconfiguring restroom fixtures, and

WHEREAS, the exterior upgrades include path of travel, parking lot signage and striping, and

WHEREAS, a budget adjustment will allocate the appropriate expenditure categories within the Parks CIP Account 100315.PRN.CDBG Housing Rehabilitation Project - Sr. Ctr. Access Features FY 10 (**Exhibit A attached**),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the fiscal year 2011-2012 Capital Improvement Program Budget to adjust the expense categories within the project account.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

ANTICIPATED CONSTRUCTION EXPENDITURES:

Construction Contract:	\$ 188,984.00
Construction Administration – 15%	\$ 28,347.60
Construction Contingency – 10%	<u>\$ 18,898.40</u>

TOTAL ANTICIPATED CONSTRUCTION COSTS: **\$ 236,230.00**

ADDITIONAL PROJECT EXPENDITURES:

Engineering/Design/Admin (EDA):	\$ 68,522.00
---------------------------------	--------------

TOTAL ANTICIPATED PROJECT EXPENDITURES: \$ 304,752.00

Project	Task	Current Budget	Proposed Budget	Budget Adjustment
100315	CA	\$31,377	\$28,348	-3,029
100315	CON	\$209,183	\$188,984	-20,199
100315	CTGY	\$20,918	\$44,146	+23,228
100315	EDA	\$68,522	\$68,522	0
		\$330,000	\$330,000	

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-214**

RESOLUTION APPROVING AN AGREEMENT WITH WGR SOUTHWEST, INC., FOR WASTEWATER AND STORMWATER COMPLIANCE ASSISTANCE IN AN AMOUNT NOT TO EXCEED \$58,155; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto operates a Municipal Separate Stormwater Sewer System (MS4) that requires a Stormwater National Pollutant Discharge Elimination System (NPDES), and

WHEREAS, in 2008, the Regional Water Quality Control Board (RWQCB) permitted the City's MS4 for the discharge of stormwater (Order No. R5-2008-0092) which will expire in 2013, and

WHEREAS, as part of the permit renewal application process, prior to 2013, the City must develop and submit a Report of Waste Discharge (ROWD) and Stormwater Management Plan (SWMP) for reissuance of the City's MS4 permit, and

WHEREAS, the City is also permitted by the RWQCB under a separate NPDES permit to collect, treat, and discharge wastewater (Order No. R5-2008-0059), and

WHEREAS, under this permit the City is required to implement a pretreatment program, and

WHEREAS, part of the pretreatment program requirements include development of a Dental Mercury Control Program, Local Limits Update, and Enforcement Response Plan & Sewer Ordinance Update, and

WHEREAS, to meet the above permit requirements City Staff has solicited proposals and costs from five consulting firms, two of which were local, and

WHEREAS, two of the three responses received were deemed responsive bids,
and

WHEREAS, staff reviewed and scored the proposals and costs (based on criteria that included proximity to Modesto, resources available, previous work of a similar nature, repeat clients, costs), and identified WGR-Southwest Inc. as having the highest ranking, and

WHEREAS, WGR Southwest Inc. has previously assisted the City with its annual Stormwater report to RWQCB and the Fat Oils and Grease ordinance, and

WHEREAS, in order to maintain the continuity between Wastewater and Stormwater, staff requests retaining WGR Southwest Inc. to assist staff and perform the following tasks required under the Stormwater and Wastewater NPDES permits:

Wastewater (Pretreatment) Tasks:

- Develop Dental Mercury Control Program
- Develop Local Limits Update
- Update Enforcement Response Plan & Sewer Ordinance Update

Stormwater Tasks:

- Prepare ROWD
- Update SWMP for MS4 Renewal

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with WGR Southwest, Inc. for Wastewater and Stormwater Compliance Assistance in an amount not to exceed \$58,155.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-215**

RESOLUTION APPROVING AN AGREEMENT WITH NOLTE ASSOCIATES, INC. (NOLTE), FOR WORK ON THE CITY OF MODESTO COST SHARE PROGRAM IN AN AMOUNT NOT TO EXCEED \$52,350; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, Nolte was retained to evaluate the current Cost Share Program (CSP) and to make recommendations to improve the program and its accessibility to the customer, and

WHEREAS, Nolte's work included an examination of other community programs and consideration of alternative lower lateral repair policies, and

WHEREAS, Nolte found that historical participation in the CSP demonstrates that the City does provide much needed assistance to residents, and

WHEREAS, over the last five years, an average of 40 property owners per year has received approximately \$1,800 in assistance from the program; however, it was not uncommon for applicants to experience a lengthy process that was both frustrating and adding unnecessary time affecting the repairs, and

WHEREAS, a review of the problems and a comparison with similar programs in other communities resulted in suggested modifications to Modesto's CSP, and

WHEREAS, on April 24, 2012, by Resolution No. 2012-156, Council amended the FY-12 Wastewater Operating Budget in the amount of \$68,000 in order to fully fund the one-time improvements to the CSP, and

WHEREAS, staff is requesting \$52,350 of these funds for an agreement with Nolte to perform the following tasks:

- Update Cost Share Program Guidance Documents
- Develop Standard Operating Procedures for Administration of CSP

- Establish maximum unit prices for reimbursement

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Nolte Associates, Inc., in an amount not to exceed \$52,350.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-216**

RESOLUTION APPROVING A FIVE-YEAR EXTENSION OF AN AIRPORT LEASE AGREEMENT BETWEEN THE CITY OF MODESTO AND THE CALIFORNIA CENTRAL VALLEY SQUADRON OF THE COMMEMORATIVE AIR FORCE (CAF) FOR THE CONTINUED USE OF AIRPORT HANGAR 1S AT A RATE OF \$1,566 PER MONTH WITH RENT REDUCTION CREDIT GIVEN FOR THE COST OF IMPROVEMENTS AND VOLUNTEER TIME AT THE RATE OF \$18.16 PER HOUR, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY

WHEREAS, Airport Hangar 1S, one of the oldest aircraft storage hangars in California, has been leased by the Central Valley Squadron of the Commemorative Air Force (CAF) since February 28, 2006, and

WHEREAS, the CAF wishes to renew their lease for Hangar 1S for a five-year period at a rental rate of \$1,566 per month, and

WHEREAS, the CAF has requested Rent Reduction Credit for the cost of improvements and volunteer time at a rate of \$18.16 per hour, and

WHEREAS, improvements eligible for Rent Reduction Credit will be agreed upon in advance between Lessee (CAF) and Lessor (City), and

WHEREAS, quarterly reports will be provided by Lessee to Lessor on the status of projects eligible for Rent Reduction Credit, and

WHEREAS, prior to the anniversary date of this lease agreement a final reconciliation will be made by Lessor of the rent fees less agreed Rent Reduction Credit, and

WHEREAS, the resulting monthly minimum rent will not be less than \$1,100 per month, and

WHEREAS, the CAF intends to use all of Airport Hangar 1S for use as an air museum and as a hub for their local CAF activities while preserving and maintaining the Hangar in its historic 1928 condition, and

WHEREAS, the lease agreement is expected to provide revenues of approximately \$13,000 and \$18,792 per year to the Airport Enterprise Fund Revenue,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a five-year Airport Lease Agreement between the City of Modesto and the Commemorative Air Force (CAF) for the use of Hangar 1S at a rate of \$1,566 per month with Rent Reduction Credit given for the cost of improvements and volunteer time at the rate of \$18.16 per hour.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmember: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-217**

**RESOLUTION APPROVING NEW CAPITAL IMPROVEMENT PROGRAM
PROJECT 100697-MAZE/EMERALD FLOODING SOLUTION FOR THE
PURPOSE OF FLOOD CONTROL AT INTERSECTION OF MAZE
BOULEVARD & EMERALD AVENUE, AND AMENDING THE FISCAL YEAR
2011-2012 CAPITAL IMPROVEMENT PROGRAM BUDGET IN THE AMOUNT
OF \$292,500 TO FUND ENGINEERING/DESIGN/ADMINISTRATION,
CONSTRUCTION, CONTINGENCY, AND CONSTRUCTION
ADMINISTRATION**

WHEREAS, the southeast corner of the intersection of Maze Boulevard and Emerald Avenue has flooding issues due to the lack of a storm water runoff system, and

WHEREAS, the flooding occurs at this intersection that is a high traffic area adjacent to Franklin Elementary School, and

WHEREAS, this project is a priority because Modesto City Schools has expressed concerns regarding student safety when localized street flooding occurs after a storm event, and

WHEREAS, City staff recommends approving new Capital Improvement Program Project 100697-Maze/Emerald Flooding Solution for the purpose of flood control at intersection of Maze Boulevard & Emerald Avenue, and

WHEREAS, certain budgetary transactions are necessary in the amount of \$292,500, in order to fund Engineering/Design/Administration, Construction, Contingency, and Construction Administration for the Maze/Emerald Flooding Solution Project, and

WHEREAS, the appropriation transfer for this project was requested, but was not included in the monthly budget adjustment for June, and

WHEREAS, it is staff's recommendation to fund the CIP at this time, in order to complete the project in time to alleviate the flooding issues prior to the rainy season this upcoming fall, and

WHEREAS, the Fiscal Year 2011-2012 Budget must be amended as shown in **Exhibit A**, which is incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2011-2012 Budget as shown in **Exhibit A** and the creation of Project 100697 "Maze/Emerald Flooding Solution" for the purpose of flood control at intersection of Maze Boulevard & Emerald Avenue.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

In order to create Capital Improvement Program Project 100697 “Maze/Emerald Flooding Solution” and establish budget for Engineering/Design/Administration, Construction, Contingency, and Construction Administration, funds need to be transferred in the amount of \$292,500. This would be done by reducing Storm Drain Reserves by <\$292,500> and appropriating funds to Project 100697 as follows: Engineering/Design/Administration by \$22,500, Construction by \$225,000, Contingency by \$22,500, and Construction Administration by \$22,500 within Project 100697 “Maze/Emerald Flooding Solution”.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-218**

A RESOLUTION ACCEPTING THE CALIFORNIA GANG REDUCTION, INTERVENTION AND PREVENTION (CALGRIP) GRANT, FROM THE GOVERNOR'S OFFICE OF EMERGENCY SERVICES (OES) FOR \$250,000 TO COMBAT GANG VIOLENCE; AND AUTHORIZING THE CITY MANAGER, OR HIS AUTHORIZED DESIGNEE, TO EXECUTE THE NECESSARY AWARD DOCUMENTS

WHEREAS, on May 7, 2012, the Governor's Office of Emergency Services (OES) announced the City of Modesto was awarded \$250,000 for the California Gang Reduction, Intervention and Prevention (CalGRIP) Grant, and

WHEREAS, the purpose of the CalGRIP program is to assist selected cities with gang prevention, intervention, and suppression, and to promote reentry, education, job training and skills development, and family and community services, and

WHEREAS, this funding will continue allowing the Police Department to continue providing Project S.A.F.E. (Striving for Accountability and Future Employment), and

WHEREAS, the grant requires a 100% match and salaries are considered as cash match for this grant, and

WHEREAS, the existing Gang Coordinator and Criminal Intelligence Analyst are making up the City of Modesto's required match of \$250,000 for this grant,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes acceptance of the California Gang Reduction, Intervention and Prevention (CalGRIP) Grant, from the Governor's Office of Emergency Services (OES) for \$250,000 to combat gang violence,

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Exhibit A

The CalGrip Project Safe allocation for Fiscal Year 2011/2012 will be applied to:

<u>Revenues:</u>	<u>Increase/(Decrease)</u>	<u>Description</u>
To:		
MY-1341-19999-42199-100710	\$250,000	Cal Grip Project Safe Grant
MY-1341-19999-42406-100710	<u>\$250,000</u>	In-Kind Contribution
TOTAL:	\$500,000	
<u>Expenses:</u>		
To:		
MY-100710- Appr Unit A	\$92,976	Overtime
MY-100710- Appr Unit C	\$250,000	Intergovernmental Serv-Other
MY-100710- Appr Unit C	\$87,560	Professional Services
MY-100710- Appr Unit C	\$ 4,187	Information Tech Equip
MY-100710- Appr Unit C	\$11,775	Tools & Equipment
MY-100710- Appr Unit C	\$ 6,268	Office Supplies
MY-100710- Appr Unit C	\$ 4,600	Printing & Binding
MY-100710- Appr Unit C	\$23,750	Business Expense
MY-100710- Appr Unit C	\$13,884	Conference Expense
MY-100710- Appr Unit C	<u>\$ 5,000</u>	Svcs City Forces-Interfund
TOTAL	\$500,000	

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-219**

**A RESOLUTION AMENDING THE CITY'S MULTI-YEAR AND SINGLE YEAR
OPERATING BUDGET TO RECOGNIZE ANTICIPATED REVENUES AND
EXPENSES RELATED TO THE CALIFORNIA GANG REDUCTION,
INTERVENTION AND PREVENTION (CALGRIP) GRANT TO COMBAT
GANG VIOLENCE**

WHEREAS, on May 7, 2012, the Governor's Office of Emergency Services (OES) announced the City of Modesto was awarded \$250,000 for the California Gang Reduction, Intervention and Prevention (CalGRIP) Grant, and

WHEREAS, the purpose of the CalGRIP program is to assist selected cities with gang prevention, intervention, and suppression, and to promote reentry, education, job training and skills development, and family and community services, and

WHEREAS, this funding will allow the Police Department to continue providing Project S.A.F.E. (Striving for Accountability and Future Employment), and

WHEREAS, the grant requires a 100% match and salaries are considered as cash match for this grant, and

WHEREAS, the existing Gang Coordinator and Criminal Intelligence Analyst are making up the City of Modesto's required match of \$250,000 for this grant, and

WHEREAS, pursuant to the 2011 State Budget Realignment Act, and Senate Bill (SB) 92, administration and oversight responsibilities for the 2011 Cal GRIP funds will be transferred to the Board of State and Community Correctoins effective July 1, 2012,

WHEREAS, the grant's two-year term will be from January 1, 2012 to December 31, 2013,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Multi-Year and Single Year Operating Budget is hereby amended as indicated in **Attachment A**, which are incorporated by reference herein.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-220**

RESOLUTION APPROVING A THIRD AMENDMENT TO AGREEMENT WITH FINANCIAL CONSULTING SOLUTIONS GROUP, INC. (FCS GROUP) FOR ADDITIONAL SCOPE OF WORK NOT INCLUDED IN THE ORIGINAL AGREEMENT AND AMENDMENTS FOR UPDATING THE WATER RATES AND CAPACITY CHARGE STUDY IN AN AMOUNT NOT TO EXCEED \$68,490 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS \$6,149 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AGREEMENT AMOUNT OF \$313,579, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE THIRD AMENDMENT TO AGREEMENT

WHEREAS, in 2008 a number of issues led to initiating the process of updating the City's water rates and capacity charges, and

WHEREAS, those issues primarily included the following:

- Increased maintenance and operating costs
- New capital improvements
- Increased costs to construct the Modesto Regional Water Treatment Plant Phase Two Expansion Project (MRWTP Expansion)
- City's continued participation in the Regional Surface Water Supply Project (RSWSP) with Turlock Irrigation District,

and

WHEREAS, that effort was put on hold mostly due to concerns with the general state of the economy, and

WHEREAS, subsequent efforts by staff to reduce annual maintenance and operating costs, along with moving a number of water capital improvement projects out to future years (plus delays related to the RSWSP), provided some temporary relief without compromising service, and

WHEREAS, significant design and construction deficiencies on the MRWTP Expansion have been identified, and

WHEREAS, the ultimate responsibility for the additional costs associated with these deficiencies is being evaluated by engineering and legal teams for all parties involved, and

WHEREAS, both MID and the City recognize that it is in our rate payers' mutual best interest to move the project to completion as soon as practical, and

WHEREAS, in recognition that it is possible that at least initially some of the costs will be borne by the City water rate payers, staff believes it is prudent to have contractual arrangements in place to move forward with a water rate process in a timely manner, and

WHEREAS, on February 5, 2008, by Resolution No. 2008-087, City Council approved an agreement with FCS Group to complete an Updated Water Rate and Capacity Charge Study, and

WHEREAS, on August 11, 2009, by Resolution No. 2009-396, City Council approved the First Amendment for additional services related to the original agreement, and

WHEREAS, on September 7, 2010, by Resolution No. 2010-394, City Council approved the Second Amendment for additional services related to the original agreement, and

WHEREAS, this effort started and stopped a number of times and did not lead to a completed update of the water rates and capacity charges, and at this point has officially been stopped, and

WHEREAS, FCS Group's efforts have now been redirected to a Water Rate and Capacity Charge Study Update based on the currently identified design and construction deficiencies related to the MRWTP Expansion, and

WHEREAS, staff understands that much of the work completed in the original scope and subsequent amendments will be useful in the revised scope of work in this Third Amendment to Agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Third Amendment to Agreement with Financial Consulting Solutions Group, Inc. for additional scope of work not included in the original Agreement or Amendments for updating the Water Rates and Capacity Charge Study in an amount not to exceed \$68,490 for the identified scope of services, plus \$6,149 for additional services (if needed), for a maximum total Agreement amount of \$313,579.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: Burnside

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-221**

RESOLUTION APPROVING AN AGREEMENT WITH HORIZON WATER AND ENVIRONMENTAL FOR PROFESSIONAL SERVICES RELATED TO PERFORMING ENVIRONMENTAL REVIEW WORK ON THE PROPOSED REPAIRS TO CORRECT THE DESIGN AND CONSTRUCTION DEFICIENCIES OF THE MODESTO REGIONAL WATER TREATMENT PLANT EXPANSION, AS RELATED TO UPDATING WATER RATES AND CAPACITY CHARGES, FOR THE IDENTIFIED SCOPE OF SERVICES FOR AN AMOUNT NOT TO EXCEED \$14,951, PLUS \$1,495 FOR ADDITIONAL SERVICES (IF NEEDED) FOR A MAXIMUM AGREEMENT AMOUNT OF \$16,446, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, in 2008 a number of issues led to initiating the process of updating the City's water rates and capacity charges, and

WHEREAS, those issues primarily included the following:

- Increased maintenance and operating costs
- New capital improvements
- Increased costs to construct the Modesto Regional Water Treatment Plant Phase Two Expansion Project (MRWTP Expansion)
- City's continued participation in the Regional Surface Water Supply Project (RSWSP) with Turlock Irrigation District

, and

WHEREAS, that effort was put on hold mostly due to concerns with the general state of the economy, and

WHEREAS, subsequent efforts by staff to reduce annual maintenance and operating costs, along with moving a number of water capital improvement projects out to future years (plus delays related to the RSWSP), provided some temporary relief without compromising service, and

WHEREAS, significant design and construction deficiencies on the MRWTP Expansion have been identified, and

WHEREAS, the ultimate responsibility for the additional costs associated with these deficiencies is being evaluated by engineering and legal teams for all parties involved, and

WHEREAS, both MID and the City recognize that it is in our rate payers' mutual best interest to move the project to completion as soon as practical, and

WHEREAS, in recognition that it is possible that at least initially some of the costs will be borne by the City water rate payers, staff believes it is prudent to have contractual arrangements in place to move forward with a water rate process in a timely manner, and

WHEREAS, even though the overall footprint of the MRWTP Expansion project site has not changed, an opinion from a consulting firm experienced in CEQA law and guidelines is needed to determine if the proposed repairs to the construction deficiencies themselves could result in any significant impacts to the environment that was not previously disclosed in the MRWTP Expansion's original CEQA documents, and

WHEREAS, therefore, staff requested a proposal from Horizon Environmental for this effort based on its key personnel's previous work on the MRWTP Expansion as its Project Manager oversaw completion of the Environmental Impact Review, and

WHEREAS, in order to ensure CEQA compliance for the entire required repair work, Horizon Environmental will perform the following work:

- Review all previous CEQA documents and related background materials, along with permits and approvals issued by regulatory agencies
- Evaluate list of construction deficiencies and the corresponding corrective actions
- Prepare a report of findings based on the construction deficiencies compared to CEQA compliance and permits, along with a discussion of risks to legal challenge

, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Horizon Water and Environmental for professional services related to performing environmental review work on the proposed repairs to correct the design and construction deficiencies of the Modesto Regional Water Treatment Plant, as related to updating water rates and capacity charges, for the identified scope of services for an amount not to exceed \$14,951, plus \$1,495 for additional services (if needed), for a maximum Agreement amount of \$16,446.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: Burnside

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-222**

RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH HARRIS AND ASSOCIATES FOR PROFESSIONAL SERVICES RELATED TO THE PROPOSITION 218 PROCESS FOR UPDATING WATER RATES, IN AN AMOUNT NOT TO EXCEED \$13,495, PLUS \$4,580 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AGREEMENT AMOUNT OF \$64,065, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE THIRD AMENDMENT TO AGREEMENT

WHEREAS, in 2008 a number of issues led to initiating the process of updating the City's water rates and capacity charges, and

WHEREAS, those issues primarily included the following:

- Increased maintenance and operating costs
- New capital improvements
- Increased costs to construct the Modesto Regional Water Treatment Plant Phase Two Expansion Project (MRWTP Expansion)
- City's continued participation in the Regional Surface Water Supply Project (RSWSP) with Turlock Irrigation District

, and

WHEREAS, that effort was put on hold mostly due to concerns with the general state of the economy, and

WHEREAS, subsequent efforts by staff to reduce annual maintenance and operating costs, along with moving a number of water capital improvement projects out to future years (plus delays related to the RSWSP), provided some temporary relief without compromising service, and

WHEREAS, significant design and construction deficiencies on the MRWTP Expansion have been identified, and

WHEREAS, the ultimate responsibility for the additional costs associated with these deficiencies is being evaluated by engineering and legal teams for all parties involved, and

WHEREAS, both MID and the City recognize that it is in our rate payers' mutual best interest to move the project to completion as soon as practical, and

WHEREAS, in recognition that it is possible that at least initially some of the costs will be borne by the City water rate payers, staff believes it is prudent to have contractual arrangements in place to move forward with a water rate process in a timely manner, and

WHEREAS, on December 14, 2009, by Resolution No. 2009-583, City Council approved an agreement with Harris and Associates (Harris) for professional services related to the Proposition 218 process for updating water rates, and

WHEREAS, the effort was never initiated because the water rate updates was put on hold soon after execution of the Agreement; however, it was not terminated and remains in place, and

WHEREAS, a renewed interest by the City to pursue a water rate update under the provisions of Proposition 218 requires an Amendment to the original Agreement to address the following:

- An increase in the per unit costs of printing and mail preparation of ballot notices
- An increase in the number of notices for mailing
- Update changes to the Harris' project management staff
- Other minor elements of the original Agreement to bring it up to date (revised schedule and correction of typographical errors)

, and

WHEREAS, in general, Harris' scope of work includes developing the protest procedures and balloting package to be mailed to each property owner, database development of parcel information, printing, sorting, mailing (City to pay postage), and tabulating the results of the approximately 78,000 ballots to be sent out to the property owners, and

WHEREAS, Harris' estimated hours to complete this effort have not changed from its original proposal, this Amendment reflects only higher printing costs of the ballot notices and the increase in the number of ballots to be printed,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to Agreement with Harris and Associates for professional services related to the Proposition 218 Process for updating water rates, in an amount not to exceed \$13,495, plus \$4,580 for additional services (if needed), for a maximum total Agreement amount of \$64,065.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: Burnside

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-223

RESOLUTION AMENDING THE FISCAL YEAR 2011-2012 OPERATING BUDGET IN THE AMOUNT OF \$100,191 TO FULLY FUND THE THIRD AMENDMENT TO AGREEMENT WITH FINANCIAL CONSULTING SOLUTIONS GROUP (FCS GROUP), THE AGREEMENT WITH HORIZON WATER AND ENVIRONMENTAL, AND THE AMENDMENT TO AGREEMENT WITH HARRIS AND ASSOCIATES, WHICH ARE NECESSARY TO UPDATE THE WATER RATES AND CAPACITY CHARGES

WHEREAS, certain budgetary transactions are necessary in the amount of \$86,994 in order to fully fund the Third Amendment to Agreement with Financial Consulting Solutions Group, the Agreement with Horizon Water and Environment, and the Amendment to Agreement with Harris and Associates, which are necessary to update the water rates and capacity charge, and

WHEREAS, the Fiscal Year 2011-2012 Operating Budget must be amended as shown in **Exhibit A**, which is incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2011-2012 Capital Improvement Budget as shown in **Exhibit A**.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of June, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: Burnside

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

Due to the discovery of significant design and construction deficiencies related to the Modesto Regional Water Treatment Plant Expansion, it is necessary to restart the process of updating the existing water rates and capacity charges in order to address these deficiencies.

Therefore, funds are necessary to cover the Amendments and Agreement, which will restart this process update.

This would be done by transferring from \$100,191 from Account 43080 UPP- Sphere of Influence to Account 43070 UPP – Water Rate Analysis

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-224**

**A RESOLUTION OF INTENTION TO LEVY AND COLLECT ASSESSMENTS
FOR THE SHACKELFORD LANDSCAPE AND LIGHTING DISTRICT, AND
SETTING A PUBLIC HEARING ON THE PROPOSED ASSESSMENTS TO BE
HELD ON AUGUST 8, 2012**

WHEREAS, on June 29, 1999, the County of Stanislaus ("County") formed the Shackelford Landscape and Lighting District ("Shackelford LLD") for the purpose of administering the maintaining seventy-seven (77) 200-watt high-pressure sodium streetlights, and

WHEREAS, the Shackelford LLD was formed in accordance with the Landscaping and Lighting Act of 1972 (Streets and Highways Code Sections 22500 through 22679), and

WHEREAS, the Shackelford LLD is comprised of approximately 153 acres, includes 496 lots with both residential and commercial development, and is bounded by Crows Landing on the west, E. Hatch Road on the south, Union Pacific Railroad on the east, and State Route 99 on the north, and

WHEREAS, on February 22, 2012, the Stanislaus County Local Agency Formation Commission ("LAFCO") approved the annexation of the Shackelford Area to the City of Modesto ("City"), and

WHEREAS, on April 24, 2012, the City Council approved the Shackelford Landscape and Lighting District Transfer Agreement between the County and City, and

WHEREAS, the City will assume full responsibility and administration of the Shackelford LLD on July 1, 2012, and

WHEREAS, the City intends to levy and collect assessments within the Shackelford LLD during the fiscal year 2012-2013, and

WHEREAS, in compliance with Section 22623 of the California Streets and Highways Code and in response to the scheduled transfer of the Shackelford LLD from the County to the City, the 2012-2013 Annual Engineer's Report was prepared by the Engineer of Work for the County, and

WHEREAS, said annual report was filed with the City Clerk by the Engineer of Work for the City, and

WHEREAS, the Council has approved said annual report by motion, and

WHEREAS, California Streets and Highways Code Section 22623 requires the legislative body (the City Council) to adopt a resolution of intention which shall include the following:

- a. Declaration of intention of the legislative body (the City Council) to levy and collect assessments within the Shackelford LLD for the fiscal year stated in the annual report.
- b. General description of the existing improvements and proposed improvements and any substantial changes proposed to be made in the existing improvements.
- c. Reference to the assessment district by its distinctive designation and indication of the general location of the Shackelford LLD.
- d. Reference to said annual report, on file with the City Clerk, for a full and detailed description of the improvements, the boundaries of the Shackelford LLD and any zones therein, and the proposed assessments upon assessable lots and parcels of land within the Shackelford LLD.
- e. Notice of the time, as fixed by the California Streets and Highways Code Section 22625, and the place for hearing by the legislative body (the City Council) on the levy of the proposed assessment.

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

1. The City Council acknowledges the transfer of the Shackelford Landscape and Lighting District (“Shackelford LLD”) from the County of Stanislaus to the City of Modesto on July 1, 2012.

2. The City Council intends to levy and collect assessments within the Shackelford LLD during the fiscal year 2012-2013.

3. There are no proposed new improvements or any substantial changes in the existing improvements in the Shackelford LLD and the existing improvements to be made in the Shackelford LLD are generally described as follows:

The City shall provide maintenance, operation and servicing, in perpetuity, of streetlights and any and all improvements required for such maintenance including, but not limited to:

- a. Payment to local utility company for monthly power costs of energizing street lights in the Shackelford LLD.
- b. Payment to local utility company for maintenance of street lights in the Shackelford LLD that the utility company owns (usually those lights that are mounted on wooden poles).
- c. Maintenance provided by the City of Modesto for street lights in the Shackelford LLD that are owned by the City of Modesto (usually those lights that are mounted on steel poles).

4. The Shackelford LLD is located in the County of Stanislaus, within the City Limits of the City of Modesto and is more specifically located North of Hatch Road, South of State Highway 99, and East of Crows Landing Road.

5. Said annual report filed with the City Clerk and approved by the Council by motion does provide a full and detailed description of the improvements, the boundaries of the Shackelford LLD and any zones therein, and the proposed assessments upon assessable lots and parcels of land within the Shackelford LLD.

6. On Wednesday, the 8th day of August, 2012, at the hour of 5:30 p.m., the City Council will conduct a public hearing on the questions of the levy of the proposed annual assessment. The hearing will be held at the meeting place of the City Council located in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California.

7. The City Clerk is authorized and directed to give the notice of hearing required by the Landscape and Lighting Act of 1972.

8. The levy and collection of assessments as set forth in this resolution are exempt from the procedural and substantive requirements of Proposition 218 pursuant to Article XIII, Section 5(a) of the California Constitution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-225**

RESOLUTION APPROVING A PURCHASE AND SALE AGREEMENT WITH CHRISTOPHER A. LAMKE AND DEBORAH L. VILLIERME-LAMKE, FOR ACQUISITION OF 1,634 SQUARE FEET FEE ACQUISITION PORTION OF A PARCEL LOCATED AT 3900 SYLVAN AVENUE (APN 085-049-014), IN THE AMOUNT OF \$39,621, FOR THE SYLVAN AND LITT IMPROVEMENT PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND ALL RELATED DOCUMENTS REQUIRED TO CLOSE ESCROW

WHEREAS, the Sylvan and Litt Improvement Project is included in the Village One Facilities Master Plan and is a Priority 3 project on the Village One Project Prioritization List, and

WHEREAS, the project includes roadway improvements on Sylvan Avenue from west of Litt Road to Claus Road and on Litt Road from Sylvan Avenue to the north end of the future Grogan Park site, and

WHEREAS, the proposed street widening project also includes land acquisition for the needed right-of-way and abandonment of the south portion of Litt Road that will no longer be used for road purposes due to the realignment, and

WHEREAS, staff has identified a portion of a parcel located at 3900 Sylvan Avenue (APN 085-049-014), to place improvements as a part of the capital improvements identified for the Sylvan and Litt Improvement Project, and

WHEREAS, an Agreement is needed for the acquisition of the property and staff has investigated the subject property to ensure it is suitable for this purpose, and therefore recommends approving the Purchase and Sale Agreement for acquisition of the property.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Purchase and Sale Agreement with Christopher A. Lamke and

Deborah L. Villierme- Lamke, for 1,634 square feet fee acquisition portion of a parcel located at 3900 Sylvan Avenue (APN 085-049-014), in the amount of \$39,621, for the Sylvan and Litt Improvement Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Purchase and Sale Agreement, and all related documents required to close escrow.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember ~~Burnside~~, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill


ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:


SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-226**

RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN A CERTIFICATE OF ACCEPTANCE FOR THE GRANT DEED FOR THE ACQUISITION OF PROPERTY INTERESTS LOCATED AT 3900 SYLVAN AVENUE, OWNED BY CHRISTOPHER A. LAMKE AND DEBORAH L. VILLIERME- LAMKE, (APN 085-049-014) TO BE PURCHASED BY THE CITY OF MODESTO FOR THE SYLVAN AND LITT IMPROVEMENT PROJECT

WHEREAS, Section 27281 of the Government Code requires a public agency to accept real property prior to the recordation of a deed or adopt a resolution accepting real property, and

WHEREAS, the City of Modesto desires to acquire a 1,634 square foot portion fee acquisition of a parcel owned by Christopher A. Lamke and Deborah L. Villierme-Lamke, (APN 085-049-014), to be purchased by the City of Modesto for the Sylvan and Litt Improvement Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign a Certificate of Acceptance for the Grant Deed for the acquisition of property interests located at 3900 Sylvan Avenue (APN 085-049-014), in the County of Stanislaus, owned by Christopher A. Lamke and Deborah L. Villierme-Lamke to be purchased by the City of Modesto for the Sylvan and Litt Improvement Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-227**

RESOLUTION AUTHORIZING THE CITY COUNCIL OF THE CITY OF MODESTO, ACTING AS THE GOVERNING BODY OF ALL ITS COMMUNITY FACILITIES DISTRICTS, TO ORDER JUDICIAL FORECLOSURE OF DELINQUENT ANNUAL SPECIAL FACILITIES TAXES PURSUANT TO THE MELLO-ROOS COMMUNITY FACILITIES ACT OF 1982, AND TO ORDER THAT THE STANISLAUS COUNTY TAX COLLECTOR BE CREDITED WITH THOSE TAXES

WHEREAS, the City of Modesto ("City") has conducted proceedings resulting in the formation of Community Facilities Districts ("CFDs") and the issuance and sale of bonds or debt pursuant to the Mello-Roos Community Facilities Act of 1982 (Cal. Gov. Code Section 53311, et seq.; the "Act"), and

WHEREAS, pursuant to the Act, the City has duly recorded Notices of Special Tax Lien and has duly and regularly levied special taxes, which special taxes and interest and penalties thereon constitute a lien against the parcel of the land against which it was levied until the same are paid, which liens secure in whole or part debt issued pursuant to the Act, and

WHEREAS, certain installments of the special taxes have not been paid when due, and certain special taxes may not be paid when due in the future, and

WHEREAS, pursuant to Section 53356.1(a) of the Act, the CFDs are authorized to order the special taxes collected by an action brought in the Superior Court to foreclose their liens, and

WHEREAS, pursuant to Section 53356.1(b) of the Act, the CFDs covenanted for the benefit of owners of the debt to file such foreclosure actions on behalf of the debt holders and are authorized to order the County Auditor to credit the delinquent special taxes upon the secured tax roll, thus relieving the County Tax Collector of further duty

and regard thereto, and

WHEREAS, on July 12, 2011, the City Council, by Resolution No. 2011-269, authorized the City Manager to execute an Amendment No. 1 to Task Order No. 1 to the Master Professional Services Agreement with Goodwin Consulting Group, Inc. ("Foreclosure Counsel"), a firm experienced and qualified to process such judicial collection and foreclosure actions, and

WHEREAS, Foreclosure Counsel is still under contract to provide said services,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto, acting as the governing body of all of the City of Modesto Community Facilities Districts that:

1. The City finds that the Act authorizes the filing of judicial foreclosure lawsuits to collect delinquent special taxes, and hereby orders that the delinquent special taxes listed on the **attached Exhibit A** and all future delinquent special taxes as to such property, be collected by action brought in the appropriate Superior Court to foreclose the liens thereof.

2. City staff in conjunction with special counsel and other City consultants are authorized and directed if and as applicable, pursuant to Government Code Section 53356.2: 1) to record notices of intent to remove the delinquent special taxes from the tax rolls, and 2) to request that the applicable County officials remove current and future delinquent special taxes from the tax rolls.

3. The Act provides for the payment of the costs and attorneys fees for prosecution of the foreclosure lawsuits on redemption prior to entry of judgment as well as on post-judgment redemption, and hereby authorizes Foreclosure Counsel to require

payment on its behalf of all costs and all attorney fees incurred to collect the delinquent special taxes as a condition of such redemption as provided in the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Exhibit "A"

Delinquent Parcels as of May 10, 2012
Missed 3 or More Installments

CFD No. 2003-1 (Fairview Village)		
APN	Tax Year	Unpaid Taxes
056-094-087-000	2010	\$481.30
	2011	\$981.84
056-094-090-000	2010	\$481.30
	2011	\$981.84
056-096-054-000	2010	\$962.60
	2011	\$981.84
056-096-085-000	2010	\$962.60
	2011	\$981.84
056-096-089-000	2010	\$962.60
	2011	\$981.84
056-096-094-000	2010	\$962.60
	2011	\$981.84
056-096-096-000	2010	\$962.60
	2011	\$981.84
056-096-099-000	2010	\$962.60
	2011	\$981.84
056-096-103-000	2010	\$962.60
	2011	\$981.84
056-096-131-000	2010	\$962.60
	2011	\$981.84

CFD No. 2004-1 (Village One #2)		
APN	Tax Year	Unpaid Taxes
077-055-004-000	2010	\$562.83
	2011	\$1,148.16
077-056-060-000	2010	\$1,398.48
	2011	\$1,426.44
077-056-072-000	2010	\$1,398.48
	2011	\$1,426.44
077-057-045-000	2010	\$699.24
	2011	\$1,426.44
077-063-048-000	2010	\$1,540.68
	2011	\$1,571.50

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-228**

A RESOLUTION DECLARING THE CITY COUNCIL'S INTENTION TO FORM LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2012-1 AND TO LEVY ANNUAL ASSESSMENTS COMMENCING WITH FISCAL YEAR 2012/2013; ACCEPTING AND APPROVING THE ENGINEER'S REPORT; TO CONDUCT A PROPERTY OWNER PROTEST BALLOT PROCEEDING ON THE MATTER OF THE NEW ASSESSMENTS; AND SETTING A TIME AND PLACE FOR THE PUBLIC HEARING ON THESE MATTERS

WHEREAS, the City Council of the City of Modesto ("City"), pursuant to the provisions of the Landscaping and Lighting Act of 1972, Division 15, Part 2 of the California Streets and Highways Code ("Act") did by previous resolution, initiated proceedings for the formation of a landscape maintenance district to be known and designated as CITY OF MODESTO, LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2012-1 ("District"), and to levy and collect annual assessments for the District commencing on fiscal year 2012/2013 to pay for the operation, maintenance, and servicing of local landscape improvements, and appurtenant facilities related thereto; and

WHEREAS, the City has retained Willdan Financial Services ("Willdan") as the Engineer of Work for the purpose of preparing and filing an Engineer's Report ("Report") with the City Clerk concerning the formation of Landscape Maintenance Assessment District No. 2012-1 and the proposed annual levy of assessments in accordance with the provisions of Chapter 1, Article 4 of the Act and the provisions of the California Constitution Article XIII D (the "Constitution"); and

WHEREAS, the City Council has received Willdan's Report and has examined and reviewed the Report as presented, and is satisfied that the Report sufficiently describes the boundaries of the proposed District, the improvements to be provided, and

is satisfied that the assessments have been spread in accordance with the benefits received from the improvements and maintenance to be performed; and

WHEREAS, the City desires and intends to form the District, to levy and collect annual assessments for the District commencing in fiscal year 2012/2013 to pay for the operation, maintenance, and servicing of the local landscape improvements, and appurtenant facilities related thereto; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that the Report prepared by Willdan, **attached** hereto and incorporated as part of this Resolution, consists of the following:

- a) A Description of the Improvements (Plans and Specifications), and
- b) The Method of Apportionment that details the method of calculating the proportional special benefits and the annual assessment obligation for each affected parcel including a description of an "Assessment Range Formula" applicable to subsequent assessments, and
- c) The estimated annual cost and expenses to provide the improvements (Budget) that establishes the proposed "Maximum Assessment Rate" and first year's assessments, and
- d) An Assessment Diagram (Boundary Map), and
- e) An Assessment Roll containing the assessment to be levied for each Assessor Parcel Number within the District, commencing in fiscal year 2012/2013 based on the assessment rate and method of apportionment described therein; and

BE IT FURTHER RESOLVED that the improvements described in the Report and for which the District is being formed generally includes, but is not limited to, the

maintenance, operation and servicing of the local streetscape landscape improvements established in connection with development of the properties within the District, and which shall be maintained for the special benefit of those properties. The maintenance and servicing of the improvements shall generally include, but is not limited to the materials, equipment, utilities, labor, and incidental expenses, including administrative expenses, required for annual operation, as well as the performance of periodic repairs and replacement activities as needed to provide for the growth, health, and beauty of trees, landscaping and the proper operation and functioning of related hardscapes, irrigation systems and drainage systems within the public right-of-ways and/or dedicated easements; and

BE IT FURTHER RESOLVED that the District as described in the Report consists of the lots and parcels of land that will receive special benefits from the improvements and services to be provided and are within the residential subdivisions known as Dry Creek Meadows No's 1-10, Creekwood Meadows and Yosemite Meadows No's 1-3, which are generally located north of Yosemite Boulevard, east of McClure Road, west of Yosemite Meadows Drive and south of the M.I.D. Lateral No. 2. The parcels within the proposed District are currently identified on the Stanislaus County Assessor's Parcel Maps as all or portions of Book 079 Pages 002 through 024, 027 and 028, which incorporates one thousand two hundred seventy-nine (1,279) single-family residential parcels, one (1) school site (Bernard L Hughes Elementary School), one (1) park site (Creekwood Park) and one (1) public area/easement parcel; and

BE IT FURTHER RESOLVED that Notice is hereby given that a public hearing on these matters will be held by the City Council on Tuesday, August 8, 2012, at 5:30

P.M., or as soon thereafter as feasible, in the City Council Chambers, located in the basement of Tenth Street Place, 1010 Tenth Street in Modesto, CA 95354. At the Public Hearing, all interested persons shall be afforded the opportunity to hear and be heard; and

BE IT FURTHER RESOLVED that City Clerk or their designee is hereby authorized and directed to prepare and mail notice of the Public Hearing and property owner protest ballots to the subject property owners regarding the proposed levy of the assessments and the assessment range formula outlined in the Engineer's Report, pursuant to Article XIID of the California Constitution and Government Code section 53753; and

BE IT FURTHER RESOLVED that the property owner protest ballot proceeding conducted for the District assessments shall constitute the property owner's approval or rejection of the proposed levy of assessments, assessment range formula and formation of the District. Each landowner may return the ballot by mail or in person to the City Clerk not later than the conclusion of the Public Hearing on Tuesday, August 8, 2012. After the close of the Public Hearing, the City shall tabulate the ballots returned to determine if majority protest exists. The ballots shall be weighted according to the proportional financial obligation of each affected property. Majority protest exists if, upon the conclusion of the hearing, ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment; and

BE IT FURTHER RESOLVED that any interested person may file a written protest with the City Clerk prior to the conclusion of the hearing, or having previously filed protest, may file a written withdrawal of that protest. A written protest shall state all grounds of objection and protest by a property owner shall contain a description sufficient

to identify the property owned by such property owner. At the public hearing, all interested persons shall be afforded the opportunity to hear and be heard.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney



FORMATION ENGINEER'S REPORT

CITY OF MODESTO

LANDSCAPE MAINTENANCE ASSESSMENT
DISTRICT NO. 2012-1

FISCAL YEAR 2012/2013

INTENT MEETING: JUNE 12, 2012

PUBLIC HEARING: AUGUST 8, 2012

CITY OF MODESTO
1010 10TH STREET
MODESTO, CA 95354

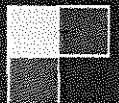
MAY 9, 2012

PREPARED BY

WILLDAN FINANCIAL SERVICES



*extending
your
reach*



ENGINEER'S REPORT AFFIDAVIT

Formation of

Landscape Maintenance Assessment District No. 2012-1

Fiscal Year 2012/2013

City of Modesto,
County of Stanislaus,
State of California

This Report outlines the proposed assessments to be levied and collected for Landscape Maintenance Assessment District No. 2012-1 ("District") commencing in fiscal year 2012/2013, and would replace the annual assessments currently levied and collected by the City for Landscape Maintenance Assessment District No. 1 (LMAD No. 1) and Landscape Maintenance Assessment District No. 2 (LMAD No. 2). This District includes the residential subdivisions known as Dry Creek Meadows No.'s 1 thru 10, Creekwood Meadows and Yosemite Meadows No.'s 1 and 2. This Report specifically address the improvements, the estimated cost to provide the improvements (budget), the method of apportionment, and the resulting assessments to be levied on the parcels within the District as they existed at the time this Report was prepared. The assessments as described herein are deemed necessary to adequately maintain the improvements determined to be of special benefit to the properties within the District as defined by the Assessment Diagram contained herein as Part IV. Because these assessments are considered to be new or increased assessments, such assessments shall be submitted to the property owners of record as part of a protest ballot proceeding pursuant to the provisions of the California Constitution Article XIID, before such assessments may be adopted and imposed by the City Council. Reference is hereby made to the Stanislaus County Assessor's maps for a detailed description of the lines and dimensions of parcels within the Landscape Maintenance Assessment District No. 2012-1. The undersigned respectfully submits the enclosed Report as directed by the City of Modesto City Council.

Dated this _____ day of _____, 2012.

Willdan Financial Services
Assessment Engineer
On Behalf of the City of Modesto

By: _____

Jim McGuire
Senior Project Manager

By: _____

Richard Kopecky
R. C. E. # 16742

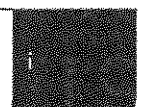


TABLE OF CONTENT

INTRODUCTION.....	1
PART I — PLANS AND SPECIFICATIONS	4
Description of the District.....	4
Improvements and Services	4
Improvements Authorized by the 1972 Act	4
District Improvements.....	5
District Maintenance and Services	7
PART II — METHOD OF APPORTIONMENT	9
Benefit Analysis	9
Assessment Methodology	11
PART III — BUDGET.....	13
Proposed Budget Fiscal Year 2012/2013.....	13
Assessment Calculations	14
Assessment Range Formula.....	14
PART IV — ASSESSMENT DIAGRAM	16
PART V — ASSESSMENT ROLL	18

INTRODUCTION

Pursuant to the provisions of the Landscape and Lighting Act of 1972, being Part 2 of Division 15 of the California Streets and Highways Code, commencing with §22500 (the "1972 Act"), the City Council of the City of Modesto, County of Stanislaus, State of California, ("City") has by previous resolution initiated proceedings that called for the preparation and filing of an Engineer's Report to establish a special benefit assessment district to be designated as:

Landscape Maintenance Assessment District No. 2012-1

("District"), for the purpose of continuing and providing for the ongoing maintenance, servicing and operation of local public landscape improvements and related amenities that provide special benefits to the properties within the residential developments known as Dry Creek Meadows No.'s 1 thru 10, Creekwood Meadows and Yosemite Meadows No.'s 1 and 2 which comprise the District. Property owners within these residential neighborhoods have indicated their desire to have the landscape improvements and associated appurtenants within and adjacent to their developments be maintained at a level of service which is greater than that currently provided and supported by the existing assessments for Landscape Maintenance Assessment District No.'s 1 and 2 (LMAD No. 1 and LMAD No. 2), which are levied and collected annually on the County tax rolls.

In order to provide the necessary funding for the costs and expenses required to service and maintain the median and parkway landscaping as well as the related trees and hardscape areas at an appropriate level of service for the benefiting properties within these residential neighborhoods, the City has determined that it is necessary to form this new District (consolidating portions of LMAD No. 1 and LMAD No. 2) and establish new assessments as outlined in this Engineer's Report ("Report"). Upon a successful outcome of a property owner protest ballot proceeding conducted in accordance with the substantive and procedural requirements of the *California State Constitution Article XIID* (the "California Constitution"), the City Council may by resolution, form this new District and concurrently dissolve LMAD No. 1 and LMAD No. 2. In such case the assessments for LMAD No. 1 and LMAD No. 2 would be discontinued. Otherwise, the City may continue to levy and collect the approved assessments for LMAD No. 1 and LMAD No. 2 under separate proceedings.

As required pursuant to Chapter 1, Article 4 of the 1972 Act, this Report describes the District, the improvements, and the assessments to be levied on properties within the District in connection with the special benefits the properties receive from the maintenance and servicing of the District improvements commencing in fiscal year 2012/2013. The assessments described herein will provide an annual funding source to adequately support the ongoing maintenance, servicing and operation, of the median and parkway landscaping and related amenities that provide special benefits to the properties within the District as well as fund some needed upgrades and renovations and associated incidental expenses. Said District shall include all lots and parcels of land determined to receive special benefit from the improvements and maintenance related thereto as identified by the Assessment Diagram contained in Part IV of this Report.

The word "parcel," for the purposes of this Report, refers to an individual property assigned its own Assessor's Parcel Number (APN) by the Stanislaus County Assessor's Office. The Stanislaus County Auditor/Controller uses Assessor's Parcel Numbers and specific Fund Numbers to identify properties to be assessed on the tax roll for the special benefit assessments.

As part of the District formation, pursuant to the provisions of Article XIID, Section 4 of the California Constitution, and in accordance with the provisions of Government Code, Section 53753, the City shall conduct a property owner protest ballot proceeding (referred to as "Ballot Proceeding") for the proposed levy of new or increased assessments as described in this Report. In conjunction with this Ballot Proceeding, the City Council will conduct a noticed public hearing to consider public testimonies, comments and written protests regarding the proposed new assessments. Upon conclusion of the public hearing, property owner protest ballots received will be opened and tabulated to determine whether majority protest exists.

As specified by Article XIID Section 4e : "A majority protest exists if, upon the conclusion of the hearing, ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment. In tabulating the ballots, the ballots shall be weighted according to the proportional financial obligation of the affected property."

After completion of the ballot tabulation, the City Council will confirm the results of the balloting by resolution. Based on the results of that tabulation:

- If majority protest exists for the new assessments, further proceedings to levy these assessments shall be abandoned for fiscal year 2012/2013 and the new District would not be formed. The City however, may continue to levy and collect the annual assessments previously approved and adopted by the City Council for LMAD No. 1 and LMAD No. 2.
- If tabulation of the ballots indicate that majority protest does not exist for the proposed new assessments and assessment range formula presented and described herein, the City Council may approve this Report (as submitted or amended), approve the assessment diagram, and confirm the new assessments by resolution and either in the same resolution or by a separate resolution the City Council will dissolve the existing LMAD No. 1 and LMAD No. 2. In such case, the District assessments as approved and ordered shall be submitted to the Stanislaus County Auditor/Controller for inclusion on the fiscal year 2012/2013 property tax roll for each assessed parcel. Each subsequent fiscal year, an Engineer's Report shall be prepared and presented to the City Council describing the District, any changes to the District or improvements, the proposed budget and assessments for that fiscal year, and the City Council shall hold a noticed public hearing regarding these matters prior to approving and adopting the annual levy of assessments.

This Report consists of five (5) parts:

Part I

Plans and Specifications: An overall description of the District and a general description of the location and extent for the proposed improvements are provided in this section of the Report. In a review of the improvements and the parcels within the District, it has been determined that each parcel to be assessed proportionately benefits from the same or similar improvements and that the total annual cost to provide such improvements shall be shared by such parcels. Therefore the District will be formed with a single benefit zone encompassing each property to be assessed within the proposed boundaries of the District.

A diagram showing the exterior boundaries of the District and the parcels within the boundaries of the District therein is attached and incorporated herein under Part IV — Assessment Diagram.

Part II

The Method of Apportionment: This section of the Report includes a discussion of the benefits (general and special benefits) associated with the improvements and the method of calculating each property's proportional special benefit and annual assessment.

Part III

District Budget: Provides an estimate of the annual funding necessary to fund an appropriate level of service for the annual maintenance and operation of the landscape improvements and related amenities within the District and the resulting maximum assessment rate (Rate per Equivalent Benefit Unit) for the parcels within the District, which will be levied and collected commencing in fiscal year 2012/2013. This budget includes an estimate of direct annual operational costs (regular landscape and tree maintenance, utilities and related costs); collection of annual installments to funded needed improvement replacements and/or upgrades of the existing improvements and facilities; collection of funds for anticipated future repair and rehabilitation of the improvement amenities; and incidental expenses authorized by the 1972 Act including, but not limited to administration expenses, county and professional service fees and collection of appropriate fund balances. The proposed maximum assessment (Rate per Equivalent Benefit Unit) identified in the budget establishes the maximum assessment rate for fiscal year 2012/2013 (initial maximum assessment rate). This maximum assessment rate includes an annual inflationary adjustment which is described in this section of the Report and shall be applied each subsequent fiscal year to establish the maximum assessment rate allowed each fiscal year. This maximum assessment along with the inflationary adjustment will be presented to the property owners of record for approval as part of the protest ballot proceedings.

Part IV

Assessment Diagram: A diagram showing the exterior boundaries of the District which includes all parcels that receive special benefits from the improvements. Parcel identification, the lines and dimensions of each lot, parcel and subdivision of land within the District as depicted by the diagram, are based on the Stanislaus County Assessor's Parcel Maps as they existed at the time this Report was prepared and are inclusive of all parcels determined to receive special benefits from the improvements and shall include all subsequent subdivisions, lot-line adjustments or parcel changes therein. Reference is hereby made to the Stanislaus County Assessor's Maps for a detailed description of the lines and dimensions of each lot and parcel of land within the District.

Part V

Assessment Roll: A listing of the proposed maximum assessment amount for each parcel based on the parcel's proportional special benefit as outlined in the method of apportionment. These assessment amounts represent the assessments proposed to be levied and collected on the County Tax Rolls for fiscal year 2012/2013.

PART I — PLANS AND SPECIFICATIONS

Description of the District

The boundaries of the District and a brief description of the improvements are provided in this section of the Report. The allocation of special benefit and general benefit from the improvements are summarized in the Method of Apportionment contained in Part II of this Report

The territory within the District generally consist of the lots and parcels of land within the residential subdivisions known as Dry Creek Meadows (No.'s 1 thru 10), Creekwood Meadows and Yosemite Meadows (No.'s 1 and 2) which are currently included as part of either LMAD No. 1 or LMAD No. 2, but does not include all parcels within those two districts. The lots and parcels of land within the District are generally located north of Yosemite Boulevard, west of Yosemite Meadows Drive, east of North McClure Road (excluding those residential properties on North McClure Road) and south of the M.I.D. Lateral No. 2. The boundaries of the District includes all or a portion of the lots and parcels of land currently identified on the Stanislaus County Assessor's Parcel Maps as Book 079, Pages 002 through 024, 027 and 028. Within the boundaries of the District there are currently one thousand two hundred eighty-four (1,284) parcels consisting of one thousand two hundred seventy-nine (1,279) single family residential parcels, one school site (Bernard L Hughes Elementary School), one (1) park site (Creekwood Park) and three (3) public right-of-way/easement parcels.

The specific Assessor's Parcel Numbers that comprises the District at the time this Report was prepared are identified on the Assessment Roll contained in Part V of this Report. The improvements and benefits associated with the properties within the District are described in more detail in the Method of Apportionment contained in Part II of the Report.

Improvements and Services

Improvements Authorized by the 1972 Act

As generally defined by the Landscaping and Lighting Act of 1972 and applicable to this District either now or in the future, the improvements and associated assessments may include one or more of the following:

- The installation or planting of landscaping;
- The installation or construction of statuary, fountains, and other ornamental structures and facilities;
- The installation or construction of public lighting facilities including, but not limited to street lights and traffic signals;
- The installation or construction of any facilities which are appurtenant to any of the foregoing or which are necessary or convenient for the maintenance or servicing thereof.
- The acquisition of any existing improvement otherwise authorized pursuant to the Act;

- The maintenance or servicing, of any of the foregoing including the furnishing of services and materials for the ordinary and usual maintenance, operation, and servicing of any improvement including but not limited to:
 - Repair, removal, or replacement of all or any part of any improvements;
 - Grading, clearing, removal of debris, the installation or construction of curbs, gutters, walls, sidewalks, or paving, or water, irrigation, drainage, or electrical facilities;
 - Providing for the life, growth, health, and beauty of landscaping, including cultivation, irrigation, trimming, spraying, fertilizing, or treating for disease or injury;
 - The removal of trimmings, rubbish, debris, and other solid waste;
 - The cleaning, sandblasting, and painting of walls and other improvements to remove or cover graffiti;
 - Electric current or energy, gas, or other illuminating agent for any public lighting facilities or for the lighting or operation of any other improvements;
 - Water for the irrigation of any landscaping, the operation of any fountains, or the maintenance of any other improvements.
- The collection and accumulation of funds as reserves for the purpose of ensuing appropriate cash flow for operational activities and long-term maintenance expenses.
- Incidental expenses associated with the improvements including, but not limited to:
 - The cost of preparation of the report, including plans, specifications, estimates, diagram, and assessment;
 - The costs of printing, advertising, and the publishing, posting and mailing of notices;
 - Compensation payable to the County for collection of assessments;
 - Compensation of any engineer or attorney employed to render services;
 - Any expenses incidental to the issuance of bonds or notes;
 - Costs associated with the proceedings held for the approval of a new or increased assessment.
 - Any other expenses incidental to the construction, installation, or maintenance and servicing of the improvements;

District Improvements

The purpose of the District is to provide funding for the continued maintenance, operation and servicing of the landscaping and related amenities associated with the various landscaped parkways and medians within or adjacent to the residential developments that comprise the District and are located in the public right of ways and/or easements dedicated to the City for maintenance. The landscape improvements to be maintained were originally constructed and installed in connection with the development of the District parcels and may include, but are not limited to trees, ground cover, vines, shrubs and other vegetation; stamped concrete, sidewalks or other hardscape amenities; irrigation and drainage systems; and related appurtenances. The location and extent of the District improvements generally include the following:

Parkways:

The District's parkway landscaping includes approximately 75,300 square feet of landscaped area (shrubs, groundcover & vines), 296 trees and 73,150 square feet of sidewalk area, located primarily on Creekwood Drive, and Clause Road, but also includes areas on Yosemite Boulevard, Yosemite Meadows and at the transition of Coddington Way and Waddell Way. These landscaped parkways include the following segments:

- Creekwood Drive on the west and/or north sides, from:
 - The southern boundary of the Dry Creek Meadows No. 9 subdivision (being the northern boundary of the Yosemite Self Storage property), north to Jarena Drive;
 - Jarena Drive, north to Mechalys Way;
 - Ardia Avenue, north to Dry Creek Drive;
 - Dry Creek Drive, north and east to Leavenworth Way;
 - Leavenworth Way, east to Clause Road;
 - The northwest corner of Creekwood Drive and Clause Road (Parkway/Entryway).
- Creekwood Drive on the east and/or south sides, from:
 - The southern boundary of the Creekwood Meadows subdivision (being the northern boundary of the shopping center located on Yosemite Boulevard), north to Jarena Drive;
 - Jarena Drive, north to Julene Drive;
 - Julene Drive, north to Schuyler Way;
 - Schuyler Way, north to Edenton Way;
 - Edenton Way, north and east to Leavenworth Way;
 - Leavenworth Way, east to Clause Road;
 - The pedestrian bridge area located at the southwest corner of Creekwood Drive and Clause Road.
- Coddington Way and Waddell Way:
 - The northeast parkway area where Coddington Way and Waddell Way meet, which is actually a continuation (separated by a block wall) of the pedestrian bridge area located at the southwest corner of Creekwood Drive and Clause Road.
- Clause Road on the west side, from:
 - The southern boundary of the Creekwood Meadows subdivision (being the northern boundary of the shopping center located on Yosemite Boulevard), north to Creekwood Drive; and
 - Creekwood Drive, north to the M.I.D. Lateral No. 2 Canal.
- Clause Road on the east side, from:
 - Yosemite Boulevard, north to Yosemite Meadows Drive, including the small section on the south side of Yosemite Meadows Drive, just east of Clause Road.

- Yosemite Boulevard on the north side, from:
 - Clause Road, east to Yosemite Meadows Drive (This landscaped areas consist of sidewalk cutouts [wells] for trees and vines)

Medians:

The District's medians incorporates a small portion of the overall landscaping, but generally includes approximately 1,575 square feet of landscaped area (shrubs and groundcover), 60 trees and 30,020 square feet of stamped concrete or other hardscape surface are, located on Creekwood Drive. These median islands include the following segments:

- The southern boundary of the Creekwood Meadows subdivision (being the northern boundary of the shopping center located on Yosemite Boulevard),, north to Jarena Drive;
- Jarena Drive, north to Schuyler Way;
- Schuyler Way, north to Mechalys Way;
- Mechalys Way, north to Ardia Avenue;
- Ardia Avenue, north to Edenton Way;
- Edenton Way, north to Dry Creek Drive;
- Dry Creek Drive, north and east to Leavenworth Way;
- Leavenworth Way, east to and Clause Road.

District Maintenance and Services

To the full extent permitted by the 1972 Act, the improvements, projects and expenditures to be funded by the assessments may include the furnishing of labor, materials, equipment and utilities for the ordinary and usual maintenance, operation, and servicing of landscaping located within the public right-of-ways and easements dedicated to the City. The City Administrator of Infrastructure Financing Programs shall authorize such maintenance and servicing in conformity with the City of Modesto's landscape maintenance standards and available funding. The maintenance, operation and servicing of these improvements may include, but is not limited to:

- Regularly scheduled maintenance and irrigation of the landscaping including plants, shrubs and vines;
- Pre-scheduled and as needed trimming and pruning of trees to promote healthy growth and minimize root damage.
- Fertilizing of vegetation (shrubs, groundcover plants, tree).
- Removal of dead or deceased plants.
- Regular weed and litter removal.
- Monitoring, maintenance and regular repair of the irrigation system;
- Repair and replacement of improvements (vegetation and irrigation) damaged by vandalism, weather or other natural causes.
- Sidewalk maintenance and repair associated with the landscape maintenance.

- Incidental expenses necessary for the ongoing operation of the District and improvements including administrative expenses, reserves and funds collected for periodic and long term capital costs for repairs and rehabilitation.

The following table provides additional detail of the landscaping services and activities to be funded by the District assessments. These services and activities are not all inclusive of the maintenance services and activities that may be provided and may be modified as needed in subsequent fiscal years based on the needs of the District and available funding.

Proposed Landscaping Services	
Service Description	Service Frequency
Seasonal leaf removal	Two times in the Fall (8 weeks)
General weed control	Monthly
Fertilizing shrubs, groundcover and vines	One time per year
Pruning right-of-way shrubs (Walls)	Eight times per year
Planter grooming	Once per month
Vine pruning and maintenance	Semi-annual (Twice per year)
Annual flower maintenance	Once per month
Litter removal	Three times per month
Pest control (Insects and disease)	As needed
Pest control Rodents	Monthly
Tree maintenance	Annually (Elevate for sidewalk clearance)
Irrigation maintenance	Monthly
Blow Sidewalks	Weekly
Irrigation Controller Replacement	All 9 controllers as needed
Irrigations Head Replacement	3000+ sprinkler heads as needed
Shrub, Groundcover & Vine Replacements	As needed

PART II — METHOD OF APPORTIONMENT

The 1972 Act permits the establishment of assessment districts by agencies for the purpose of providing certain public improvements including, the acquisition, construction, installation, maintenance and servicing of landscaping within public right-of-ways such as medians. The 1972 Act requires that the cost of these improvements be levied according to benefit rather than assessed value:

"The net amount to be assessed upon lands within an assessment district may be apportioned by any formula or method which fairly distributes the net amount among all assessable lots or parcels in proportion to the estimated benefits to be received by each such lot or parcel from the improvements."

The method of apportionment described in this Report for allocation of special benefit assessments utilizes commonly accepted engineering practices and has been established pursuant to the provisions of the 1972 Act and California Constitution. The formulas used for calculating assessments reflect the composition of parcels within the District and the improvements and activities to be provided, and have been established to fairly apportion costs based on a determination of the proportional special benefits to each parcel.

Benefit Analysis

Each of the proposed improvements and the associated costs have been carefully reviewed, identified and allocated based on special benefit pursuant to the provisions of the 1972 Act and the California Constitution. The improvements to be provided by this District and for which properties will be assessed have been identified as necessary, desired and required as essential components for the orderly development of properties within the District to their fullest potential, consistent with the development plans and applicable portions of the City's General Plan. As such, these local improvements provide a direct reflection and extension of those properties that comprise the District and would be necessary and required of the individual property owners for the development of such properties. Therefore the ongoing operation, servicing and maintenance of these local landscape improvements are a particular and distinct benefit to these properties and would otherwise be the financial obligation of those properties either individually or collectively through an association or similar funding mechanism.

In conjunction with the provisions of the 1972 Act, the California Constitution Article XIID addresses several key criteria for the levy of assessments, notably:

Article XIID Section 2d defines District as follows:

"District means an area determined by an agency to contain all parcels which will receive a special benefit from a proposed public improvement or property-related service";

Article XIID Section 2i defines Special Benefit as follows:

"Special benefit" means a particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large. General enhancement of property value does not constitute "special benefit."

Article XIIID Section 4a defines proportional special benefit assessments as follows:

"An agency which proposes to levy an assessment shall identify all parcels which will have a special benefit conferred upon them and upon which an assessment will be imposed. The proportionate special benefit derived by each identified parcel shall be determined in relationship to the entirety of the capital cost of a public improvement, the maintenance and operation expenses of a public improvement, or the cost of the property related service being provided. No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel."

The method of apportionment (method of assessment) set forth in the Report is based on the premise that each assessed property receives special benefits from the landscape improvements to be funded by the assessments, and that such assessments will be used to provide an appropriate and sustainable level of maintenance for the existing landscape improvements and facilities within the boundaries of the District, and the assessment revenues generated by the District will be used solely for such purposes. Furthermore, the assessment obligation for each parcel reflects that parcel's proportional special benefit as compared to other properties that receive special benefits as outlined in the preceding provisions of the 1972 Act and the California Constitution.

Special and General Benefit

In reviewing the improvements and services to be provided by this District, it is evident that these improvements and related maintenance and servicing are local improvements installed for and in connection with the collective development of the properties within the District. Each improvement was clearly designed and installed to serve as an extension and shared responsibility of the individual private properties, resulting from and/or required for the development of those properties. These improvements are a direct and collectively representation of those individual private properties, similar to any other privately funded and maintained common area or private-street. Like many other development related improvements and infrastructure, the landscaping improvements to be maintained by the District and funded through special benefit assessments, collectively serve as a direct physical extension of the individual private properties and would otherwise not be necessary or provided by the City, if not for the development of those properties.

The fact that these improvements are located within public right-of-ways or easements and are maintained by the City through an assessment district rather than privately through a homeowner's association does not make these improvements less of a direct and special benefit to those properties nor does it suggest that because these improvements are considered "public improvements" such improvements must have a benefit to the City or to the public at large. While these improvements may certainly be visible to the general public or other nearby properties, the fact that these improvements were only necessary for the development of the parcels within the District and were neither required nor necessarily desired by any other properties or developments, the visibility of such improvements that may afforded to other properties or to the public at large is incidental to the special benefits to properties in the District and certainly not a measurable or quantifiable benefit (either general or special). Furthermore, similar improvements and services associated with other developments within the City are typically maintained privately by the individual property owners or an association. Therefore, it has been determined that because these localized improvements were facilitated by the development of properties within the District, they provide no measurable or tangible benefits (general or special) to properties outside the District or to the public at large.

It is therefore apparent that the improvements and certainly the need to properly maintain and sustain these improvements, are exclusively for the special benefit of properties in the District and the level of service associated with such improvements directly affects only the properties within these developments

Assessment Methodology

To identify and determine the proportional special benefit to each parcel within the District, it is necessary to consider the entire scope of the improvements provided as well as the properties that benefit from those improvements. The improvements and the associated costs described in this Report, have been carefully reviewed and have been identified and allocated based on a benefit rationale and calculations that proportionally allocate the net cost of only those improvements determined to be of special benefit to properties within the District.

For most maintenance districts, particularly those formed under the provisions of the 1972 Act, the method of apportionment most commonly used is based on what is often referred to as an "Equivalent Dwelling Unit" (EDU) or "Equivalent Benefit Unit" (EBU) method of apportionment. While the terminology may be slightly different, both of these methods of apportionment establish a basic unit (base value) of assessment that provides a common value or shared measure of proportional benefit from the improvements and services provided and assigns a weighted value to various properties and property types based on an assessment formula that equates each property's specific characteristics to that of the base value. The net annual cost of the improvements is distributed among the parcels based upon a calculation of the proportional special benefit received by each parcel utilizing this base value comparison. The benefit formula used to determine the assessment obligation is therefore based upon both the improvements that benefit the parcels within the District as well as the use and characteristics of each property as compared to other parcels that benefit from those specific improvements.

For the purposes of this Report and the determination of proportional annual assessment obligation for this District, the quantum of benefit derived from the funded improvements, programs and services by a single-family residential parcel is considered to be the "benchmark" property or base value and each single-family residential parcel within the District is considered to receive proportionately equal special benefits from the improvements and each is assigned and derives one (1.0) equivalent benefit unit. Within this District, it has been determined that all other properties are considered exempt properties (exempt from assessment) for various reasons and thus only the single-family residential parcels are assessed.

Within this District, exempt properties include, but are not limited to, lots or parcels of land identified as:

- Public streets and other roadways (which are not assigned an APN by the County);
- Parcels identified as public easements or right-of-ways, of which there are three, including Assessor's Parcel Numbers 079-006-009, 079-027-097, and 079-028-069;
- Public properties (government owned) that provide public landscaped areas similar to the District improvements, but are not funded by the assessments, including Bernard L Hughes Elementary School (APN 079-015-001) and Creekwood Park (APN 079-015-002).

The properties and parcels identified above as exempt parcels are considered to receive no special benefit from the District improvements and are therefore exempted from assessment and are assigned 0.00 EBU.

The benefit formula applied to parcels within the District is based on the preceding discussion. Each parcel's EBU correlates to the parcel's proportional special benefit received as compared to the other parcels benefiting from the District improvements.

An assessment amount per EBU ("Rate") for the District improvements is established by taking the total cost of the improvements and dividing that amount by the total number of EBUs for parcels benefiting from such improvements.

$$\text{Total Balance to Levy} / \text{Total EBUs} = \text{Levy per EBU ("Rate")}$$

This rate (Levy per EBU) is then applied back to each parcel's individual EBU to establish each parcel's proportional special benefit and annual assessment obligation.

$$\text{Rate} \times \text{Parcel EBU} = \text{Parcel Levy Amount}$$

The total assessment amount for each parcel in the District will be collected on the County tax rolls, but the amount collected each fiscal year cannot exceed the amount that may be levied at the Maximum Assessment Rate for that fiscal year.

PART III — BUDGET

Proposed Budget Fiscal Year 2012/2013

BUDGET ITEMS	Total Budget	General Benefit	LMAD 2012-1 Special Benefit
Landscape Maintenance Services	22,268	2,563	19,705
Tree Maintenance	3,300	45	3,255
Maintenance of Facilities & Related Improvements	2,253	31	2,221
Regular Landscape Maintenance Services	27,820	2,639	25,181
Landscape Water	5,910	680	5,229
Landscape Electricity	473	54	418
Utilities —Water & Electricity	6,382	735	5,648
⁽¹⁾ Annual Fertilizing	1,020	-	1,020
⁽²⁾ Additional Plant Pruning	9,000	-	9,000
⁽³⁾ Annual Flower Maintenance	600	-	600
⁽⁴⁾ Increased Tree Pruning Services	8,750	-	8,750
Expanded (Additional) Landscape Services	19,370	-	19,370
TOTAL ANNUAL MAINTENANCE	\$ 53,573	\$ 3,374	\$ 50,199
Landscape Rehabilitation/Replacement Funding	1,246	106	1,140
Urban Forest (Trees) Rehabilitation	1,462	19	1,443
Facilities & Other Improvements Rehabilitation	659	9	650
ANNUAL REHABILITATION FUNDING	\$ 3,367	\$ 134	\$ 3,233
⁽⁵⁾ Irrigation Controller Replacement	2,340	-	2,340
⁽⁶⁾ Irrigation Head Replacement	3,060	-	3,060
⁽⁷⁾ Landscape Renovation (Plant Replacement)	2,000	-	2,000
⁽⁸⁾ Sidewalk Replacement (Damaged Areas)	2,332	-	2,332
Annual Capital Improvement Project Funding	9,732	-	9,732
Operational Reserve Fund Collection	1,336	-	1,336
City Administration/Professional Fees	11,247	-	11,247
County Administration Fees	640	-	640
Miscellaneous Administration Expenses	149	-	149
ANNUAL INCIDENTAL FUNDING EXPENSES	\$ 23,103	\$ -	\$ 23,103
TOTAL ANNUAL EXPENSES	\$ 80,043	\$ 3,508	\$ 76,535
General Benefit Contribution	(3,508)	(3,508)	-
Revenues from Other Sources	-	-	-
TOTAL CONTRIBUTION/FUNDING ADJUSTMENTS	\$ (3,508)	\$ (3,508)	\$ -
BALANCE TO LEVY	\$ 76,535	\$ -	\$ 76,535
DISTRICT STATISTICS			
Total Parcels			1,284
Parcels Levied			1,279
Total Benefit Units			1,279,000
Calculated Levy per EBU			\$ 59.84
Proposed Maximum Levy per EBU (Balloted Rate)			\$ 59.84
Total Amount to be Balloted			\$76,535.36

Footnotes for Budget Above:

- (1) Annual Fertilizing: Service to be provided once per year — \$1,020/year
- (2) Additional Plant Pruning: Service to be provided 8-times/year (currently twice/year) — \$9,000/year
- (3) Annual Flower Maintenance: Service to be provided Once/Month at a cost of \$600/year
- (4) Increased Tree Pruning Services: Service increased to 4-year cycle (currently 8-year cycle) — \$8,750/year (\$35,000 over 4-years)
- (5) Irrigation Controller Replacement: Replace 9 Irrigation Controllers at a total cost of \$11,700, to be collected over 5-years (\$2,340/year)
- (6) Irrigation Head Replacement: Replace 2,700+ Irrigation Heads at a total cost of \$45,900, to be collected over 15-years (\$3,060/year)
- (7) Landscape Renovation (Plant Replacement): Estimated replacement & renovation cost of \$10,000, to be collected over 5-years (\$2,000/year)
- (8) Sidewalk Replacement (Damaged Areas): Estimated replacement cost of \$11,660, to be collected over 5-years (\$2,332/year)

Assessment Calculations

Applying the method of apportionment outlined in Part II of this Report and the budget estimates for fiscal year 2012/2013 results in the following calculation of assessments:

$$\$76,535 / 1,279.00 \text{ EBU's} = \$59.84 \text{ per EBU}$$

Therefore, a single benefit unit or the Maximum Assessment Rate for fiscal year 2012/2013 (Applicable to each residential parcel) will be \$59.84. Based on this rate, the actual total amount to be balloted will be \$76,535.36 ($59.84 \times 1279.00 = 76,535.36$).

Assessment Range Formula

As part of this District formation and establishment of annual assessments to fund the operation, maintenance and servicing of the improvements, the assessments submitted to the property owners in the Ballot Proceeding shall include an annual inflationary adjustment referred to as an Assessment Range Formula, which is authorized by Section 53750(2) (A) of the Government Code (also known as the "Proposition 218 Omnibus Implementation Act"). The purpose of establishing an Assessment Range Formula is to provide for reasonable and inevitable increases in costs to provide the improvements and services over time due to inflation, thereby reducing the need for costly noticing and balloting procedures simply because of inflationary factors. The Assessment Range Formula for this District is defined by the following:

Commencing in the second fiscal year (Fiscal Year 2013/2014), and each fiscal year thereafter, the Maximum Assessment Rate established for the previous fiscal year shall be adjusted by four percent (4%) to establish the new Maximum Assessment Rate for the fiscal year.

This annual adjustment to the Maximum Assessment Rate shall be calculated independent of the District's annual budget and annual assessments. The recalculation of the Maximum Assessment Rate does not require or facilitate an increase to the annual assessments. Although the Maximum Assessment Rate will increase each fiscal year, the assessment rate to be levied and applied each fiscal year shall be based on an estimate of the District expenses for that fiscal year (annual budget) and the resulting assessments may be equal to or less than the allowed maximum assessment rate.

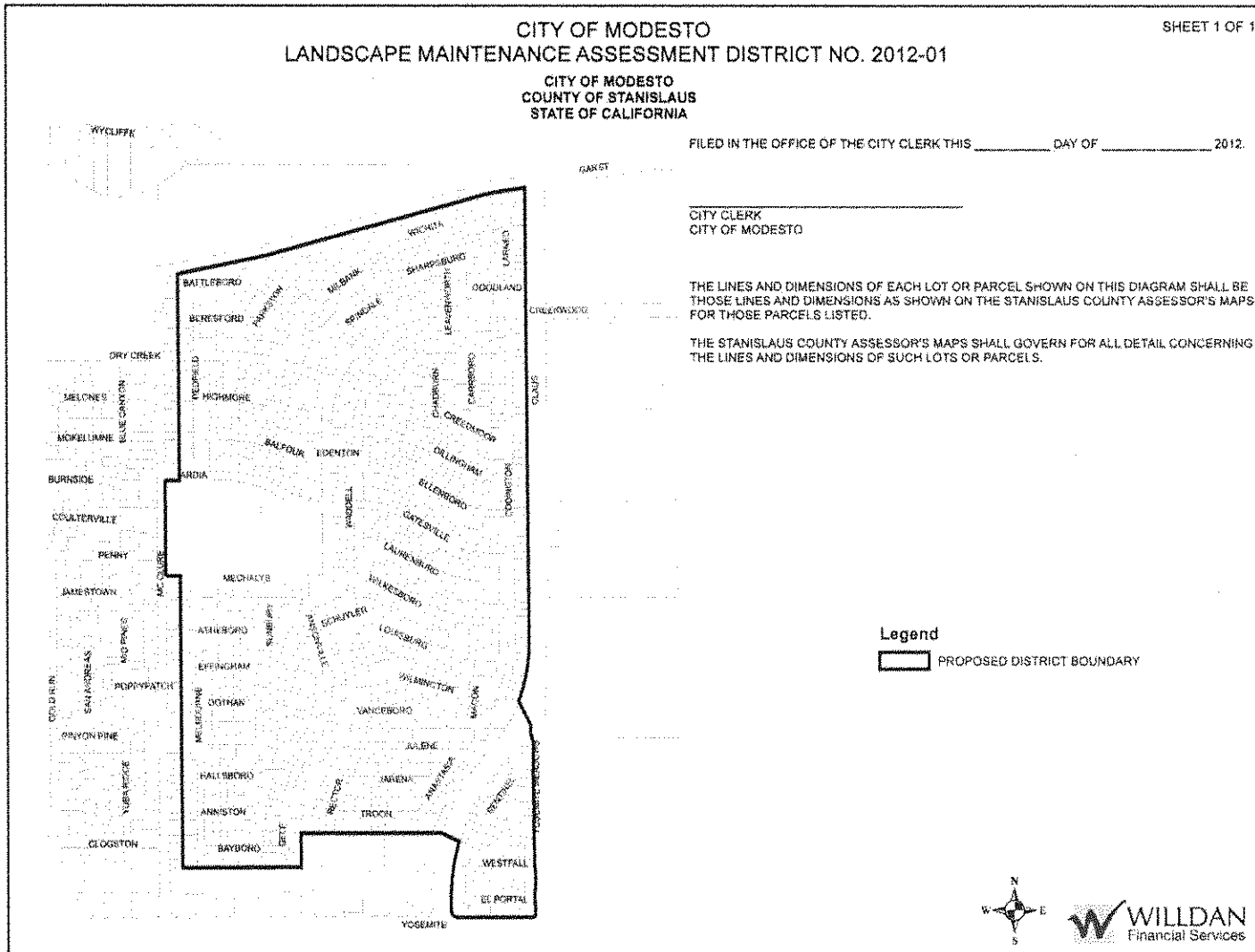
Over time, it is possible that the budgeted expenses and resulting assessments may not change from one fiscal year to the next, while at other times the proposed budget and calculated assessment rate from one year to the next may actually be more than 4%. Such increases in the budget and assessments are permitted provided that the proposed assessment rate does not exceed the adjusted maximum assessment rate established for that fiscal year. If the proposed annual budget and assessment for the fiscal year does not require an increase, or if the increase is less than the adjusted Maximum Assessment, the proposed budget and assessment may be applied. If however, the budget and calculated assessments require an assessment rate greater than the adjusted Maximum Assessment Rate, such an assessment would be considered an increased assessment, and would require a Ballot Proceeding to approve such an increase before that increase may be imposed.

To impose a new or increased assessment other than the annual inflationary adjustment provided by the preceding Assessment Range Formula, the District must comply with the provisions of the California Constitution Article XIID Section 4c, that requires a public hearing and certain protest procedures including mailed notice of the public hearing and property owner protest balloting. Property owners, through the balloting process, must approve such a new or increased assessment before that new or increased assessment may be imposed.

PART IV — ASSESSMENT DIAGRAM

The following is a diagram showing the boundaries of Landscape Maintenance Assessment District No. 2012-1 (boundary map). The dimensions of all lots, parcels and subdivisions of land within the boundaries of the District and depicted in the diagram, are the same as the lines and dimensions of the parcels shown on the Stanislaus County Assessor's Parcel Maps (APN Maps) and by reference these Maps are made part of this Report and Assessment Diagram as they existed at the time this Report was prepared and filed with the City Clerk. The Assessment Roll contained in Part V of this Report, lists each of the parcels and lots depicted on this diagram and are identified by an Assessor's Parcel Numbers (APNs) which corresponds to the assessor's parcel numbers assigned by the Stanislaus County Assessor's Office and shown on the Assessor's Parcel Maps. The combination of this diagram and the Assessment Roll constitutes the Assessment Diagram for the District.

The Boundary Map/Assessment Diagram in a reduced-scale format follows.



PART V — ASSESSMENT ROLL

Parcel identification for each lot or parcel within the District is based on the Assessment Diagram presented herein and available parcel maps and property data from the Stanislaus County Assessor's Office at the time this Report was prepared. A listing each of the parcels (Assessor's Parcel Numbers) to be assessed within this District along with their respective assessment amounts (to be balloted) is provided herein and this listing constitutes the proposed Assessment Roll for fiscal year 2012/2013.

If any parcel submitted for collection is identified by the County Auditor/Controller to be an invalid parcel number for the fiscal year, a corrected parcel number and/or new parcel numbers will be identified and resubmitted to the County Auditor/Controller. The assessment amount to be levied and collected for the resubmitted parcel or parcels shall be based on the method of apportionment and assessment rates described in this Report as approved by the City Council rather than a proportionate share of the original assessment.

APN	Property Address	EBU	Maximum Assessment
079-002-011	701 Redfield Ave	1.00	\$59.84
079-002-012	705 Redfield Ave	1.00	\$59.84
079-002-013	709 Redfield Ave	1.00	\$59.84
079-002-014	713 Redfield Ave	1.00	\$59.84
079-002-015	717 Redfield Ave	1.00	\$59.84
079-002-016	721 Redfield Ave	1.00	\$59.84
079-002-017	725 Redfield Ave	1.00	\$59.84
079-002-018	729 Redfield Ave	1.00	\$59.84
079-002-019	733 Redfield Ave	1.00	\$59.84
079-002-020	737 Redfield Ave	1.00	\$59.84
079-002-021	3513 Battleboro Ct	1.00	\$59.84
079-002-022	3517 Battleboro Ct	1.00	\$59.84
079-002-023	3521 Battleboro Ct	1.00	\$59.84
079-002-024	3525 Battleboro Ct	1.00	\$59.84
079-002-025	3529 Battleboro Ct	1.00	\$59.84
079-002-028	3536 Battleboro Ct	1.00	\$59.84
079-002-029	3532 Battleboro Ct	1.00	\$59.84
079-002-030	3528 Battleboro Ct	1.00	\$59.84
079-002-031	3524 Battleboro Ct	1.00	\$59.84
079-002-032	3520 Battleboro Ct	1.00	\$59.84
079-002-033	3516 Battleboro Ct	1.00	\$59.84
079-002-034	3512 Battleboro Ct	1.00	\$59.84
079-002-035	3513 Beresford Dr	1.00	\$59.84
079-002-036	3517 Beresford Dr	1.00	\$59.84
079-002-037	3521 Beresford Dr	1.00	\$59.84
079-002-038	3525 Beresford Dr	1.00	\$59.84
079-002-039	3529 Beresford Dr	1.00	\$59.84
079-002-040	713 Parkston Ct	1.00	\$59.84

Formation Engineer's Report
City of Modesto
Landscape Maintenance Assessment District

APN	Property Address	EBU	Maximum Assessment
079-002-041	717 Parkston Ct	1.00	\$59.84
079-002-042	721 Parkston Ct	1.00	\$59.84
079-002-043	725 Parkston Ct	1.00	\$59.84
079-002-044	729 Parkston Ct	1.00	\$59.84
079-002-048	745 Parkston Ct	1.00	\$59.84
079-002-049	749 Parkston Ct	1.00	\$59.84
079-002-050	753 Parkston Ct	1.00	\$59.84
079-002-051	752 Parkston Ct	1.00	\$59.84
079-002-052	748 Parkston Ct	1.00	\$59.84
079-002-053	744 Parkston Ct	1.00	\$59.84
079-002-054	740 Parkston Ct	1.00	\$59.84
079-002-055	736 Parkston Ct	1.00	\$59.84
079-002-056	732 Parkston Ct	1.00	\$59.84
079-002-057	728 Parkston Ct	1.00	\$59.84
079-002-058	724 Parkston Ct	1.00	\$59.84
079-002-059	720 Parkston Ct	1.00	\$59.84
079-002-060	716 Parkston Ct	1.00	\$59.84
079-002-061	713 Milbank Dr	1.00	\$59.84
079-002-062	717 Milbank Dr	1.00	\$59.84
079-002-063	721 Milbank Dr	1.00	\$59.84
079-002-064	725 Milbank Dr	1.00	\$59.84
079-002-065	729 Milbank Dr	1.00	\$59.84
079-002-066	733 Milbank Dr	1.00	\$59.84
079-002-067	737 Milbank Dr	1.00	\$59.84
079-002-068	741 Milbank Dr	1.00	\$59.84
079-002-069	745 Milbank Dr	1.00	\$59.84
079-002-070	817 Salina Dr	1.00	\$59.84
079-002-071	821 Salina Dr	1.00	\$59.84
079-002-072	825 Salina Dr	1.00	\$59.84
079-002-073	3701 Wichita Way	1.00	\$59.84
079-002-074	3705 Wichita Way	1.00	\$59.84
079-002-076	3533 Battleboro Ct	1.00	\$59.84
079-002-078	733 Parkston Ct	1.00	\$59.84
079-002-079	737 Parkston Ct	1.00	\$59.84
079-002-080	3537 Battleboro Ct	1.00	\$59.84
079-002-082	741 Parkston Ct	1.00	\$59.84
079-003-001	3641 Dry Creek Dr	1.00	\$59.84
079-003-002	3637 Dry Creek Dr	1.00	\$59.84
079-003-003	3633 Dry Creek Dr	1.00	\$59.84
079-003-004	3629 Dry Creek Dr	1.00	\$59.84
079-003-005	3625 Dry Creek Dr	1.00	\$59.84
079-003-006	3621 Dry Creek Dr	1.00	\$59.84
079-003-007	3613 Dry Creek Dr	1.00	\$59.84

APN	Property Address	EBU	Maximum Assessment
079-003-008	3609 Dry Creek Dr	1.00	\$59.84
079-003-009	3605 Dry Creek Dr	1.00	\$59.84
079-003-010	3601 Dry Creek Dr	1.00	\$59.84
079-003-011	3537 Dry Creek Dr	1.00	\$59.84
079-003-012	3533 Dry Creek Dr	1.00	\$59.84
079-003-013	3529 Dry Creek Dr	1.00	\$59.84
079-003-014	3525 Dry Creek Dr	1.00	\$59.84
079-003-015	3521 Dry Creek Dr	1.00	\$59.84
079-003-016	3517 Dry Creek Dr	1.00	\$59.84
079-003-017	3512 Beresford Dr	1.00	\$59.84
079-003-018	3516 Beresford Dr	1.00	\$59.84
079-003-019	3520 Beresford Dr	1.00	\$59.84
079-003-020	3524 Beresford Dr	1.00	\$59.84
079-003-021	3528 Beresford Dr	1.00	\$59.84
079-003-022	3532 Beresford Dr	1.00	\$59.84
079-003-023	3536 Beresford Dr	1.00	\$59.84
079-003-024	3540 Beresford Dr	1.00	\$59.84
079-003-025	3600 Beresford Dr	1.00	\$59.84
079-003-026	3604 Beresford Dr	1.00	\$59.84
079-003-027	3608 Beresford Dr	1.00	\$59.84
079-003-028	3616 Beresford Dr	1.00	\$59.84
079-003-029	3620 Beresford Dr	1.00	\$59.84
079-003-030	3624 Beresford Dr	1.00	\$59.84
079-003-031	3628 Beresford Dr	1.00	\$59.84
079-003-032	3632 Beresford Dr	1.00	\$59.84
079-003-033	704 Spindale Dr	1.00	\$59.84
079-003-034	708 Spindale Dr	1.00	\$59.84
079-003-035	712 Spindale Dr	1.00	\$59.84
079-003-036	716 Spindale Dr	1.00	\$59.84
079-003-037	720 Spindale Dr	1.00	\$59.84
079-003-038	724 Spindale Dr	1.00	\$59.84
079-003-039	728 Spindale Dr	1.00	\$59.84
079-003-041	729 Spindale Dr	1.00	\$59.84
079-003-042	725 Spindale Dr	1.00	\$59.84
079-003-043	721 Spindale Dr	1.00	\$59.84
079-003-044	717 Spindale Dr	1.00	\$59.84
079-003-045	713 Spindale Dr	1.00	\$59.84
079-003-046	709 Spindale Dr	1.00	\$59.84
079-003-047	3617 Beresford Dr	1.00	\$59.84
079-003-048	720 Milbank Dr	1.00	\$59.84
079-003-049	724 Milbank Dr	1.00	\$59.84
079-003-050	728 Milbank Dr	1.00	\$59.84
079-003-051	732 Milbank Dr	1.00	\$59.84

APN	Property Address	EBU	Maximum Assessment
079-003-052	736 Milbank Dr	1.00	\$59.84
079-003-053	740 Milbank Dr	1.00	\$59.84
079-003-054	744 Milbank Dr	1.00	\$59.84
079-003-055	748 Milbank Dr	1.00	\$59.84
079-003-056	733 Spindale Dr	1.00	\$59.84
079-004-001	3709 Wichita Way	1.00	\$59.84
079-004-002	3713 Wichita Way	1.00	\$59.84
079-004-003	3717 Wichita Way	1.00	\$59.84
079-004-004	3721 Wichita Way	1.00	\$59.84
079-004-005	3725 Wichita Way	1.00	\$59.84
079-004-006	3729 Wichita Way	1.00	\$59.84
079-004-007	3733 Wichita Way	1.00	\$59.84
079-004-008	3801 Wichita Way	1.00	\$59.84
079-004-009	3805 Wichita Way	1.00	\$59.84
079-004-010	3809 Wichita Way	1.00	\$59.84
079-004-011	3813 Wichita Way	1.00	\$59.84
079-004-012	3817 Wichita Way	1.00	\$59.84
079-004-013	3821 Wichita Way	1.00	\$59.84
079-004-014	3825 Wichita Way	1.00	\$59.84
079-004-015	3829 Wichita Way	1.00	\$59.84
079-004-016	3901 Wichita Way	1.00	\$59.84
079-004-017	3905 Wichita Way	1.00	\$59.84
079-004-018	3909 Wichita Way	1.00	\$59.84
079-004-019	3913 Wichita Way	1.00	\$59.84
079-004-020	3917 Wichita Way	1.00	\$59.84
079-004-021	3921 Wichita Way	1.00	\$59.84
079-004-022	3925 Wichita Way	1.00	\$59.84
079-004-023	3929 Wichita Way	1.00	\$59.84
079-004-024	3933 Wichita Way	1.00	\$59.84
079-004-025	844 Larned Ln	1.00	\$59.84
079-004-026	840 Larned Ln	1.00	\$59.84
079-004-027	836 Larned Ln	1.00	\$59.84
079-004-028	832 Larned Ln	1.00	\$59.84
079-004-029	828 Larned Ln	1.00	\$59.84
079-004-030	3925 Sharpsburg Dr	1.00	\$59.84
079-004-031	3921 Sharpsburg Dr	1.00	\$59.84
079-004-032	3917 Sharpsburg Dr	1.00	\$59.84
079-004-033	3913 Sharpsburg Dr	1.00	\$59.84
079-004-034	3909 Sharpsburg Dr	1.00	\$59.84
079-004-035	3905 Sharpsburg Dr	1.00	\$59.84
079-004-036	3901 Sharpsburg Dr	1.00	\$59.84
079-004-037	3821 Sharpsburg Dr	1.00	\$59.84
079-004-038	3817 Sharpsburg Dr	1.00	\$59.84

APN	Property Address	EBU	Maximum Assessment
079-004-039	3813 Sharpsburg Dr	1.00	\$59.84
079-004-040	3809 Sharpsburg Dr	1.00	\$59.84
079-004-041	3805 Sharpsburg Dr	1.00	\$59.84
079-004-042	3801 Sharpsburg Dr	1.00	\$59.84
079-004-043	3721 Sharpsburg Dr	1.00	\$59.84
079-004-044	3717 Sharpsburg Dr	1.00	\$59.84
079-004-045	3713 Sharpsburg Dr	1.00	\$59.84
079-004-046	3709 Sharpsburg Dr	1.00	\$59.84
079-004-047	3705 Sharpsburg Dr	1.00	\$59.84
079-004-048	3701 Sharpsburg Dr	1.00	\$59.84
079-004-049	3712 Wichita Way	1.00	\$59.84
079-004-050	3716 Wichita Way	1.00	\$59.84
079-004-051	3720 Wichita Way	1.00	\$59.84
079-004-052	3724 Wichita Way	1.00	\$59.84
079-004-053	3728 Wichita Way	1.00	\$59.84
079-004-054	3732 Wichita Way	1.00	\$59.84
079-004-055	3800 Wichita Way	1.00	\$59.84
079-004-056	3804 Wichita Way	1.00	\$59.84
079-004-057	3808 Wichita Way	1.00	\$59.84
079-004-058	3812 Wichita Way	1.00	\$59.84
079-004-059	3816 Wichita Way	1.00	\$59.84
079-004-060	3820 Wichita Way	1.00	\$59.84
079-004-061	3824 Wichita Way	1.00	\$59.84
079-004-062	3828 Wichita Way	1.00	\$59.84
079-004-063	3900 Wichita Way	1.00	\$59.84
079-004-064	3904 Wichita Way	1.00	\$59.84
079-004-065	3908 Wichita Way	1.00	\$59.84
079-004-066	3912 Wichita Way	1.00	\$59.84
079-004-067	3916 Wichita Way	1.00	\$59.84
079-004-068	3920 Wichita Way	1.00	\$59.84
079-004-069	3924 Wichita Way	1.00	\$59.84
079-005-001	732 Spindale Dr	1.00	\$59.84
079-005-002	736 Spindale Dr	1.00	\$59.84
079-005-003	800 Salina Dr	1.00	\$59.84
079-005-004	804 Salina Dr	1.00	\$59.84
079-005-005	813 Parsons Ct	1.00	\$59.84
079-005-006	809 Parsons Ct	1.00	\$59.84
079-005-007	805 Parsons Ct	1.00	\$59.84
079-005-008	800 Parsons Ct	1.00	\$59.84
079-005-009	804 Parsons Ct	1.00	\$59.84
079-005-010	808 Parsons Ct	1.00	\$59.84
079-005-011	812 Parsons Ct	1.00	\$59.84
079-005-012	817 Leavenworth Way	1.00	\$59.84

APN	Property Address	EBU	Maximum Assessment
079-005-013	813 Leavenworth Way	1.00	\$59.84
079-005-014	809 Leavenworth Way	1.00	\$59.84
079-005-015	805 Leavenworth Way	1.00	\$59.84
079-005-016	801 Leavenworth Way	1.00	\$59.84
079-005-017	800 Leavenworth Way	1.00	\$59.84
079-005-018	804 Leavenworth Way	1.00	\$59.84
079-005-019	808 Leavenworth Way	1.00	\$59.84
079-005-020	812 Leavenworth Way	1.00	\$59.84
079-005-021	816 Leavenworth Way	1.00	\$59.84
079-005-022	3908 Sharpsburg Dr	1.00	\$59.84
079-005-023	3912 Sharpsburg Dr	1.00	\$59.84
079-005-024	3916 Sharpsburg Dr	1.00	\$59.84
079-005-025	817 Larned Ln	1.00	\$59.84
079-005-026	813 Larned Ln	1.00	\$59.84
079-005-027	809 Larned Ln	1.00	\$59.84
079-005-028	805 Larned Ln	1.00	\$59.84
079-005-029	3909 Goodland Ct	1.00	\$59.84
079-005-030	3905 Goodland Ct	1.00	\$59.84
079-005-031	3900 Goodland Ct	1.00	\$59.84
079-005-032	3904 Goodland Ct	1.00	\$59.84
079-005-033	3908 Goodland Ct	1.00	\$59.84
079-005-034	3912 Goodland Ct	1.00	\$59.84
079-005-035	3916 Goodland Ct	1.00	\$59.84
079-005-036	3920 Goodland Ct	1.00	\$59.84
079-005-037	800 Larned Ln	1.00	\$59.84
079-005-038	804 Larned Ln	1.00	\$59.84
079-005-039	808 Larned Ln	1.00	\$59.84
079-005-040	812 Larned Ln	1.00	\$59.84
079-005-041	816 Larned Ln	1.00	\$59.84
079-005-042	820 Larned Ln	1.00	\$59.84
079-005-043	824 Larned Ln	1.00	\$59.84
079-006-001	737 Waddell Way	1.00	\$59.84
079-006-002	741 Waddell Way	1.00	\$59.84
079-006-003	745 Waddell Way	1.00	\$59.84
079-006-004	749 Waddell Way	1.00	\$59.84
079-006-005	753 Waddell Way	1.00	\$59.84
079-006-006	757 Waddell Way	1.00	\$59.84
079-006-007	761 Waddell Way	1.00	\$59.84
079-006-008	765 Waddell Way	1.00	\$59.84
079-006-009	756 Codington Way	-	\$0.00
079-006-010	752 Codington Way	1.00	\$59.84
079-006-011	748 Codington Way	1.00	\$59.84
079-006-012	744 Codington Way	1.00	\$59.84

APN	Property Address	EBU	Maximum Assessment
079-006-013	740 Codington Way	1.00	\$59.84
079-006-014	736 Codington Way	1.00	\$59.84
079-006-015	732 Codington Way	1.00	\$59.84
079-006-016	728 Codington Way	1.00	\$59.84
079-006-017	724 Codington Way	1.00	\$59.84
079-006-018	720 Codington Way	1.00	\$59.84
079-006-019	716 Codington Way	1.00	\$59.84
079-006-020	712 Codington Way	1.00	\$59.84
079-006-021	708 Codington Way	1.00	\$59.84
079-006-022	704 Codington Way	1.00	\$59.84
079-006-023	700 Codington Way	1.00	\$59.84
079-006-024	640 Codington Way	1.00	\$59.84
079-006-025	701 Codington Way	1.00	\$59.84
079-006-026	705 Codington Way	1.00	\$59.84
079-006-027	709 Codington Way	1.00	\$59.84
079-006-028	713 Codington Way	1.00	\$59.84
079-006-029	717 Codington Way	1.00	\$59.84
079-006-030	721 Codington Way	1.00	\$59.84
079-006-031	725 Codington Way	1.00	\$59.84
079-006-032	729 Codington Way	1.00	\$59.84
079-006-033	733 Codington Way	1.00	\$59.84
079-006-034	737 Codington Way	1.00	\$59.84
079-006-035	741 Codington Way	1.00	\$59.84
079-006-036	745 Codington Way	1.00	\$59.84
079-006-037	749 Codington Way	1.00	\$59.84
079-006-038	744 Carrboro Ln	1.00	\$59.84
079-006-039	740 Carrboro Ln	1.00	\$59.84
079-006-040	736 Carrboro Ln	1.00	\$59.84
079-006-041	732 Carrboro Ln	1.00	\$59.84
079-006-042	728 Carrboro Ln	1.00	\$59.84
079-006-043	724 Carrboro Ln	1.00	\$59.84
079-006-044	720 Carrboro Ln	1.00	\$59.84
079-006-045	716 Carrboro Ln	1.00	\$59.84
079-006-046	712 Carrboro Ln	1.00	\$59.84
079-006-047	708 Carrboro Ln	1.00	\$59.84
079-006-048	704 Carrboro Ln	1.00	\$59.84
079-006-049	700 Carrboro Ln	1.00	\$59.84
079-007-001	729 Waddell Way	1.00	\$59.84
079-007-002	725 Waddell Way	1.00	\$59.84
079-007-003	721 Waddell Way	1.00	\$59.84
079-007-004	717 Waddell Way	1.00	\$59.84
079-007-005	713 Waddell Way	1.00	\$59.84
079-007-006	709 Waddell Way	1.00	\$59.84

APN	Property Address	EBU	Maximum Assessment
079-007-007	705 Waddell Way	1.00	\$59.84
079-007-008	701 Waddell Way	1.00	\$59.84
079-007-009	669 Waddell Way	1.00	\$59.84
079-007-010	665 Waddell Way	1.00	\$59.84
079-007-011	661 Waddell Way	1.00	\$59.84
079-007-012	657 Waddell Way	1.00	\$59.84
079-007-013	653 Waddell Way	1.00	\$59.84
079-007-014	649 Waddell Way	1.00	\$59.84
079-007-015	645 Waddell Way	1.00	\$59.84
079-007-016	641 Waddell Way	1.00	\$59.84
079-007-017	648 Waddell Way	1.00	\$59.84
079-007-018	652 Waddell Way	1.00	\$59.84
079-007-019	656 Waddell Way	1.00	\$59.84
079-007-020	721 Riedsville Ct	1.00	\$59.84
079-007-021	717 Riedsville Ct	1.00	\$59.84
079-007-022	713 Riedsville Ct	1.00	\$59.84
079-007-023	716 Riedsville Ct	1.00	\$59.84
079-007-024	720 Riedsville Ct	1.00	\$59.84
079-007-025	712 Waddell Way	1.00	\$59.84
079-007-026	716 Waddell Way	1.00	\$59.84
079-007-027	720 Waddell Way	1.00	\$59.84
079-007-028	724 Waddell Way	1.00	\$59.84
079-007-029	728 Waddell Way	1.00	\$59.84
079-007-030	732 Waddell Way	1.00	\$59.84
079-007-031	736 Waddell Way	1.00	\$59.84
079-007-032	740 Waddell Way	1.00	\$59.84
079-007-033	737 Carrboro Ln	1.00	\$59.84
079-007-034	733 Carrboro Ln	1.00	\$59.84
079-007-035	729 Carrboro Ln	1.00	\$59.84
079-007-036	725 Carrboro Ln	1.00	\$59.84
079-007-037	721 Carrboro Ln	1.00	\$59.84
079-007-038	717 Carrboro Ln	1.00	\$59.84
079-007-039	713 Carrboro Ln	1.00	\$59.84
079-007-040	709 Carrboro Ln	1.00	\$59.84
079-007-041	700 Chadburn Ct	1.00	\$59.84
079-007-042	704 Chadburn Ct	1.00	\$59.84
079-007-043	708 Chadburn Ct	1.00	\$59.84
079-007-044	712 Chadburn Ct	1.00	\$59.84
079-007-045	716 Chadburn Ct	1.00	\$59.84
079-007-046	720 Chadburn Ct	1.00	\$59.84
079-007-047	724 Chadburn Ct	1.00	\$59.84
079-007-048	721 Chadburn Ct	1.00	\$59.84
079-007-049	717 Chadburn Ct	1.00	\$59.84

APN	Property Address	EBU	Maximum Assessment
079-007-050	713 Chadburn Ct	1.00	\$59.84
079-007-051	709 Chadburn Ct	1.00	\$59.84
079-007-052	705 Chadburn Ct	1.00	\$59.84
079-007-053	3725 Creedmoor Ave	1.00	\$59.84
079-007-054	3721 Creedmoor Ave	1.00	\$59.84
079-007-055	3717 Creedmoor Ave	1.00	\$59.84
079-007-056	3713 Creedmoor Ave	1.00	\$59.84
079-007-057	3709 Creedmoor Ave	1.00	\$59.84
079-008-015	501 Redfield Ave	1.00	\$59.84
079-008-016	505 Redfield Ave	1.00	\$59.84
079-008-017	509 Redfield Ave	1.00	\$59.84
079-008-018	513 Redfield Ave	1.00	\$59.84
079-008-019	517 Redfield Ave	1.00	\$59.84
079-008-020	521 Redfield Ave	1.00	\$59.84
079-008-021	525 Redfield Ave	1.00	\$59.84
079-008-022	529 Redfield Ave	1.00	\$59.84
079-008-023	533 Redfield Ave	1.00	\$59.84
079-008-024	601 Redfield Ave	1.00	\$59.84
079-008-025	605 Redfield Ave	1.00	\$59.84
079-008-026	609 Redfield Ave	1.00	\$59.84
079-008-027	613 Redfield Ave	1.00	\$59.84
079-008-028	617 Redfield Ave	1.00	\$59.84
079-008-029	3516 Dry Creek Dr	1.00	\$59.84
079-008-030	3520 Dry Creek Dr	1.00	\$59.84
079-008-031	3524 Dry Creek Dr	1.00	\$59.84
079-008-032	3528 Dry Creek Dr	1.00	\$59.84
079-008-033	3532 Dry Creek Dr	1.00	\$59.84
079-008-034	3536 Dry Creek Dr	1.00	\$59.84
079-008-035	3600 Dry Creek Dr	1.00	\$59.84
079-008-036	3604 Dry Creek Dr	1.00	\$59.84
079-008-037	3608 Dry Creek Dr	1.00	\$59.84
079-008-038	3612 Dry Creek Dr	1.00	\$59.84
079-008-039	3616 Dry Creek Dr	1.00	\$59.84
079-008-040	3620 Dry Creek Dr	1.00	\$59.84
079-008-041	3624 Dry Creek Dr	1.00	\$59.84
079-008-042	3628 Dry Creek Dr	1.00	\$59.84
079-008-043	3632 Dry Creek Dr	1.00	\$59.84
079-008-044	3636 Dry Creek Dr	1.00	\$59.84
079-008-045	3640 Dry Creek Dr	1.00	\$59.84
079-008-046	532 Wilmont Ln	1.00	\$59.84
079-008-047	536 Wilmont Ln	1.00	\$59.84
079-008-048	3633 Highmore Ln	1.00	\$59.84
079-008-049	3629 Highmore Ln	1.00	\$59.84

APN	Property Address	EBU	Maximum Assessment
079-008-050	3625 Highmore Ln	1.00	\$59.84
079-008-051	3621 Highmore Ln	1.00	\$59.84
079-008-052	3617 Highmore Ln	1.00	\$59.84
079-008-053	3613 Highmore Ln	1.00	\$59.84
079-008-054	3609 Highmore Ln	1.00	\$59.84
079-008-055	3605 Highmore Ln	1.00	\$59.84
079-008-056	3601 Highmore Ln	1.00	\$59.84
079-008-057	3533 Highmore Ln	1.00	\$59.84
079-008-058	3529 Highmore Ln	1.00	\$59.84
079-008-059	3525 Highmore Ln	1.00	\$59.84
079-008-060	3521 Highmore Ln	1.00	\$59.84
079-008-061	3517 Highmore Ln	1.00	\$59.84
079-008-062	3513 Highmore Ln	1.00	\$59.84
079-009-003	3629 Ardia Ave	1.00	\$59.84
079-009-004	3625 Ardia Ave	1.00	\$59.84
079-009-005	3621 Ardia Ave	1.00	\$59.84
079-009-006	3617 Ardia Ave	1.00	\$59.84
079-009-007	3613 Ardia Ave	1.00	\$59.84
079-009-008	3609 Ardia Ave	1.00	\$59.84
079-009-009	3605 Ardia Ave	1.00	\$59.84
079-009-010	3601 Ardia Ave	1.00	\$59.84
079-009-011	3533 Ardia Ave	1.00	\$59.84
079-009-012	3529 Ardia Ave	1.00	\$59.84
079-009-013	3525 Ardia Ave	1.00	\$59.84
079-009-014	3521 Ardia Ave	1.00	\$59.84
079-009-015	3517 Ardia Ave	1.00	\$59.84
079-009-016	3513 Ardia Ave	1.00	\$59.84
079-009-017	3512 Balfour Ln	1.00	\$59.84
079-009-018	3516 Balfour Ln	1.00	\$59.84
079-009-019	3520 Balfour Ln	1.00	\$59.84
079-009-020	3524 Balfour Ln	1.00	\$59.84
079-009-021	3528 Balfour Ln	1.00	\$59.84
079-009-022	3600 Balfour Ln	1.00	\$59.84
079-009-023	3604 Balfour Ln	1.00	\$59.84
079-009-024	3608 Balfour Ln	1.00	\$59.84
079-009-025	3612 Balfour Ln	1.00	\$59.84
079-009-026	3616 Balfour Ln	1.00	\$59.84
079-009-027	3620 Balfour Ln	1.00	\$59.84
079-009-028	3624 Balfour Ln	1.00	\$59.84
079-009-029	3628 Balfour Ln	1.00	\$59.84
079-009-030	3632 Balfour Ln	1.00	\$59.84
079-009-031	512 Wilmont Ln	1.00	\$59.84
079-009-032	516 Wilmont Ln	1.00	\$59.84

APN	Property Address	EBU	Maximum Assessment
079-009-033	520 Wilmont Ln	1.00	\$59.84
079-009-034	524 Wilmont Ln	1.00	\$59.84
079-009-035	528 Wilmont Ln	1.00	\$59.84
079-009-036	3628 Highmore Ln	1.00	\$59.84
079-009-037	3624 Highmore Ln	1.00	\$59.84
079-009-038	3620 Highmore Ln	1.00	\$59.84
079-009-039	3616 Highmore Ln	1.00	\$59.84
079-009-040	3612 Highmore Ln	1.00	\$59.84
079-009-041	3608 Highmore Ln	1.00	\$59.84
079-009-042	3604 Highmore Ln	1.00	\$59.84
079-009-043	3600 Highmore Ln	1.00	\$59.84
079-009-044	3528 Highmore Ln	1.00	\$59.84
079-009-045	3524 Highmore Ln	1.00	\$59.84
079-009-046	3520 Highmore Ln	1.00	\$59.84
079-009-047	3516 Highmore Ln	1.00	\$59.84
079-009-048	3512 Highmore Ln	1.00	\$59.84
079-009-049	3513 Balfour Ln	1.00	\$59.84
079-009-050	3517 Balfour Ln	1.00	\$59.84
079-009-051	3521 Balfour Ln	1.00	\$59.84
079-009-052	3525 Balfour Ln	1.00	\$59.84
079-009-053	3529 Balfour Ln	1.00	\$59.84
079-009-054	3533 Balfour Ln	1.00	\$59.84
079-009-055	3601 Balfour Ln	1.00	\$59.84
079-009-056	3605 Balfour Ln	1.00	\$59.84
079-009-057	3609 Balfour Ln	1.00	\$59.84
079-009-058	3613 Balfour Ln	1.00	\$59.84
079-009-059	3617 Balfour Ln	1.00	\$59.84
079-009-060	3621 Balfour Ln	1.00	\$59.84
079-009-061	3625 Balfour Ln	1.00	\$59.84
079-009-062	3633 Ardia Ave	1.00	\$59.84
079-010-001	609 Waddell Way	1.00	\$59.84
079-010-002	613 Waddell Way	1.00	\$59.84
079-010-003	617 Waddell Way	1.00	\$59.84
079-010-004	621 Waddell Way	1.00	\$59.84
079-010-005	625 Waddell Way	1.00	\$59.84
079-010-006	629 Waddell Way	1.00	\$59.84
079-010-007	633 Waddell Way	1.00	\$59.84
079-010-008	637 Waddell Way	1.00	\$59.84
079-010-009	3700 Creedmoor Ave	1.00	\$59.84
079-010-010	3704 Creedmoor Ave	1.00	\$59.84
079-010-011	3708 Creedmoor Ave	1.00	\$59.84
079-010-012	3712 Creedmoor Ave	1.00	\$59.84
079-010-013	3716 Creedmoor Ave	1.00	\$59.84

APN	Property Address	EBU	Maximum Assessment
079-010-014	3720 Creedmoor Ave	1.00	\$59.84
079-010-015	3724 Creedmoor Ave	1.00	\$59.84
079-010-016	3728 Creedmoor Ave	1.00	\$59.84
079-010-017	3732 Creedmoor Ave	1.00	\$59.84
079-010-018	3736 Creedmoor Ave	1.00	\$59.84
079-010-019	3800 Creedmoor Ave	1.00	\$59.84
079-010-020	3804 Creedmoor Ave	1.00	\$59.84
079-010-021	3808 Creedmoor Ave	1.00	\$59.84
079-010-022	3812 Creedmoor Ave	1.00	\$59.84
079-010-023	3816 Creedmoor Ave	1.00	\$59.84
079-010-024	3900 Creedmoor Ave	1.00	\$59.84
079-010-025	3904 Creedmoor Ave	1.00	\$59.84
079-010-026	3908 Creedmoor Ave	1.00	\$59.84
079-010-027	3912 Creedmoor Ave	1.00	\$59.84
079-010-028	3916 Creedmoor Ave	1.00	\$59.84
079-010-029	636 Codington Way	1.00	\$59.84
079-010-030	632 Codington Way	1.00	\$59.84
079-010-031	628 Codington Way	1.00	\$59.84
079-010-032	624 Codington Way	1.00	\$59.84
079-010-033	620 Codington Way	1.00	\$59.84
079-010-034	3925 Dillingham Ave	1.00	\$59.84
079-010-035	3921 Dillingham Ave	1.00	\$59.84
079-010-036	3917 Dillingham Ave	1.00	\$59.84
079-010-037	3913 Dillingham Ave	1.00	\$59.84
079-010-038	3909 Dillingham Ave	1.00	\$59.84
079-010-039	3905 Dillingham Ave	1.00	\$59.84
079-010-040	3901 Dillingham Ave	1.00	\$59.84
079-010-041	3825 Dillingham Ave	1.00	\$59.84
079-010-042	3821 Dillingham Ave	1.00	\$59.84
079-010-043	3817 Dillingham Ave	1.00	\$59.84
079-010-044	3813 Dillingham Ave	1.00	\$59.84
079-010-045	3809 Dillingham Ave	1.00	\$59.84
079-010-046	3805 Dillingham Ave	1.00	\$59.84
079-010-047	3801 Dillingham Ave	1.00	\$59.84
079-010-048	3725 Dillingham Ave	1.00	\$59.84
079-010-049	3721 Dillingham Ave	1.00	\$59.84
079-010-050	3717 Dillingham Ave	1.00	\$59.84
079-010-051	3713 Dillingham Ave	1.00	\$59.84
079-010-052	3709 Dillingham Ave	1.00	\$59.84
079-010-053	3705 Dillingham Ave	1.00	\$59.84
079-010-054	3701 Dillingham Ave	1.00	\$59.84
079-011-001	3700 Dillingham Ave	1.00	\$59.84
079-011-002	3704 Dillingham Ave	1.00	\$59.84

APN	Property Address	EBU	Maximum Assessment
079-011-003	3708 Dillingham Ave	1.00	\$59.84
079-011-004	3712 Dillingham Ave	1.00	\$59.84
079-011-005	3716 Dillingham Ave	1.00	\$59.84
079-011-006	3720 Dillingham Ave	1.00	\$59.84
079-011-007	3724 Dillingham Ave	1.00	\$59.84
079-011-008	3800 Dillingham Ave	1.00	\$59.84
079-011-009	3804 Dillingham Ave	1.00	\$59.84
079-011-010	3808 Dillingham Ave	1.00	\$59.84
079-011-011	3812 Dillingham Ave	1.00	\$59.84
079-011-012	3816 Dillingham Ave	1.00	\$59.84
079-011-013	3820 Dillingham Ave	1.00	\$59.84
079-011-014	3824 Dillingham Ave	1.00	\$59.84
079-011-015	3900 Dillingham Ave	1.00	\$59.84
079-011-016	3904 Dillingham Ave	1.00	\$59.84
079-011-017	3908 Dillingham Ave	1.00	\$59.84
079-011-018	3912 Dillingham Ave	1.00	\$59.84
079-011-019	3916 Dillingham Ave	1.00	\$59.84
079-011-020	3920 Dillingham Ave	1.00	\$59.84
079-011-021	3924 Dillingham Ave	1.00	\$59.84
079-011-022	616 Codington Way	1.00	\$59.84
079-011-023	612 Codington Way	1.00	\$59.84
079-011-024	608 Codington Way	1.00	\$59.84
079-011-025	604 Codington Way	1.00	\$59.84
079-011-026	600 Codington Way	1.00	\$59.84
079-011-027	3925 Ellenboro Ave	1.00	\$59.84
079-011-028	3921 Ellenboro Ave	1.00	\$59.84
079-011-029	3917 Ellenboro Ave	1.00	\$59.84
079-011-030	3913 Ellenboro Ave	1.00	\$59.84
079-011-031	3909 Ellenboro Ave	1.00	\$59.84
079-011-032	3905 Ellenboro Ave	1.00	\$59.84
079-011-033	3901 Ellenboro Ave	1.00	\$59.84
079-011-034	3825 Ellenboro Ave	1.00	\$59.84
079-011-035	3821 Ellenboro Ave	1.00	\$59.84
079-011-036	3817 Ellenboro Ave	1.00	\$59.84
079-011-037	3813 Ellenboro Ave	1.00	\$59.84
079-011-038	3809 Ellenboro Ave	1.00	\$59.84
079-011-039	3805 Ellenboro Ave	1.00	\$59.84
079-011-040	3801 Ellenboro Ave	1.00	\$59.84
079-011-041	3725 Ellenboro Ave	1.00	\$59.84
079-011-042	3721 Ellenboro Ave	1.00	\$59.84
079-011-043	3717 Ellenboro Ave	1.00	\$59.84
079-011-044	3713 Ellenboro Ave	1.00	\$59.84
079-011-045	3709 Ellenboro Ave	1.00	\$59.84

APN	Property Address	EBU	Maximum Assessment
079-011-046	3705 Ellenboro Ave	1.00	\$59.84
079-011-047	3701 Ellenboro Ave	1.00	\$59.84
079-012-001	541 Waddell Way	1.00	\$59.84
079-012-002	545 Waddell Way	1.00	\$59.84
079-012-003	549 Waddell Way	1.00	\$59.84
079-012-004	553 Waddell Way	1.00	\$59.84
079-012-005	557 Waddell Way	1.00	\$59.84
079-012-006	601 Waddell Way	1.00	\$59.84
079-012-007	3700 Ellenboro Ave	1.00	\$59.84
079-012-008	3704 Ellenboro Ave	1.00	\$59.84
079-012-009	3708 Ellenboro Ave	1.00	\$59.84
079-012-010	3712 Ellenboro Ave	1.00	\$59.84
079-012-011	3716 Ellenboro Ave	1.00	\$59.84
079-012-012	3720 Ellenboro Ave	1.00	\$59.84
079-012-013	3724 Ellenboro Ave	1.00	\$59.84
079-012-014	3800 Ellenboro Ave	1.00	\$59.84
079-012-015	3804 Ellenboro Ave	1.00	\$59.84
079-012-016	3808 Ellenboro Ave	1.00	\$59.84
079-012-017	3812 Ellenboro Ave	1.00	\$59.84
079-012-018	3816 Ellenboro Ave	1.00	\$59.84
079-012-019	3820 Ellenboro Ave	1.00	\$59.84
079-012-020	3824 Ellenboro Ave	1.00	\$59.84
079-012-021	3900 Ellenboro Ave	1.00	\$59.84
079-012-022	3904 Ellenboro Ave	1.00	\$59.84
079-012-023	3908 Ellenboro Ave	1.00	\$59.84
079-012-024	3912 Ellenboro Ave	1.00	\$59.84
079-012-025	3916 Ellenboro Ave	1.00	\$59.84
079-012-026	3920 Ellenboro Ave	1.00	\$59.84
079-012-027	3924 Ellenboro Ave	1.00	\$59.84
079-012-028	556 Codington Way	1.00	\$59.84
079-012-029	552 Codington Way	1.00	\$59.84
079-012-030	548 Codington Way	1.00	\$59.84
079-012-031	544 Codington Way	1.00	\$59.84
079-012-032	540 Codington Way	1.00	\$59.84
079-012-033	3925 Gatesville Ave	1.00	\$59.84
079-012-034	3921 Gatesville Ave	1.00	\$59.84
079-012-035	3917 Gatesville Ave	1.00	\$59.84
079-012-036	3913 Gatesville Ave	1.00	\$59.84
079-012-037	3909 Gatesville Ave	1.00	\$59.84
079-012-038	3905 Gatesville Ave	1.00	\$59.84
079-012-039	3901 Gatesville Ave	1.00	\$59.84
079-012-040	3825 Gatesville Ave	1.00	\$59.84
079-012-041	3821 Gatesville Ave	1.00	\$59.84

APN	Property Address	EBU	Maximum Assessment
079-012-042	3817 Gatesville Ave	1.00	\$59.84
079-012-043	3813 Gatesville Ave	1.00	\$59.84
079-012-044	3809 Gatesville Ave	1.00	\$59.84
079-012-045	3805 Gatesville Ave	1.00	\$59.84
079-012-046	3801 Gatesville Ave	1.00	\$59.84
079-012-047	3725 Gatesville Ave	1.00	\$59.84
079-012-048	3721 Gatesville Ave	1.00	\$59.84
079-012-049	3717 Gatesville Ave	1.00	\$59.84
079-012-050	3713 Gatesville Ave	1.00	\$59.84
079-012-051	3709 Gatesville Ave	1.00	\$59.84
079-012-052	3705 Gatesville Ave	1.00	\$59.84
079-012-053	3701 Gatesville Ave	1.00	\$59.84
079-013-001	521 Waddell Way	1.00	\$59.84
079-013-002	525 Waddell Way	1.00	\$59.84
079-013-003	529 Waddell Way	1.00	\$59.84
079-013-004	533 Waddell Way	1.00	\$59.84
079-013-005	537 Waddell Way	1.00	\$59.84
079-013-006	3700 Gatesville Ave	1.00	\$59.84
079-013-007	3704 Gatesville Ave	1.00	\$59.84
079-013-008	3708 Gatesville Ave	1.00	\$59.84
079-013-009	3712 Gatesville Ave	1.00	\$59.84
079-013-010	3716 Gatesville Ave	1.00	\$59.84
079-013-011	3720 Gatesville Ave	1.00	\$59.84
079-013-012	3724 Gatesville Ave	1.00	\$59.84
079-013-013	3800 Gatesville Ave	1.00	\$59.84
079-013-014	3804 Gatesville Ave	1.00	\$59.84
079-013-015	3808 Gatesville Ave	1.00	\$59.84
079-013-016	3812 Gatesville Ave	1.00	\$59.84
079-013-017	3816 Gatesville Ave	1.00	\$59.84
079-013-018	3820 Gatesville Ave	1.00	\$59.84
079-013-019	3824 Gatesville Ave	1.00	\$59.84
079-013-020	3900 Gatesville Ave	1.00	\$59.84
079-013-021	3904 Gatesville Ave	1.00	\$59.84
079-013-022	3908 Gatesville Ave	1.00	\$59.84
079-013-023	3912 Gatesville Ave	1.00	\$59.84
079-013-024	3916 Gatesville Ave	1.00	\$59.84
079-013-025	3920 Gatesville Ave	1.00	\$59.84
079-013-026	3924 Gatesville Ave	1.00	\$59.84
079-013-027	536 Codington Way	1.00	\$59.84
079-013-028	532 Codington Way	1.00	\$59.84
079-013-029	528 Codington Way	1.00	\$59.84
079-013-030	524 Codington Way	1.00	\$59.84
079-013-031	520 Codington Way	1.00	\$59.84

APN	Property Address	EBU	Maximum Assessment
079-013-032	3925 Launenburg Ave	1.00	\$59.84
079-013-033	3921 Launenburg Ave	1.00	\$59.84
079-013-034	3917 Launenburg Ave	1.00	\$59.84
079-013-035	3913 Launenburg Ave	1.00	\$59.84
079-013-036	3909 Launenburg Ave	1.00	\$59.84
079-013-037	3905 Launenburg Ave	1.00	\$59.84
079-013-038	3901 Launenburg Ave	1.00	\$59.84
079-013-039	3825 Launenburg Ave	1.00	\$59.84
079-013-040	3821 Launenburg Ave	1.00	\$59.84
079-013-041	3817 Launenburg Ave	1.00	\$59.84
079-013-042	3813 Launenburg Ave	1.00	\$59.84
079-013-043	3809 Launenburg Ave	1.00	\$59.84
079-013-044	3805 Launenburg Ave	1.00	\$59.84
079-013-045	3801 Launenburg Ave	1.00	\$59.84
079-013-046	3725 Launenburg Ave	1.00	\$59.84
079-013-047	3721 Launenburg Ave	1.00	\$59.84
079-013-048	3717 Launenburg Ave	1.00	\$59.84
079-013-049	3713 Launenburg Ave	1.00	\$59.84
079-013-050	3709 Launenburg Ave	1.00	\$59.84
079-013-051	3705 Launenburg Ave	1.00	\$59.84
079-013-052	3701 Launenburg Ave	1.00	\$59.84
079-014-001	449 Waddell Way	1.00	\$59.84
079-014-002	501 Waddell Way	1.00	\$59.84
079-014-003	505 Waddell Way	1.00	\$59.84
079-014-004	509 Waddell Way	1.00	\$59.84
079-014-005	513 Waddell Way	1.00	\$59.84
079-014-006	517 Waddell Way	1.00	\$59.84
079-014-007	3700 Launenburg Ave	1.00	\$59.84
079-014-008	3704 Launenburg Ave	1.00	\$59.84
079-014-009	3708 Launenburg Ave	1.00	\$59.84
079-014-010	3712 Launenburg Ave	1.00	\$59.84
079-014-011	3716 Launenburg Ave	1.00	\$59.84
079-014-012	3720 Launenburg Ave	1.00	\$59.84
079-014-013	3724 Launenburg Ave	1.00	\$59.84
079-014-014	3800 Launenburg Ave	1.00	\$59.84
079-014-015	3804 Launenburg Ave	1.00	\$59.84
079-014-016	3808 Launenburg Ave	1.00	\$59.84
079-014-017	3812 Launenburg Ave	1.00	\$59.84
079-014-018	3816 Launenburg Ave	1.00	\$59.84
079-014-019	3820 Launenburg Ave	1.00	\$59.84
079-014-020	3824 Launenburg Ave	1.00	\$59.84
079-014-021	3900 Launenburg Ave	1.00	\$59.84
079-014-022	3904 Launenburg Ave	1.00	\$59.84

APN	Property Address	EBU	Maximum Assessment
079-014-023	3908 Launenburg Ave	1.00	\$59.84
079-014-024	3912 Launenburg Ave	1.00	\$59.84
079-014-025	3916 Launenburg Ave	1.00	\$59.84
079-014-026	3920 Launenburg Ave	1.00	\$59.84
079-014-027	3924 Launenburg Ave	1.00	\$59.84
079-014-028	516 Codington Way	1.00	\$59.84
079-014-029	512 Codington Way	1.00	\$59.84
079-014-030	508 Codington Way	1.00	\$59.84
079-014-031	504 Codington Way	1.00	\$59.84
079-014-032	500 Codington Way	1.00	\$59.84
079-014-033	3925 Wilkesboro Ave	1.00	\$59.84
079-014-034	3921 Wilkesboro Ave	1.00	\$59.84
079-014-035	3917 Wilkesboro Ave	1.00	\$59.84
079-014-036	3913 Wilkesboro Ave	1.00	\$59.84
079-014-037	3909 Wilkesboro Ave	1.00	\$59.84
079-014-038	3905 Wilkesboro Ave	1.00	\$59.84
079-014-039	3901 Wilkesboro Ave	1.00	\$59.84
079-014-040	3825 Wilkesboro Ave	1.00	\$59.84
079-014-041	3821 Wilkesboro Ave	1.00	\$59.84
079-014-042	3817 Wilkesboro Ave	1.00	\$59.84
079-014-043	3813 Wilkesboro Ave	1.00	\$59.84
079-014-044	3809 Wilkesboro Ave	1.00	\$59.84
079-014-045	3805 Wilkesboro Ave	1.00	\$59.84
079-014-046	3801 Wilkesboro Ave	1.00	\$59.84
079-014-047	3725 Wilkesboro Ave	1.00	\$59.84
079-014-048	3721 Wilkesboro Ave	1.00	\$59.84
079-014-049	3717 Wilkesboro Ave	1.00	\$59.84
079-014-050	3713 Wilkesboro Ave	1.00	\$59.84
079-014-051	3709 Wilkesboro Ave	1.00	\$59.84
079-014-052	3705 Wilkesboro Ave	1.00	\$59.84
079-014-053	3701 Wilkesboro Ave	1.00	\$59.84
079-015-001	512 Mc Clure Rd	-	\$0.00
079-015-002	Mechalys Way	-	\$0.00
079-016-001	440 Waddell Way	1.00	\$59.84
079-016-002	3704 Wilkesboro Ave	1.00	\$59.84
079-016-003	3708 Wilkesboro Ave	1.00	\$59.84
079-016-004	3712 Wilkesboro Ave	1.00	\$59.84
079-016-005	3716 Wilkesboro Ave	1.00	\$59.84
079-016-006	3720 Wilkesboro Ave	1.00	\$59.84
079-016-007	3800 Wilkesboro Ave	1.00	\$59.84
079-016-008	3804 Wilkesboro Ave	1.00	\$59.84
079-016-009	3808 Wilkesboro Ave	1.00	\$59.84
079-016-010	3812 Wilkesboro Ave	1.00	\$59.84

APN	Property Address	EBU	Maximum Assessment
079-016-011	3816 Wilkesboro Ave	1.00	\$59.84
079-016-012	3820 Wilkesboro Ave	1.00	\$59.84
079-016-013	3824 Wilkesboro Ave	1.00	\$59.84
079-016-014	3900 Wilkesboro Ave	1.00	\$59.84
079-016-015	3904 Wilkesboro Ave	1.00	\$59.84
079-016-016	3908 Wilkesboro Ave	1.00	\$59.84
079-016-017	3912 Wilkesboro Ave	1.00	\$59.84
079-016-018	3916 Wilkesboro Ave	1.00	\$59.84
079-016-019	3920 Wilkesboro Ave	1.00	\$59.84
079-016-020	3924 Wilkesboro Ave	1.00	\$59.84
079-016-021	440 Codington Way	1.00	\$59.84
079-016-022	436 Codington Way	1.00	\$59.84
079-016-023	432 Codington Way	1.00	\$59.84
079-016-024	428 Codington Way	1.00	\$59.84
079-016-025	424 Codington Way	1.00	\$59.84
079-016-026	3921 Louisburg Ave	1.00	\$59.84
079-016-027	3917 Louisburg Ave	1.00	\$59.84
079-016-028	3913 Louisburg Ave	1.00	\$59.84
079-016-029	3909 Louisburg Ave	1.00	\$59.84
079-016-030	3905 Louisburg Ave	1.00	\$59.84
079-016-031	3901 Louisburg Ave	1.00	\$59.84
079-016-032	3825 Louisburg Ave	1.00	\$59.84
079-016-033	3821 Louisburg Ave	1.00	\$59.84
079-016-034	3817 Louisburg Ave	1.00	\$59.84
079-016-035	3813 Louisburg Ave	1.00	\$59.84
079-016-036	3809 Louisburg Ave	1.00	\$59.84
079-016-037	3805 Louisburg Ave	1.00	\$59.84
079-016-038	3801 Louisburg Ave	1.00	\$59.84
079-016-039	3721 Louisburg Ave	1.00	\$59.84
079-016-040	3717 Louisburg Ave	1.00	\$59.84
079-016-041	3713 Louisburg Ave	1.00	\$59.84
079-016-042	3709 Louisburg Ave	1.00	\$59.84
079-016-043	3705 Louisburg Ave	1.00	\$59.84
079-016-044	424 Waddell Way	1.00	\$59.84
079-016-045	428 Waddell Way	1.00	\$59.84
079-016-046	432 Waddell Way	1.00	\$59.84
079-016-047	436 Waddell Way	1.00	\$59.84
079-016-048	445 Waddell Way	1.00	\$59.84
079-016-049	441 Waddell Way	1.00	\$59.84
079-016-050	437 Waddell Way	1.00	\$59.84
079-016-051	433 Waddell Way	1.00	\$59.84
079-017-007	441 Melbourne Dr	1.00	\$59.84
079-017-008	437 Melbourne Dr	1.00	\$59.84

APN	Property Address	EBU	Maximum Assessment
079-017-009	433 Melbourne Dr	1.00	\$59.84
079-017-010	429 Melbourne Dr	1.00	\$59.84
079-017-011	425 Melbourne Dr	1.00	\$59.84
079-017-012	421 Melbourne Dr	1.00	\$59.84
079-017-013	420 Melbourne Dr	1.00	\$59.84
079-017-014	424 Melbourne Dr	1.00	\$59.84
079-017-015	428 Melbourne Dr	1.00	\$59.84
079-017-016	432 Melbourne Dr	1.00	\$59.84
079-017-017	3512 Mechalys Way	1.00	\$59.84
079-017-018	3516 Mechalys Way	1.00	\$59.84
079-017-019	3520 Mechalys Way	1.00	\$59.84
079-017-020	3524 Mechalys Way	1.00	\$59.84
079-017-021	3528 Mechalys Way	1.00	\$59.84
079-017-022	3532 Mechalys Way	1.00	\$59.84
079-017-023	3600 Mechalys Way	1.00	\$59.84
079-017-024	3604 Mechalys Way	1.00	\$59.84
079-017-025	3608 Mechalys Way	1.00	\$59.84
079-017-026	3612 Mechalys Way	1.00	\$59.84
079-017-027	3616 Mechalys Way	1.00	\$59.84
079-017-028	3620 Mechalys Way	1.00	\$59.84
079-017-029	3624 Mechalys Way	1.00	\$59.84
079-017-030	449 Ansonville Ln	1.00	\$59.84
079-017-031	445 Ansonville Ln	1.00	\$59.84
079-017-032	441 Ansonville Ln	1.00	\$59.84
079-017-033	437 Ansonville Ln	1.00	\$59.84
079-017-034	3613 Asheboro Ln	1.00	\$59.84
079-017-035	420 Sunbury Ct	1.00	\$59.84
079-017-036	424 Sunbury Ct	1.00	\$59.84
079-017-037	428 Sunbury Ct	1.00	\$59.84
079-017-038	429 Sunbury Ct	1.00	\$59.84
079-017-039	425 Sunbury Ct	1.00	\$59.84
079-017-040	3541 Asheboro Ln	1.00	\$59.84
079-017-041	3533 Asheboro Ln	1.00	\$59.84
079-017-042	424 Beufort Ct	1.00	\$59.84
079-017-043	428 Beufort Ct	1.00	\$59.84
079-017-044	429 Beufort Ct	1.00	\$59.84
079-017-045	425 Beufort Ct	1.00	\$59.84
079-017-046	3521 Asheboro Ln	1.00	\$59.84
079-017-047	424 Ansonville Ln	1.00	\$59.84
079-017-048	428 Ansonville Ln	1.00	\$59.84
079-017-049	432 Ansonville Ln	1.00	\$59.84
079-017-050	436 Ansonville Ln	1.00	\$59.84
079-017-051	440 Ansonville Ln	1.00	\$59.84

APN	Property Address	EBU	Maximum Assessment
079-017-052	444 Ansonville Ln	1.00	\$59.84
079-017-053	448 Ansonville Ln	1.00	\$59.84
079-017-054	452 Ansonville Ln	1.00	\$59.84
079-018-006	401 Melbourne Dr	1.00	\$59.84
079-018-007	405 Melbourne Dr	1.00	\$59.84
079-018-008	409 Melbourne Dr	1.00	\$59.84
079-018-009	413 Melbourne Dr	1.00	\$59.84
079-018-010	417 Melbourne Dr	1.00	\$59.84
079-018-011	3512 Asheboro Ln	1.00	\$59.84
079-018-012	3516 Asheboro Ln	1.00	\$59.84
079-018-013	3520 Asheboro Ln	1.00	\$59.84
079-018-014	3524 Asheboro Ln	1.00	\$59.84
079-018-015	3528 Asheboro Ln	1.00	\$59.84
079-018-016	3532 Asheboro Ln	1.00	\$59.84
079-018-017	3536 Asheboro Ln	1.00	\$59.84
079-018-018	3540 Asheboro Ln	1.00	\$59.84
079-018-019	3544 Asheboro Ln	1.00	\$59.84
079-018-020	3600 Asheboro Ln	1.00	\$59.84
079-018-021	3604 Asheboro Ln	1.00	\$59.84
079-018-022	3608 Asheboro Ln	1.00	\$59.84
079-018-023	3612 Asheboro Ln	1.00	\$59.84
079-018-024	3616 Asheboro Ln	1.00	\$59.84
079-018-025	3620 Asheboro Ln	1.00	\$59.84
079-018-026	420 Ansonville Ln	1.00	\$59.84
079-018-027	416 Ansonville Ln	1.00	\$59.84
079-018-028	412 Ansonville Ln	1.00	\$59.84
079-018-029	408 Ansonville Ln	1.00	\$59.84
079-018-030	404 Ansonville Ln	1.00	\$59.84
079-018-031	400 Ansonville Ln	1.00	\$59.84
079-018-032	409 Ansonville Ln	1.00	\$59.84
079-018-033	3629 Effingham Ln	1.00	\$59.84
079-018-034	3625 Effingham Ln	1.00	\$59.84
079-018-035	3621 Effingham Ln	1.00	\$59.84
079-018-036	3617 Effingham Ln	1.00	\$59.84
079-018-037	3613 Effingham Ln	1.00	\$59.84
079-018-038	3609 Effingham Ln	1.00	\$59.84
079-018-039	3605 Effingham Ln	1.00	\$59.84
079-018-040	3601 Effingham Ln	1.00	\$59.84
079-018-041	3537 Effingham Ln	1.00	\$59.84
079-018-042	3533 Effingham Ln	1.00	\$59.84
079-018-043	3529 Effingham Ln	1.00	\$59.84
079-018-044	3525 Effingham Ln	1.00	\$59.84
079-018-045	3521 Effingham Ln	1.00	\$59.84

APN	Property Address	EBU	Maximum Assessment
079-018-046	3517 Effingham Ln	1.00	\$59.84
079-018-047	3513 Effingham Ln	1.00	\$59.84
079-019-001	425 Waddell Way	1.00	\$59.84
079-019-002	421 Waddell Way	1.00	\$59.84
079-019-003	417 Waddell Way	1.00	\$59.84
079-019-004	413 Waddell Way	1.00	\$59.84
079-019-005	409 Waddell Way	1.00	\$59.84
079-019-006	405 Waddell Way	1.00	\$59.84
079-019-007	401 Waddell Way	1.00	\$59.84
079-019-008	400 Waddell Way	1.00	\$59.84
079-019-009	404 Waddell Way	1.00	\$59.84
079-019-010	408 Waddell Way	1.00	\$59.84
079-019-011	412 Waddell Way	1.00	\$59.84
079-019-012	416 Waddell Way	1.00	\$59.84
079-019-013	3712 Louisburg Ave	1.00	\$59.84
079-019-014	3716 Louisburg Ave	1.00	\$59.84
079-019-015	3720 Louisburg Ave	1.00	\$59.84
079-019-016	3800 Louisburg Ave	1.00	\$59.84
079-019-017	3804 Louisburg Ave	1.00	\$59.84
079-019-018	3808 Louisburg Ave	1.00	\$59.84
079-019-019	3812 Louisburg Ave	1.00	\$59.84
079-019-020	3816 Louisburg Ave	1.00	\$59.84
079-019-021	3820 Louisburg Ave	1.00	\$59.84
079-019-022	3824 Louisburg Ave	1.00	\$59.84
079-019-023	3900 Louisburg Ave	1.00	\$59.84
079-019-024	3904 Louisburg Ave	1.00	\$59.84
079-019-025	3908 Louisburg Ave	1.00	\$59.84
079-019-026	3912 Louisburg Ave	1.00	\$59.84
079-019-027	3916 Louisburg Ave	1.00	\$59.84
079-019-028	3920 Louisburg Ave	1.00	\$59.84
079-019-029	420 Codington Way	1.00	\$59.84
079-019-030	416 Codington Way	1.00	\$59.84
079-019-031	412 Codington Way	1.00	\$59.84
079-019-032	408 Codington Way	1.00	\$59.84
079-019-033	3909 Wilmington Way	1.00	\$59.84
079-019-034	3905 Wilmington Way	1.00	\$59.84
079-019-035	3901 Wilmington Way	1.00	\$59.84
079-019-036	3817 Wilmington Way	1.00	\$59.84
079-019-037	3813 Wilmington Way	1.00	\$59.84
079-019-038	3809 Wilmington Way	1.00	\$59.84
079-019-039	3805 Wilmington Way	1.00	\$59.84
079-019-040	3801 Wilmington Way	1.00	\$59.84
079-019-041	3729 Wilmington Way	1.00	\$59.84

APN	Property Address	EBU	Maximum Assessment
079-019-042	3725 Wilmington Way	1.00	\$59.84
079-019-043	3721 Wilmington Way	1.00	\$59.84
079-019-044	3717 Wilmington Way	1.00	\$59.84
079-019-045	3713 Wilmington Way	1.00	\$59.84
079-019-046	3709 Wilmington Way	1.00	\$59.84
079-019-047	3705 Wilmington Way	1.00	\$59.84
079-020-001	341 Waddell Way	1.00	\$59.84
079-020-002	337 Waddell Way	1.00	\$59.84
079-020-003	333 Waddell Way	1.00	\$59.84
079-020-004	329 Waddell Way	1.00	\$59.84
079-020-005	325 Waddell Way	1.00	\$59.84
079-020-006	321 Waddell Way	1.00	\$59.84
079-020-007	3700 Vanceboro Ct	1.00	\$59.84
079-020-008	3704 Vanceboro Ct	1.00	\$59.84
079-020-009	3708 Vanceboro Ct	1.00	\$59.84
079-020-010	3712 Vanceboro Ct	1.00	\$59.84
079-020-011	3716 Vanceboro Ct	1.00	\$59.84
079-020-012	3717 Vanceboro Ct	1.00	\$59.84
079-020-013	3713 Vanceboro Ct	1.00	\$59.84
079-020-014	3709 Vanceboro Ct	1.00	\$59.84
079-020-015	3705 Vanceboro Ct	1.00	\$59.84
079-020-016	3700 Wilmington Way	1.00	\$59.84
079-020-017	3704 Wilmington Way	1.00	\$59.84
079-020-018	3708 Wilmington Way	1.00	\$59.84
079-020-019	3712 Wilmington Way	1.00	\$59.84
079-020-020	3716 Wilmington Way	1.00	\$59.84
079-020-021	329 High Point Ct	1.00	\$59.84
079-020-022	325 High Point Ct	1.00	\$59.84
079-020-023	321 High Point Ct	1.00	\$59.84
079-020-024	317 High Point Ct	1.00	\$59.84
079-020-025	316 High Point Ct	1.00	\$59.84
079-020-026	320 High Point Ct	1.00	\$59.84
079-020-027	324 High Point Ct	1.00	\$59.84
079-020-028	328 High Point Ct	1.00	\$59.84
079-020-029	329 Macon Ct	1.00	\$59.84
079-020-030	325 Macon Ct	1.00	\$59.84
079-020-031	321 Macon Ct	1.00	\$59.84
079-020-032	320 Macon Ct	1.00	\$59.84
079-020-033	324 Macon Ct	1.00	\$59.84
079-020-034	328 Macon Ct	1.00	\$59.84
079-020-035	3908 Wilmington Way	1.00	\$59.84
079-020-036	400 Codington Way	1.00	\$59.84
079-020-037	404 Codington Way	1.00	\$59.84

APN	Property Address	EBU	Maximum Assessment
079-021-006	317 Melbourne Dr	1.00	\$59.84
079-021-007	321 Melbourne Dr	1.00	\$59.84
079-021-008	325 Melbourne Dr	1.00	\$59.84
079-021-009	329 Melbourne Dr	1.00	\$59.84
079-021-010	333 Melbourne Dr	1.00	\$59.84
079-021-011	3512 Effingham Ln	1.00	\$59.84
079-021-012	3516 Effingham Ln	1.00	\$59.84
079-021-013	3520 Effingham Ln	1.00	\$59.84
079-021-014	3524 Effingham Ln	1.00	\$59.84
079-021-015	3528 Effingham Ln	1.00	\$59.84
079-021-016	3532 Effingham Ln	1.00	\$59.84
079-021-017	3536 Effingham Ln	1.00	\$59.84
079-021-018	3600 Effingham Ln	1.00	\$59.84
079-021-019	3604 Effingham Ln	1.00	\$59.84
079-021-020	3608 Effingham Ln	1.00	\$59.84
079-021-021	3612 Effingham Ln	1.00	\$59.84
079-021-022	3616 Effingham Ln	1.00	\$59.84
079-021-023	3620 Effingham Ln	1.00	\$59.84
079-021-024	3624 Effingham Ln	1.00	\$59.84
079-021-025	3628 Effingham Ln	1.00	\$59.84
079-021-026	3632 Effingham Ln	1.00	\$59.84
079-021-027	336 Ansonville Ln	1.00	\$59.84
079-021-028	332 Ansonville Ln	1.00	\$59.84
079-021-029	328 Ansonville Ln	1.00	\$59.84
079-021-030	324 Ansonville Ln	1.00	\$59.84
079-021-031	320 Ansonville Ln	1.00	\$59.84
079-021-032	3633 Dothan Dr	1.00	\$59.84
079-021-033	3629 Dothan Dr	1.00	\$59.84
079-021-034	3625 Dothan Dr	1.00	\$59.84
079-021-035	3621 Dothan Dr	1.00	\$59.84
079-021-036	3617 Dothan Dr	1.00	\$59.84
079-021-037	3613 Dothan Dr	1.00	\$59.84
079-021-038	3609 Dothan Dr	1.00	\$59.84
079-021-039	3605 Dothan Dr	1.00	\$59.84
079-021-040	3601 Dothan Dr	1.00	\$59.84
079-021-041	3537 Dothan Dr	1.00	\$59.84
079-021-042	3533 Dothan Dr	1.00	\$59.84
079-021-043	3529 Dothan Dr	1.00	\$59.84
079-021-044	3525 Dothan Dr	1.00	\$59.84
079-021-045	3521 Dothan Dr	1.00	\$59.84
079-021-046	3517 Dothan Dr	1.00	\$59.84
079-021-047	3513 Dothan Dr	1.00	\$59.84
079-022-005	301 Melbourne Dr	1.00	\$59.84

APN	Property Address	EBU	Maximum Assessment
079-022-006	305 Melbourne Dr	1.00	\$59.84
079-022-007	309 Melbourne Dr	1.00	\$59.84
079-022-008	313 Melbourne Dr	1.00	\$59.84
079-022-009	3512 Dothan Dr	1.00	\$59.84
079-022-010	3516 Dothan Dr	1.00	\$59.84
079-022-011	3520 Dothan Dr	1.00	\$59.84
079-022-012	3524 Dothan Dr	1.00	\$59.84
079-022-013	3528 Dothan Dr	1.00	\$59.84
079-022-014	3532 Dothan Dr	1.00	\$59.84
079-022-015	3536 Dothan Dr	1.00	\$59.84
079-022-016	3600 Dothan Dr	1.00	\$59.84
079-022-017	3604 Dothan Dr	1.00	\$59.84
079-022-018	3608 Dothan Dr	1.00	\$59.84
079-022-019	3612 Dothan Dr	1.00	\$59.84
079-022-020	3616 Dothan Dr	1.00	\$59.84
079-022-021	3620 Dothan Dr	1.00	\$59.84
079-022-022	3624 Dothan Dr	1.00	\$59.84
079-022-023	3628 Dothan Dr	1.00	\$59.84
079-022-024	3632 Dothan Dr	1.00	\$59.84
079-022-025	312 Ansonville Ln	1.00	\$59.84
079-022-026	316 Ansonville Ln	1.00	\$59.84
079-022-029	3629 Jarena Dr	1.00	\$59.84
079-022-030	3625 Jarena Dr	1.00	\$59.84
079-022-031	3621 Jarena Dr	1.00	\$59.84
079-022-032	3617 Jarena Dr	1.00	\$59.84
079-022-033	3613 Jarena Dr	1.00	\$59.84
079-022-034	3609 Jarena Dr	1.00	\$59.84
079-022-035	3605 Jarena Dr	1.00	\$59.84
079-022-036	3601 Jarena Dr	1.00	\$59.84
079-022-037	3537 Jarena Dr	1.00	\$59.84
079-022-038	3533 Jarena Dr	1.00	\$59.84
079-022-039	3529 Jarena Dr	1.00	\$59.84
079-022-040	3525 Jarena Dr	1.00	\$59.84
079-022-041	3521 Jarena Dr	1.00	\$59.84
079-022-042	3517 Jarena Dr	1.00	\$59.84
079-022-043	3513 Jarena Dr	1.00	\$59.84
079-022-045	3633 Jarena Dr	1.00	\$59.84
079-022-046	3637 Jarena Dr	1.00	\$59.84
079-023-010	221 Melbourne Dr	1.00	\$59.84
079-023-011	225 Melbourne Dr	1.00	\$59.84
079-023-012	229 Melbourne Dr	1.00	\$59.84
079-023-013	233 Melbourne Dr	1.00	\$59.84
079-023-014	237 Melbourne Dr	1.00	\$59.84

APN	Property Address	EBU	Maximum Assessment
079-023-015	241 Melbourne Dr	1.00	\$59.84
079-023-016	245 Melbourne Dr	1.00	\$59.84
079-023-017	249 Melbourne Dr	1.00	\$59.84
079-023-018	253 Melbourne Dr	1.00	\$59.84
079-023-019	3512 Jarena Dr	1.00	\$59.84
079-023-020	3516 Jarena Dr	1.00	\$59.84
079-023-021	3520 Jarena Dr	1.00	\$59.84
079-023-022	3524 Jarena Dr	1.00	\$59.84
079-023-023	3528 Jarena Dr	1.00	\$59.84
079-023-024	3532 Jarena Dr	1.00	\$59.84
079-023-025	3600 Jarena Dr	1.00	\$59.84
079-023-026	3604 Jarena Dr	1.00	\$59.84
079-023-027	3608 Jarena Dr	1.00	\$59.84
079-023-028	3612 Jarena Dr	1.00	\$59.84
079-023-029	245 Gelf Ln	1.00	\$59.84
079-023-030	241 Gelf Ln	1.00	\$59.84
079-023-031	237 Gelf Ln	1.00	\$59.84
079-023-032	233 Gelf Ln	1.00	\$59.84
079-023-033	229 Gelf Ln	1.00	\$59.84
079-023-034	225 Gelf Ln	1.00	\$59.84
079-023-035	221 Gelf Ln	1.00	\$59.84
079-023-036	217 Gelf Ln	1.00	\$59.84
079-023-039	3529 Anniston Ct	1.00	\$59.84
079-023-040	3525 Anniston Ct	1.00	\$59.84
079-023-041	3521 Anniston Ct	1.00	\$59.84
079-023-042	3517 Anniston Ct	1.00	\$59.84
079-023-043	3513 Anniston Ct	1.00	\$59.84
079-023-044	3512 Hallsboro Ct	1.00	\$59.84
079-023-045	3516 Hallsboro Ct	1.00	\$59.84
079-023-046	3520 Hallsboro Ct	1.00	\$59.84
079-023-047	3524 Hallsboro Ct	1.00	\$59.84
079-023-048	3528 Hallsboro Ct	1.00	\$59.84
079-023-049	3532 Hallsboro Ct	1.00	\$59.84
079-023-055	3529 Hallsboro Ct	1.00	\$59.84
079-023-056	3525 Hallsboro Ct	1.00	\$59.84
079-023-057	3521 Hallsboro Ct	1.00	\$59.84
079-023-058	3517 Hallsboro Ct	1.00	\$59.84
079-023-059	3513 Hallsboro Ct	1.00	\$59.84
079-023-060	240 Gelf Ln	1.00	\$59.84
079-023-061	236 Gelf Ln	1.00	\$59.84
079-023-062	232 Gelf Ln	1.00	\$59.84
079-023-063	228 Gelf Ln	1.00	\$59.84
079-023-064	224 Gelf Ln	1.00	\$59.84

Formation Engineer's Report
City of Modesto
Landscape Maintenance Assessment District

APN	Property Address	EBU	Maximum Assessment
079-023-065	220 Gelf Ln	1.00	\$59.84
079-023-066	216 Gelf Ln	1.00	\$59.84
079-023-067	3533 Anniston Ct	1.00	\$59.84
079-023-068	3537 Anniston Ct	1.00	\$59.84
079-023-069	3536 Hallsboro Ct	1.00	\$59.84
079-023-070	3540 Hallsboro Ct	1.00	\$59.84
079-023-071	3541 Hallsboro Ct	1.00	\$59.84
079-023-073	3533 Hallsboro Ct	1.00	\$59.84
079-023-075	3537 Hallsboro Ct	1.00	\$59.84
079-024-008	217 Melbourne Dr	1.00	\$59.84
079-024-009	213 Melbourne Dr	1.00	\$59.84
079-024-010	209 Melbourne Dr	1.00	\$59.84
079-024-011	205 Melbourne Dr	1.00	\$59.84
079-024-012	201 Melbourne Dr	1.00	\$59.84
079-024-013	3508 Bayboro Dr	1.00	\$59.84
079-024-014	3512 Bayboro Dr	1.00	\$59.84
079-024-015	3516 Bayboro Dr	1.00	\$59.84
079-024-016	3520 Bayboro Dr	1.00	\$59.84
079-024-017	3524 Bayboro Dr	1.00	\$59.84
079-024-018	3528 Bayboro Dr	1.00	\$59.84
079-024-019	3600 Bayboro Dr	1.00	\$59.84
079-024-020	3604 Bayboro Dr	1.00	\$59.84
079-024-021	3608 Bayboro Dr	1.00	\$59.84
079-024-022	3612 Bayboro Dr	1.00	\$59.84
079-024-023	3616 Bayboro Dr	1.00	\$59.84
079-024-024	3620 Bayboro Dr	1.00	\$59.84
079-024-025	3624 Bayboro Dr	1.00	\$59.84
079-024-026	200 Gelf Ln	1.00	\$59.84
079-024-027	204 Gelf Ln	1.00	\$59.84
079-024-028	208 Gelf Ln	1.00	\$59.84
079-024-029	212 Gelf Ln	1.00	\$59.84
079-024-030	213 Gelf Ln	1.00	\$59.84
079-024-031	209 Gelf Ln	1.00	\$59.84
079-024-032	3617 Bayboro Dr	1.00	\$59.84
079-024-033	3613 Bayboro Dr	1.00	\$59.84
079-024-034	3609 Bayboro Dr	1.00	\$59.84
079-024-035	3605 Bayboro Dr	1.00	\$59.84
079-024-036	3601 Bayboro Dr	1.00	\$59.84
079-024-037	3529 Bayboro Dr	1.00	\$59.84
079-024-038	3525 Bayboro Dr	1.00	\$59.84
079-024-039	3521 Bayboro Dr	1.00	\$59.84
079-024-040	3517 Bayboro Dr	1.00	\$59.84
079-024-041	3513 Bayboro Dr	1.00	\$59.84

APN	Property Address	EBU	Maximum Assessment
079-024-042	3512 Anniston Ct	1.00	\$59.84
079-024-043	3516 Anniston Ct	1.00	\$59.84
079-024-044	3520 Anniston Ct	1.00	\$59.84
079-024-045	3524 Anniston Ct	1.00	\$59.84
079-024-046	3528 Anniston Ct	1.00	\$59.84
079-024-049	3532 Anniston Ct	1.00	\$59.84
079-024-050	3536 Anniston Ct	1.00	\$59.84
079-027-001	3701 Julene Dr	1.00	\$59.84
079-027-002	3705 Julene Dr	1.00	\$59.84
079-027-003	3709 Julene Dr	1.00	\$59.84
079-027-004	3713 Julene Dr	1.00	\$59.84
079-027-005	3717 Julene Dr	1.00	\$59.84
079-027-006	3721 Julene Dr	1.00	\$59.84
079-027-007	3725 Julene Dr	1.00	\$59.84
079-027-008	3801 Julene Dr	1.00	\$59.84
079-027-009	3805 Julene Dr	1.00	\$59.84
079-027-010	3809 Julene Dr	1.00	\$59.84
079-027-011	3813 Julene Dr	1.00	\$59.84
079-027-012	3817 Julene Dr	1.00	\$59.84
079-027-013	3821 Julene Dr	1.00	\$59.84
079-027-014	3825 Julene Dr	1.00	\$59.84
079-027-015	3901 Julene Dr	1.00	\$59.84
079-027-016	3905 Julene Dr	1.00	\$59.84
079-027-017	3909 Julene Dr	1.00	\$59.84
079-027-018	3913 Julene Dr	1.00	\$59.84
079-027-019	3908 Julene Dr	1.00	\$59.84
079-027-020	3900 Julene Dr	1.00	\$59.84
079-027-021	232 Anastasia Dr	1.00	\$59.84
079-027-022	228 Anastasia Dr	1.00	\$59.84
079-027-023	224 Anastasia Dr	1.00	\$59.84
079-027-024	220 Anastasia Dr	1.00	\$59.84
079-027-025	216 Anastasia Dr	1.00	\$59.84
079-027-026	212 Anastasia Dr	1.00	\$59.84
079-027-027	208 Anastasia Dr	1.00	\$59.84
079-027-028	204 Anastasia Dr	1.00	\$59.84
079-027-029	200 Anastasia Dr	1.00	\$59.84
079-027-030	3824 Troon Pl	1.00	\$59.84
079-027-031	3820 Troon Pl	1.00	\$59.84
079-027-032	3816 Troon Pl	1.00	\$59.84
079-027-033	3812 Troon Pl	1.00	\$59.84
079-027-034	3808 Troon Pl	1.00	\$59.84
079-027-035	3804 Troon Pl	1.00	\$59.84
079-027-036	3800 Troon Pl	1.00	\$59.84

Formation Engineer's Report
City of Modesto
Landscape Maintenance Assessment District

APN	Property Address	EBU	Maximum Assessment
079-027-037	3724 Troon Pl	1.00	\$59.84
079-027-038	3720 Troon Pl	1.00	\$59.84
079-027-039	3716 Troon Pl	1.00	\$59.84
079-027-040	3712 Troon Pl	1.00	\$59.84
079-027-041	3708 Troon Pl	1.00	\$59.84
079-027-042	3704 Troon Pl	1.00	\$59.84
079-027-043	3700 Troon Pl	1.00	\$59.84
079-027-044	201 Rector Ln	1.00	\$59.84
079-027-045	205 Rector Ln	1.00	\$59.84
079-027-046	209 Rector Ln	1.00	\$59.84
079-027-047	213 Rector Ln	1.00	\$59.84
079-027-048	217 Rector Ln	1.00	\$59.84
079-027-049	221 Rector Ln	1.00	\$59.84
079-027-050	3700 Julene Dr	1.00	\$59.84
079-027-051	3704 Julene Dr	1.00	\$59.84
079-027-052	3708 Julene Dr	1.00	\$59.84
079-027-053	3712 Julene Dr	1.00	\$59.84
079-027-054	3716 Julene Dr	1.00	\$59.84
079-027-055	3720 Julene Dr	1.00	\$59.84
079-027-056	3724 Julene Dr	1.00	\$59.84
079-027-057	3800 Julene Dr	1.00	\$59.84
079-027-058	3804 Julene Dr	1.00	\$59.84
079-027-059	3808 Julene Dr	1.00	\$59.84
079-027-060	3812 Julene Dr	1.00	\$59.84
079-027-061	3816 Julene Dr	1.00	\$59.84
079-027-062	3820 Julene Dr	1.00	\$59.84
079-027-063	3825 Jarena Dr	1.00	\$59.84
079-027-064	3821 Jarena Dr	1.00	\$59.84
079-027-065	3817 Jarena Dr	1.00	\$59.84
079-027-066	3813 Jarena Dr	1.00	\$59.84
079-027-067	3809 Jarena Dr	1.00	\$59.84
079-027-068	3805 Jarena Dr	1.00	\$59.84
079-027-069	3801 Jarena Dr	1.00	\$59.84
079-027-070	3725 Jarena Dr	1.00	\$59.84
079-027-071	3721 Jarena Dr	1.00	\$59.84
079-027-072	3717 Jarena Dr	1.00	\$59.84
079-027-073	3713 Jarena Dr	1.00	\$59.84
079-027-074	3709 Jarena Dr	1.00	\$59.84
079-027-075	3705 Jarena Dr	1.00	\$59.84
079-027-076	3701 Jarena Dr	1.00	\$59.84
079-027-077	213 Anastasia Dr	1.00	\$59.84
079-027-078	3812 Jarena Dr	1.00	\$59.84
079-027-079	3808 Jarena Dr	1.00	\$59.84

APN	Property Address	EBU	Maximum Assessment
079-027-080	3804 Jarena Dr	1.00	\$59.84
079-027-081	3800 Jarena Dr	1.00	\$59.84
079-027-082	3724 Jarena Dr	1.00	\$59.84
079-027-083	3720 Jarena Dr	1.00	\$59.84
079-027-084	3716 Jarena Dr	1.00	\$59.84
079-027-085	3712 Jarena Dr	1.00	\$59.84
079-027-086	220 Rector Ln	1.00	\$59.84
079-027-087	212 Rector Ln	1.00	\$59.84
079-027-088	208 Rector Ln	1.00	\$59.84
079-027-089	3717 Troon Pl	1.00	\$59.84
079-027-090	3721 Troon Pl	1.00	\$59.84
079-027-091	3725 Troon Pl	1.00	\$59.84
079-027-092	3801 Troon Pl	1.00	\$59.84
079-027-093	3805 Troon Pl	1.00	\$59.84
079-027-094	3809 Troon Pl	1.00	\$59.84
079-027-095	3813 Troon Pl	1.00	\$59.84
079-027-096	3817 Troon Pl	1.00	\$59.84
079-027-097	Clause Rd	-	\$0.00
079-028-001	205 Sentinel Dr	1.00	\$59.84
079-028-002	201 Sentinel Dr	1.00	\$59.84
079-028-003	121 Sentinel Dr	1.00	\$59.84
079-028-004	117 Sentinel Dr	1.00	\$59.84
079-028-005	113 Sentinel Dr	1.00	\$59.84
079-028-006	109 Sentinel Dr	1.00	\$59.84
079-028-007	105 Sentinel Dr	1.00	\$59.84
079-028-008	101 Sentinel Dr	1.00	\$59.84
079-028-009	3900 El Portal Pl	1.00	\$59.84
079-028-010	3904 El Portal Pl	1.00	\$59.84
079-028-011	3908 El Portal Pl	1.00	\$59.84
079-028-012	3912 El Portal Pl	1.00	\$59.84
079-028-013	3916 El Portal Pl	1.00	\$59.84
079-028-014	3920 El Portal Pl	1.00	\$59.84
079-028-015	3924 El Portal Pl	1.00	\$59.84
079-028-016	3928 El Portal Pl	1.00	\$59.84
079-028-017	3932 El Portal Pl	1.00	\$59.84
079-028-018	3933 El Portal Pl	1.00	\$59.84
079-028-019	3929 El Portal Pl	1.00	\$59.84
079-028-020	3925 El Portal Pl	1.00	\$59.84
079-028-021	3921 El Portal Pl	1.00	\$59.84
079-028-022	3917 El Portal Pl	1.00	\$59.84
079-028-023	3913 El Portal Pl	1.00	\$59.84
079-028-024	3909 El Portal Pl	1.00	\$59.84
079-028-025	3900 Westfall Ln	1.00	\$59.84

APN	Property Address	EBU	Maximum Assessment
079-028-026	3904 Westfall Ln	1.00	\$59.84
079-028-027	3908 Westfall Ln	1.00	\$59.84
079-028-028	3912 Westfall Ln	1.00	\$59.84
079-028-029	3916 Westfall Ln	1.00	\$59.84
079-028-030	3920 Westfall Ln	1.00	\$59.84
079-028-031	3924 Westfall Ln	1.00	\$59.84
079-028-032	3925 Westfall Ln	1.00	\$59.84
079-028-033	3921 Westfall Ln	1.00	\$59.84
079-028-034	3917 Westfall Ln	1.00	\$59.84
079-028-035	3913 Westfall Ln	1.00	\$59.84
079-028-036	3909 Westfall Ln	1.00	\$59.84
079-028-037	3901 Westfall Ln	1.00	\$59.84
079-028-040	3936 El Portal Pl	1.00	\$59.84
079-028-041	257 Sentinel Dr	1.00	\$59.84
079-028-042	253 Sentinel Dr	1.00	\$59.84
079-028-043	249 Sentinel Dr	1.00	\$59.84
079-028-044	245 Sentinel Dr	1.00	\$59.84
079-028-045	241 Sentinel Dr	1.00	\$59.84
079-028-046	237 Sentinel Dr	1.00	\$59.84
079-028-047	233 Sentinel Dr	1.00	\$59.84
079-028-048	229 Sentinel Dr	1.00	\$59.84
079-028-049	225 Sentinel Dr	1.00	\$59.84
079-028-050	221 Sentinel Dr	1.00	\$59.84
079-028-051	217 Sentinel Dr	1.00	\$59.84
079-028-052	213 Sentinel Dr	1.00	\$59.84
079-028-053	209 Sentinel Dr	1.00	\$59.84
079-028-054	212 Sentinel Dr	1.00	\$59.84
079-028-055	216 Sentinel Dr	1.00	\$59.84
079-028-056	228 Sentinel Dr	1.00	\$59.84
079-028-057	236 Sentinel Dr	1.00	\$59.84
079-028-058	240 Sentinel Dr	1.00	\$59.84
079-028-059	244 Sentinel Dr	1.00	\$59.84
079-028-060	3905 Sentinel Ct	1.00	\$59.84
079-028-061	3908 Sentinel Ct	1.00	\$59.84
079-028-062	3904 Sentinel Ct	1.00	\$59.84
079-028-065	313 Yosemite Meadows Dr	1.00	\$59.84
079-028-066	309 Yosemite Meadows Dr	1.00	\$59.84
079-028-067	305 Yosemite Meadows Dr	1.00	\$59.84
079-028-068	301 Yosemite Meadows Dr	1.00	\$59.84
079-028-069	Yosemite Meadows Dr	-	\$0.00
079-028-070	241 Yosemite Meadows Dr	1.00	\$59.84
079-028-071	237 Yosemite Meadows Dr	1.00	\$59.84
079-028-072	233 Yosemite Meadows Dr	1.00	\$59.84

APN	Property Address	EBU	Maximum Assessment
079-028-073	229 Yosemite Meadows Dr	1.00	\$59.84
079-028-074	225 Yosemite Meadows Dr	1.00	\$59.84
079-028-075	221 Yosemite Meadows Dr	1.00	\$59.84
079-028-076	217 Yosemite Meadows Dr	1.00	\$59.84
079-028-077	213 Yosemite Meadows Dr	1.00	\$59.84
079-028-078	209 Yosemite Meadows Dr	1.00	\$59.84
079-028-079	3929 Westfall Ln	1.00	\$59.84
079-028-080	3928 Westfall Ln	1.00	\$59.84
079-028-081	3937 El Portal Pl	1.00	\$59.84
TOTALS		1,279.00	\$76,535.36

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-229**

**A RESOLUTION OF INTENTION TO LEVY AND COLLECT ASSESSMENTS
FOR LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 1 FOR DRY
CREEK MEADOWS SUBDIVISIONS NOS. 1 – 6 AND SETTING A PUBLIC
HEARING ON THE PROPOSED ASSESSMENTS TO BE HELD ON
AUGUST 8, 2012**

WHEREAS, Resolution No. 88-935, adopted by the Council of the City of Modesto on December 13, 1988, initiated proceedings for the formation of Landscape Maintenance Assessment District No. 1 for the purpose of administering the maintenance of landscaping in the public right-of-way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 1-6, and

WHEREAS, said assessment district was formed in accordance with the Landscape and Lighting Act of 1972, (California Streets and Highways Code Sections 22500 through 22679), and

WHEREAS, Section 22623 of the California Streets and Highways Code requires the Engineer, the person designated by this Council as Engineer of Work for Assessment District No. 1, to prepare and file an annual report, and

WHEREAS, the Engineer of Work, has prepared and filed said annual report with the City Clerk, and

WHEREAS, the Council has approved said annual report by motion, and

WHEREAS, California Streets and Highways Code Section 22623 requires the legislative body (the City Council) to adopt a resolution of intention which shall include the following:

- a. Declaration of intention of the legislative body (the City Council) to levy and collect assessments within the assessment district for the fiscal year stated in the annual report.

- b. General description of the existing improvements and proposed improvements and any substantial changes proposed to be made in the existing improvements.
- c. Reference to the assessment district by its distinctive designation and indication of the general location of the district.
- d. Reference to said annual report, on file with the City Clerk, for a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within the district.
- e. Notice of the time, as fixed by the California Streets and Highways Code Section 22625, and the place for hearing by the legislative body (the City Council) on the levy of the proposed assessment.

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

that:

1. The City Council intends to levy and collect assessments within Landscape Maintenance Assessment District No. 1 during the fiscal year 2012-2013.
2. There are no proposed new improvements or any substantial changes in existing improvements in Dry Creek Meadows Subdivisions Nos. 1-6 and that the existing improvements to be made in said assessment district are generally described as follows:

The City shall provide maintenance, in perpetuity, of landscaping and any and all improvements required for such maintenance including, but not limited to, landscape irrigation systems in the following locations:

- a. Street medians in Creekwood Drive
 - b. Areas adjacent to the access control walls along Creekwood Drive
 - c. Areas adjacent to the access control walls along Claus Road
3. Landscape Maintenance Assessment District No. 1 is located in the County of Stanislaus, within the City Limits of the City of Modesto and is more

specifically located on the west side of Claus Road, between Modesto Irrigation District Lateral No. 2 and State Route 132 (Yosemite Boulevard).

4. Said annual report filed with the City Clerk and approved by the Council by motion does provide a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within Landscape Maintenance Assessment District No. 1.

5. On Wednesday, the 8th day of August, 2012, at the hour of 5:30 p.m., the City Council will conduct a public hearing on the question of the levy of the proposed annual assessment. The hearing will be held at the meeting place of the City Council located in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California.

6. The City Clerk is authorized and directed to give the notice of hearing required by the Landscape and Lighting Act of 1972.

7. The levy and collection of assessments as set forth in this resolution are exempt from the procedural and substantive requirements of Proposition 218 pursuant to Article XIII, Section 5(a) of the California Constitution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-230**

RESOLUTION OF INTENTION TO LEVY AND COLLECT ASSESSMENTS FOR LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 7-10, CREEKWOOD MEADOWS SUBDIVISION, AND YOSEMITE MEADOWS SUBDIVISION, AND SETTING A PUBLIC HEARING ON AUGUST 8, 2012 TO CONSIDER THE LEVY AND COLLECTION OF ASSESSMENTS WITHIN LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2

WHEREAS, Resolution No. 89-460, adopted by the Council of the City of Modesto on April 4, 1989, initiated proceedings for the formation of Landscape Maintenance Assessment District No. 2 for the purpose of administering the maintenance of landscaping in the public right of way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 7-10, Creekwood Meadows Subdivision and Yosemite Meadows Subdivision Units Nos. 1 and 2, and

WHEREAS, said assessment district was formed in accordance with the Landscaping and Lighting Act of 1972, (California Streets and Highways Code Sections 22500 through 22679), and

WHEREAS, Section 22623 of the California Streets and Highways Code requires the Engineer, the person designated by the Council as Engineer of Work for Assessment District No. 2, to prepare and file an annual report, and

WHEREAS, the City Engineer, said Engineer of Work, has prepared and filed said annual report with the City Clerk, and

WHEREAS, the Council has approved said annual report by motion, and

WHEREAS, California Streets and Highways Code Section 22623 requires the Council to adopt a resolution of intention which shall include the following:

- a. Declaration of intention of the Council to levy and collect assessments within the assessment district for the fiscal year stated in said annual report.
- b. General description of the existing improvements and proposed improvements and any substantial changes proposed to be made in the existing improvements.
- c. Reference to the assessment district by its distinctive designation and indication of the general location of the district.
- d. Reference to said annual report, on file with the City Clerk, for a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within the district.
- e. Notice of the time, as fixed by California Streets and Highways Code Section 22625, and the place for hearing by the Council on the levy of the proposed assessment,

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

1. The City Council intends to levy and collect assessments within Landscape Maintenance Assessment District No. 2 during Fiscal Year 2012-2013.
2. There are no proposed new improvements or any substantial changes in the existing improvements within the existing Landscape Maintenance Assessment District No. 2, and the existing improvements to be made in said assessment district are generally described as follows:

The City shall provide maintenance, in perpetuity, of landscaping and any and all improvements required for such maintenance including, but not limited to, landscape irrigation systems in the following locations:

- a. Street medians in Creekwood Drive
- b. Areas adjacent to the access control walls along Creekwood Drive
- c. Areas adjacent to the access control walls along Claus Road

3. Landscape Maintenance Assessment District No. 2 is located in the County of Stanislaus, within the City limits of the City of Modesto, and is more specifically located on the northeast corner of Yosemite Boulevard and North McClure Road. District 2 is bounded by Yosemite Boulevard on the south, North McClure Road on the west, Yosemite Meadows Drive on the east, and Mechalys Way on the north.

4. Said annual report filed with the City Clerk and approved by the Council by motion does provide a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within Landscape Maintenance Assessment District No. 2.

5. On Wednesday, the 8th day of August, 2012, at the hour of 5:30 p.m., the City Council will conduct a public hearing on the question of the levy of the proposed annual assessment. The hearing will be held at the meeting place of the City Council located in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California.

6. The City Clerk is authorized and directed to give the notice of hearing required by the Landscaping and Lighting Act of 1972.

7. The levy and collection of assessments as set forth in this resolution shall follow the procedural and substantive requirements of Proposition 218 pursuant to Article 13D, Section 5(a) of the California Constitution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-231**

RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE PURCHASE OF SEVEN (7) HALF-TON PICK-UP TRUCKS FOR VARIOUS CITY DIVISIONS THROUGH THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, TO TOWNE FORD SALES, REDWOOD CITY, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR A TOTAL ESTIMATED COST OF \$159,422

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, throughout FY 11/12 through various competitive processes, with the Purchasing Division coming back to Council for award authorization. The seven (7) half-ton pick-up trucks were included in the FY 11/12 new vehicles and heavy equipment list authorized by the City Manager, and

WHEREAS, the replacement trucks are for the following Divisions; Parks Maintenance, Construction Administration, Water Systems Maintenance, Water Systems Construction, Water Quality Control Operation, these trucks have been subjected to a thorough evaluation and have met or exceeded the replacement criteria before being placed on the replacement list, and

WHEREAS, the Purchasing Division issued RFB No. 1112-22 for the purchase of seven (7) half-ton pick-up trucks to thirteen (13) prospective bidders, posted the bid on the City's website and formally advertised as required by law. Three (3) of the sixteen (16) prospective bidders are located within Stanislaus County, one of which is a local vendor.

and

WHEREAS, RFB's were formally opened in the City Clerk's office. Of the thirteen (13) prospective bidders, four (4) companies chose to respond, one of which is

located in Stanislaus County. The local vendor chose not to submit a bid response. All four (4) companies provided responsive and responsible bids, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid for the purchase of seven (7) half-ton pick-up trucks to Towne Ford Sales, Redwood City, CA, for a total estimated cost of \$159,422, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2011-12 in the following appropriation unit 5410-53241-57003, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. The award of bid for the purchase of seven (7) half-ton pick-up trucks to Towne Ford Sales, Redwood City, CA, for the Department of Public Works, Fleet Services 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 for the purchase of seven (7) half-ton pick-up trucks for various Divisions through the Public Works Department, Fleet Services Division to Towne Ford Sales, Redwood City, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager or his designee to issue a purchase order for a total estimated cost of \$159,422.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

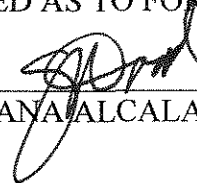
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-232

RESOLUTION AMENDING THE POSITION CLASSIFICATION PLAN FOR
THE CITY OF MODESTO TO CREATE THE CLASSIFICATION OF
BUILDING MAINTENANCE SPECIALIST

WHEREAS, a Position Classification Plan for the City of Modesto was adopted by Modesto City Council Resolution No. 2008-681 pursuant to Rule 2.2 of the Personnel Rules and Regulations of the City of Modesto, and

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

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

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

SECTION I. CLASSIFICATION CREATED. The Position Classification Plan of the City of Modesto is hereby amended to create the classification of Building Maintenance Specialist at salary range 124. The job specification for Building Maintenance Specialist is being created to perform a variety of skilled technical building maintenance and repair activities involving heating, ventilation and air conditioning (HVAC) or locksmith functions and general maintenance activities, as shown in **attached Exhibit "A,"** which is made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after June 12, 2012.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
NO. 6812

BUILDING MAINTENANCE SPECIALIST

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

DEFINITION

To perform a variety of skilled technical building maintenance and repair activities involving heating, ventilation and air conditioning (HVAC) or locksmith functions and general maintenance activities.

SUPERVISION RECEIVED AND EXERCISED

Receives general supervision from higher level supervisory staff.

May provide technical and functional supervision to assigned maintenance personnel.

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

Essential Functions

All assignments:

Inspect building facilities to identify building maintenance needs.

Maintain and repair City facilities, equipment and buildings by performing skilled mechanical work related to heating, ventilation and air conditioning or locksmith maintenance and repair work.

Read and interpret sketches, diagrams, drawings and blueprints.

May order parts and supplies; provide estimates of labor and material costs.

Maintain time, material and equipment use records,

Requisition supplies and materials.

Assist in coordinating maintenance activities with other City departments, divisions and sections and with outside agencies.

Build and maintain positive working relationships with co-workers, other City employees and the public using principles of good customer service.

EXHIBIT A

Essential Functions: (Continued)

When assigned to HVAC:

Install, adjust, repair and inspect a variety of heating, ventilation, and air conditioning equipment including forced air furnaces, boilers, water pumps, chillers, air conditioning units, exhaust fans, air filters, compressors, cooling towers and heat exchangers.

May install, troubleshoot and repair a variety of electrical, electronic and pneumatic climate controls and valves.

Perform charging, evacuating, condenser cleaning and filter changing.

Repair and replace boiler refractories, boiler blowers; adjust burners, high and low water cut-out controls.

Replace pump couplings, motor bearings, belt-sheaves, and belts.

Lubricate all mechanical equipment.

Maintain proper water treatment by means of chemicals.

Program and monitor computerized energy system which includes heating/air conditioning systems.

Troubleshoot the computerized system and establish stop/start time on the systems.

Monitor alarms and follow up on system failures such as switches and fans.

Overhaul and balance air flow calibration.

Observe and adjust meters, gauges and control panels.

Perform charging, evacuating, condenser cleaning and filter changing.

Repair and maintain air conditioning systems, zoning heating/cooling refrigeration duct work, ventilation, chilled water heating/cooling compressor type, rooftop cooling duct work, packaged air cool, multi-zone rooftop heating/cooling systems.

Perform maintenance on auxiliary mechanical equipment.

Essential Functions: (Continued)

When assigned as Locksmith:

Install, adjust, replace and rebuild locks.

Open locks that cannot be opened by ordinary means.

Duplicate keys using hand and electronically operating key cutting machines.

Re-build, service and perform related installation of locking equipment, including overhead closures, automatic door closures, and hold backs of all kinds.

Use various machine and hand tools in the fabrication or modification of locks and hardware parts.

Change key and cylinder combinations in accordance with changes in master key system.

Maintain master key coding systems and central key control records, security of keys, codes, combinations and location and possession of keys.

Troubleshoot, maintain and repair the City's lock system.

Marginal Functions:

Perform related duties as required.

MINIMUM QUALIFICATIONS

Knowledge of (depending on assignment):

Methods, practices and equipment used in building maintenance services and activities within a specialized building trade including general building maintenance.

Low pressure boilers, ventilating, refrigeration, absorption air conditioning, power and related mechanical building systems and equipment.

Master key systems and the fabrication of master keys.

Design, construction, installation, operation, adjustment, repair and maintenance of locks, locking devices and door closures.

Methods and techniques used in estimating time and materials for assigned

projects.

Knowledge of: (Continued)

Tools and equipment used in assigned area of building maintenance.

Safe work practices pertaining to building maintenance activities.

Ability to (depending on assignment):

Perform a wide range of skilled building maintenance work in assigned area.

Interpret work orders and explain jobs to other employees.

Repair and maintain a variety of mechanical equipment.

Work independently in the absence of supervision.

Use hand and power tools, materials and instruments, utilized in the building mechanical trades.

Program and monitor the computerized heating and air conditioning systems making needed adjustments.

Decipher key code systems, install, maintain, adjust, repair and rebuild a variety of locks, locking devices.

Read and interpret sketches, drawings, diagrams and blueprints.

Estimate necessary materials and supplies with a reasonable degree of accuracy.

Communicate clearly and concisely, both orally and in writing.

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

Experience and Training Guidelines

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

Experience:

Four years (journey level) full-time mechanical experience in assigned area as Locksmith or HVAC mechanic.

Training:

Equivalent to completion of the twelfth grade supplemented by additional specialized training in Heating Ventilation and Air Conditioning (HVAC) or Locksmithing maintenance.

License of Certificate:

Possession of, or the ability to obtain, an appropriate and valid California driver's license.

PHYSICAL AND MENTAL REQUIREMENTS

Mobility: frequent performance of heavy manual labor; frequent standing for long periods of time; frequent bending and squatting. **Lifting:** frequent lifting up to 75 pounds; occasional lifting up to 100 pounds. **Vision:** constant use of overall vision. **Dexterity:** frequent grasping, holding, and reaching. **Hearing/Talking:** frequent hearing and talking in person. May be required to wear ear protection or hear in noisy conditions. **Emotional/ Psychological:** frequent coworker contact; occasional working alone. **Environmental:** frequent exposure to loud noise; frequent exposure to chemicals, fumes, and other environmental substances

WORKING CONDITIONS

Work is performed in both an indoor and outdoor environment, with year-round exposure to varied weather conditions. Work may be subject to noise from loud equipment and machinery. Work may occur at varied remote locations. Positions may require occasional overtime and weekend work and travel is rare.

<i>Class Spec History</i>	
Adopted	6/12
Revised	
BU	Gen NS

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-233**

**RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2008-585 TO
REVISE THE CLASS RANGE TABLE FOR GENERAL NON-SWORN CLASSES
TO ADD THE SALARY RANGE FOR BUILDING MAINTENANCE
SPECIALIST AT SALARY RANGE 124**

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 2008-585, 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 I. AMENDMENT TO RESOLUTION NO. 2008-585. **Exhibit "A"** entitled, "City of Modesto Class Range Table General Non-Sworn Classes," **attached** to Resolution No. 2008-585, is hereby amended as shown on the amended **Exhibit "A"** entitled "City of Modesto Class Range Table General Non-Sworn Classes effective June 12, 2012," which is **attached** hereto and made a part hereof as though set forth in full herein. Said **Exhibit "A"** adds the Building Maintenance Specialist to salary range 124.

SECTION II. EFFECTIVE DATE. This resolution shall become effective on and after June 12, 2012.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh


NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Attorney

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
 CLASS RANGE TABLE
 GENERAL NON-SWORN CLASSES
 Effective June 12, 2012

RANGE	TITLE
103	Administrative Office Assistant I Custodian I
107	Administrative Office Assistant II Custodian II Exhibits Coordinator
109	Account Clerk I Customer Services Account Clerk I
110	Maintenance Worker I
111	Account Clerk II Administrative Office Assistant III Custodian Crewleader Customer Services Account Clerk II
114	Electrician Assistant I Equipment Service Technician Maintenance Worker II Production Technician Storeskeeper
115	Administrative Services Technician I Senior Administrative Office Assistant Senior Customer Services Account Clerk
116	Account Technician Airport Maintenance Worker Equipment Operator Groundskeeper Traffic Operations Technician Wastewater Collection Systems Operator I Water Distribution Operator I

RANGE	TITLE
118	Electrician Assistant II Fleet Procurement Technician Parking Facilities Crewleader Parks Maintenance Crewleader Recreation Coordinator Senior Storeskeeper Tree Trimmer Water Distribution Operator II
119	Administrative Services Technician II Building Maintenance Technician Code Enforcement Officer I -Neighborhood Preservation Unit Customer Services Account Technician Parks Maintenance Mechanic
120	Assistant Buyer Environmental Compliance Technician Laboratory Analyst I Senior Equipment Operator Traffic Striping Crewleader Wastewater Collection System Operator II Wastewater Treatment Plant Operator I Water Quality Control Technician I Water Resource Specialist
121	Solid Waste Enforcement Officer
122	Accountant I Development Services Technician I Electrician Assistant III Equipment Mechanic Tree Trimmer Crewleader Welder/Fabricator
123	Code Enforcement Officer II -Neighborhood Preservation Unit Engineering Assistant Trainee

RANGE	TITLE
124	Airport Maintenance Crewleader Building Maintenance Specialist Community Development Program Specialist I Cross Connection Specialist Development Services Technician II Environmental Compliance Inspector I Fire Equipment Mechanic Head Groundskeeper Heavy Equipment Mechanic Laboratory Analyst II Operations Crewleader Wastewater Treatment Plant Operator II Water Conservation Specialist Water Distribution Operator III Water Meter Technician Water Production Operator I Water Quality Control Technician II Water Services Equipment Operator I
126	Equipment Mechanic Crewleader Housing Financial Specialist Housing Rehabilitation Specialist I Wastewater Collection System Crewleader Wastewater Treatment Plant Operator III
127	Engineering Assistant I
128	Building Inspector I Community Development Program Specialist II Electrician - Traffic and Buildings Electrician - Utilities Environmental Compliance Inspector II Heavy Equipment Mechanic Crewleader Instrumentation Technician Senior Fire Equipment Mechanic Water Production Operator II Water Services Equipment Operator II
130	Construction Inspector Housing Rehabilitation Specialist II Laboratory Analyst III Senior Wastewater Treatment Plant Operator

EXHIBIT A

RANGE	TITLE
131	Engineering Assistant II
132	Building Inspector II Environmental Review Specialist Senior Environmental Compliance Inspector Water Division Crewleader
133	Assistant Land Surveyor
134	Plans Examiner Senior Construction Inspector
135	Engineering Project Coordinator
136	Senior Building Inspector

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-234

RESOLUTION AMENDING THE POSITION CLASSIFICATION PLAN FOR THE CITY OF MODESTO TO CREATE THE CLASSIFICATION OF PARKS, RECREATION AND NEIGHBORHOODS OPERATIONS MANAGER AND TO DELETE THE CLASSIFICATIONS OF BUILDING MAINTENANCE MANAGER, URBAN FORESTRY MANAGER AND PARKS OPERATIONS MANAGER

WHEREAS, a Position Classification Plan for the City of Modesto was adopted by Modesto City Council Resolution No. 2008-681 pursuant to Rule 2.2 of the Personnel Rules and Regulations of the City of Modesto, and

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

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

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

SECTION I. CLASSIFICATION CREATED. The Position Classification Plan of the City of Modesto is hereby amended to create the classification of Parks, Recreation, and Neighborhoods Operations Manager at salary range 451. The Job specification for Parks, Recreation, and Neighborhoods Operations Manager is being created to manage activities of Park Operations, Community Forestry, Building Maintenance Services and Pruned Refuse Collections within the Parks, Recreation and Neighborhoods Department, as shown in **attached Exhibit "A,"** which is 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. CLASSIFICATIONS DELETED. The Position Classification Plan of the City of Modesto is hereby amended to delete the classifications of Building Maintenance Manager, Urban Forestry Manager, and Parks Operations Manager as said classifications are no longer being used.


SECTION 3. EFFECTIVE DATE. This resolution shall become effective on and after June 12, 2012.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

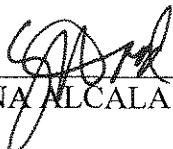
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
No. 2499

PARKS, RECREATION AND NEIGHBORHOODS
OPERATIONS MANAGER

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

DEFINITION

To plan, organize, direct, and coordinate the activities of Parks Operations, Community Forestry, Building Maintenance Services and Pruned Refuse Collections within the Parks, Recreation and Neighborhoods Department including: maintenance and operations of the City's parks, tree planting, pruning, removal, and tree preservation activities, and all aspects of building maintenance and custodial services; to negotiate and to administer complex maintenance agreements; and to provide highly complex staff assistance to the Director of Parks, Recreation and Neighborhoods.

SUPERVISION RECEIVED AND EXERCISED

Receives administrative direction from the Director of Parks, Recreation and Neighborhoods.

Exercises direct supervision over assigned supervisory, professional, technical and administrative support personnel.

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

Essential Functions:

Develop and implement divisional goals, objectives, policies and procedures.

Plan, organize and direct activities for parks, including open space, playgrounds, sports fields and special use areas such as splash grounds or pavilions, building services, community forestry, Tuolumne River Regional Park, John Thurman Field and Stadium, Green Waste Diversion program and the leaf collection program;

Direct, oversee, and participate in the development of work plans; assign work activities, projects, and programs; monitor work flow; review and evaluate work products methods and procedures.

Prepare the operating and capital improvement budgets for several divisions; assist in budget implementation; participate in the forecast of additional funds need for staffing, equipment, materials and supplies; administer the approved budget.

CITY OF MODESTO

Parks, Recreation and Neighborhoods Operations Manager

Page 2

Essential Functions: (Continued)

Recommend the appointment of personnel; provide or coordinate staff training; conduct performance evaluations; implement discipline procedures as required; maintain discipline and high standards necessary for the efficient and professional operation of the Department.

Supervise the safety program for assigned divisions; coordinate and attend safety meetings; ensure the adherence to safe work practices by subordinate personnel.

May inspect work sites before, during and after completion to assure work is completed in a satisfactory and thorough manner; inspect work completed by outside contractors.

Research, prepare and present technical and administrative reports to Council, commissions and a variety of committees; prepare written correspondence

Negotiate and manage complex landscape maintenance, land use and custodial services agreements.

Serve as primary staff liaison to the "Modesto Nuts" baseball team including contract negotiations.

Oversee public relations activities; coordinate special events; manage volunteers and non-paid or alternative labor resources.

Manage water usage and monitor backflow prevention devices in a complex park system.

Negotiate, oversee, and coordinate architectural, maintenance and service contracts, and maintain liaison with contractor; prepare and review cost estimates for proposed work, and recommend final acceptance of completed work.

Participate in the planning and development of new parks, trails, landscaping and grant funded projects for infrastructure improvement, expansion, and energy efficiency standards.

Receive, investigate and respond to citizen requests, suggestions, and complaints; manage large and complex special events.

Build and maintain positive working relationships with co-workers, other City employees and the public using principles of good customer service.

EXHIBIT A

CITY OF MODESTO

Parks, Recreation and Neighborhoods Operations Manager

Page 3

Essential Functions: (Continued)

Represent the division and department to outside agencies and organizations; participate in outside community and professional groups and committees; make presentations to various groups; and provide technical assistance as necessary.

Research and prepare technical and administrative reports; prepare written correspondence.

Marginal Functions:

Perform related duties as assigned.

MINIMUM QUALIFICATIONS

Knowledge of:

Principles and practices of park maintenance and landscape, building services preventative maintenance, community forestry tree maintenance and ballpark maintenance.

Negotiation and management of contractual services.

Record keeping and reporting procedures, including computerized maintenance systems.

Pertinent local, State and Federal rules, regulations and laws.

Modern office procedures and computer equipment.

Principles and practices of organizational analysis and management.

Budgeting procedures and techniques.

Principles and practices of supervision, training, and personnel management.

Ability to:

Organize, direct, and implement comprehensive programs related to assigned to a wide variety of operations.

EXHIBIT A

CITY OF MODESTO

Parks, Recreation and Neighborhoods Operations Manager

Page 4

Ability to: (Continued)

Perform the most complex work of the assigned divisions.

Work under the pressure of deadlines; analyze, research, and solve a wide range of problems.

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

Gain cooperation through discussion and persuasion.

Effectively conduct public presentations.

Ensure project compliance with Federal, State and local rules, laws and regulations.

Interpret and apply City and department policies, procedures, rules and regulations.

Coordinate, prepare and administer multiple budgets.

Supervise, train and evaluate personnel.

Establish and maintain effective working relationships with those contacted during the course of work.

Communicate clearly and concisely, both orally and in writing.

Experience and Training Guidelines:

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

Experience:

A minimum of five years of increasingly responsible experience in park management, building/facilities maintenance and management, and/or community forestry administration including two years of supervisory responsibility.

Training:

EXHIBIT A

Equivalent to a Bachelor's degree from an accredited college or university with major coursework in landscape maintenance, parks and recreation administration, urban forestry, ornamental horticulture, biology, or a related field

License or Certificate:

Possession of, or ability to obtain, an appropriate and valid California driver's license.

Certified Playground Safety Inspection certification issued by the National Playground Safety Institute is desirable.

PHYSICAL AND MENTAL REQUIREMENTS

Mobility: frequent use of keyboard; frequent sitting for long periods of time; occasional bending or squatting. **Lifting:** frequently up to 10 pounds; occasionally up to 50 pounds. **Vision:** constant use of overall vision; frequent reading and close-up work; occasional color and depth vision. **Dexterity:** frequent repetitive motion; frequent writing; frequent grasping, holding, and reaching. **Hearing/Talking:** frequent hearing and talking, in person and on the phone. **Emotional/Psychological:** frequent decision-making and concentration; frequent public and/or coworker contact; occasional working alone. **Environmental:** frequent exposure to noise.

WORKING CONDITIONS

Work is performed in a typical temperature controlled office environment subject to typical office noise and environment. Some positions may be assigned to remote locations. Some duties involve working outside in a variety of climates. Positions require occasional overtime or weekend work and the ability to travel.

<i>Class</i>	<i>Spec</i>	<i>History</i>
Adopted		6/12
Revised		
BU		Mgt/Conf NS

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-235

RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2008-683 TO REVISE THE CLASS RANGE TABLE FOR REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES TO ADD THE SALARY RANGE FOR PARKS, RECREATION AND NEIGHBORHOODS OPERATIONS MANAGER TO SALARY RANGE 451 AND TO DELETE THE CLASSIFICATIONS OF BUILDING MAINTENANCE MANAGER, URBAN FORESTRY MANAGER AND PARKS OPERATIONS MANGER FROM SALARY RANGE 441

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 2008-683, which approved the Class Range Table for Represented Management and Confidential Non-Sworn Classes,

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

SECTION I. AMENDMENT TO RESOLUTION NO. 2008-683. Exhibit "A" entitled, "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes," **attached** to Resolution No. 2008-683, is hereby amended as shown on the amended **Exhibit "A"** entitled "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective June 12, 2012," which is **attached** hereto and made a part hereof as though set forth in full herein. Said Exhibit "A" adds the Parks, Recreation, and Neighborhoods Operations Manager to salary range 451 and deletes the Building Maintenance Manager, Urban Forestry Manager, and Parks Operations Manager from salary range 441.

SECTION II. EFFECTIVE DATE. This resolution shall become effective on and after June 12, 2012.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
CLASS RANGE TABLE
REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES
Effective June 12, 2012

RANGE	TITLE
407	Administrative Office Assistant II (Confidential)
411	Administrative Office Assistant III (Confidential)
412	Police Clerk II (Confidential)
414	Legal Secretary I
415	Administrative Services Technician I (Confidential) Senior Administrative Office Assistant (Confidential)
416	Account Technician (Confidential)
418	Legal Secretary II Systems Technician I
419	Administrative Services Technician II (Confidential) Workers' Compensation Claims Assistant
420	Deputy City Clerk Employee Benefits Coordinator Executive Assistant Senior Legal Secretary
422	Office Supervisor Systems Technician II Workers' Compensation Claims Examiner I
423	Custodian Supervisor Parking Services Supervisor
424	Buyer
425	Parking Adjudication Program Coordinator Police Facilities Coordinator Public Information Analyst
426	Assistant Planner Central Stores Supervisor Financial Analyst I Senior Systems Technician

RANGE TITLE

427 Administrative Analyst I
 Animal Control Supervisor
 Human Resources Analyst I
 Police Civilian Supervisor
 Technology Solutions Analyst I
 Workers' Compensation Claims Examiner II

428 Assistant City Clerk

430 Associate Planner
 Financial Analyst II
 Senior Buyer
 Software Analyst I
 Systems Engineer I

431 Administrative Analyst II
 Events Coordinator
 Human Resources Analyst II
 Risk and Loss Control Coordinator
 Senior Workers' Compensation Claims Examiner
 Technology Solutions Analyst II

432 Compost Facility Supervisor
 Junior Engineer
 Neighborhood Preservation Supervisor
 Operations Supervisor
 Parks Project Coordinator
 Recreation Supervisor
 Senior Crime and Intelligence Analyst
 Wastewater Collection Systems Supervisor
 Water Quality Control Plant Maintenance Supervisor

433 Water Resources Analyst

434 Customer Services Supervisor
 Financial Analyst III
 Recycling Program Coordinator
 Senior Community Development Program Specialist
 Software Analyst II
 Systems Engineer II

RANGE TITLE

- 435 Assistant Transportation Planner
 Business Analyst
 Cultural Services Program Manager
 Emergency Medical Services Coordinator
 Facility Supervisor
 Management Analyst
 Organizational Development Coordinator
 Transit Analyst
 Weed and Seed Program Coordinator
- 436 Assistant Engineer
 Deputy Fire Marshal
 Electrical Supervisor
 Environmental and Water Quality Laboratory Supervisor
 Environmental Services Supervisor
 Housing Rehabilitation Supervisor
 Senior Planner
- 437 Senior Human Resources Analyst
- 438 Associate Land Surveyor
 Integrated Waste Specialist
 Property Agent
 Public Safety Business Services Analyst
 Senior Financial Analyst
 Senior Software Analyst
 Senior Systems Engineer
 Water Distribution and Production Supervisor
- 439 Administrative Services Officer
 Associate Transportation Planner
 Senior Business Analyst
- 440 Associate Engineer
 Environmental Regulatory Compliance Administrator
 Recreation Program Manager
 Water Quality Control Operations Supervisor

RANGE TITLE

441 Events Supervisor
 Housing and Urban Development Manager
 Infrastructure Financing Program Administrator
 Parks Planning and Development Manager
 Streets Manager
 Wastewater Collections Manager

442 Budget and Financial Analysis Manager
 Construction Inspection Supervisor
 Customer Services Manager
 Principal Accountant
 Principal Software Analyst
 Principal Systems Engineer
 Purchasing Manager

443 Associate Civil/Traffic Engineer
 Senior Transportation Planner

444 Airport Manager
 Building Inspection Program Coordinator
 Building Inspection Supervisor
 Fleet Manager
 Principal Planner
 Solid Waste Program Manager
 Transit Manager

446 Assistant Chief Building Official
 Information Technology Manager
 Water Quality Control Plant Manager

447 Traffic Operations Engineer
 Water Systems Manager

RANGE	TITLE
-------	-------

450	Business Development Manager Chief Building Official Planning Manager Senior Civil Engineer
-----	--

451	Parks, Recreation and Neighborhoods Operations Manager
-----	---

452	City Engineer Traffic Engineer
-----	-----------------------------------

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-236**

**RESOLUTION AMENDING THE CLASSIFICATION PLAN FOR THE CITY OF
MODESTO TO AMEND THE CLASSIFICATION OF PUBLIC INFORMATION
ANALYST TO TITLE CHANGE TO PUBLIC INFORMATION COORDINATOR**

WHEREAS, a Position Classification Plan for the City of Modesto was adopted by Modesto City Council Resolution No. 2008-681 pursuant to Rule 2.2 of the Personnel Rules and Regulations of the City of Modesto, and

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

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

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

SECTION I. CLASSIFICATION AMENDED. The Position Classification Plan of the City of Modesto is hereby amended to revise the Public Information Analyst to title change to Public Information Coordinator.

The Public Information Coordinator job specification is being revised to more accurately reflect how the class is being utilized within the City Manager's Office. The revised Public Information Coordinator class specification, as shown in **attached Exhibit "A,"** which is made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after June 12, 2012.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

PUBLIC INFORMATION COORDINATOR

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

DEFINITION

To perform administrative functions in the development and administration of the City's community relations and public information programs; to provide strategic public affairs direction and to serve as public relations resource to the City Manager's Office; and to promote and create awareness of the operations and objectives of City government through public outreach, education programs and marketing strategies.

SUPERVISION RECEIVED AND EXERCISED

Receives direction from the City Manager, Deputy City Manager or assigned management staff.

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

Essential Functions:

Evaluate and administer the City's marketing, public information, and media communications.

Respond to inquiries and requests for information from the media, government agencies, City staff and members of the public.

Develop, write, edit, design and produce various communication materials including newsletters, brochures, fact sheets, press releases, articles, multi-media presentations, correspondence, reports, speeches, and special publications.

Oversee and/or administer the preparation, publication and distribution of internal and external newsletters, public service announcements, monthly utility bill inserts, annual reports and other communications

Confer with departments on initiatives, programs and projects; provide guidance and direction regarding strategic communication planning and implementation; may serve as a project manager.

Coordinate major press events, media management and public outreach for City events and issues.

Essential Functions (Continued)

Provide direction and counsel to Council and City management on emerging and urgent communications issues; recommend responses; assist departments with media and public relations issues.

May serve as the City's Public Information Officer during citywide emergencies to develop and direct emergency information to the media, City employees, and the general public.

Solicit bids and recommend vendors; recommend design, color, graphics and appropriate media in accordance with budget.

Plan and coordinate video presentation projects using script-writing techniques; plan and develop content for and manage the production of video, audio and commercial artwork for a variety of print, online, and multimedia publications and work products.

Collaborate with staff to identify and seek co-sponsorship community outreach opportunities.

Maintain the content of the City's website ensuring accuracy, consistency and quality by coordinating the resources of various departments.

Represent the City and/or City Manager's Office at public meetings or community events as required.

Assist in the preparation and administration of the budget and assist in agenda preparation and review.

Ensure sensitive and controversial matters are managed in a discreet and professional manner.

Build and maintain positive working relationships with co-workers, other City employees and the public using principles of good customer service.

Marginal Functions:

Perform related duties as assigned.

MINIMUM QUALIFICATIONS

Knowledge of:

Principles and practices of public relations, media, marketing and advertising.

Knowledge of: (Continued)

Public information and community relations program development and implementation.

Effective methods for preparing and presenting facts and information to the public and the media, including formatting of materials for publications and news releases.

Writing and editing techniques for a variety of audiences.

Research and problem-solving techniques.

Pertinent Federal, State and local laws, codes and regulations.

Various software programs including the ability to use Windows, Word, and desktop publishing programs.

Modern office procedures, methods, and computer equipment.

Ability to:

Perform professional public information duties to promote and market City services and programs.

Exercise independent judgment in identifying and responding to requests for information from the media and public.

Effectively function under multiple deadlines.

Interpret and explain complex information in a clear and understandable manner.

Apply City-wide and departmental policies.

Write, edit, design and photograph.

Use computer graphic systems and software to create publications and communications.

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

Communicate effectively, both orally and in writing.

Experience and Training Guidelines

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

Experience:

Minimum of three years of increasingly responsible experience involving the development and execution of a public relations or marketing program. Related public sector experience is highly desirable.

Training:

Equivalent to a Bachelor's degree from an accredited college with major course work in public relations, communications, journalism, or a related field.

License or Certificate:

Possession of, or ability to obtain, an appropriate valid California driver's license.

PHYSICAL AND MENTAL REQUIREMENTS

Mobility: frequent use of keyboard; frequent sitting for long periods of time; occasional bending or squatting. **Lifting:** frequently up to 10 pounds; occasionally up to 25 pounds. **Vision:** constant use of overall vision; frequent reading and close-up work; occasional color and depth vision. **Dexterity:** frequent repetitive motion; frequent writing; frequent grasping, holding, and reaching. **Hearing/Talking:** frequent hearing and talking, in person and on the phone. **Emotional/Psychological:** frequent decision-making and concentration; frequent public and/or coworker contact; occasional working alone. **Environmental:** frequent exposure to noise.

WORKING CONDITIONS

Work is performed in a typical temperature controlled office environment subject to typical office noise and environment. Some positions may be assigned to remote locations. Positions may require occasional overtime or weekend work and travel is rare.

<i>Class Spec History</i>	
Adopted	6/12
Revised	
BU	Mgt/Conf NS

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-237**

RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2008-683 TO REVISE THE CLASS RANGE TABLE FOR REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES TO CHANGE THE SALARY RANGE FOR PUBLIC INFORMATION COORDINATOR FROM SALARY RANGE 425 TO SALARY RANGE 435

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 2008-683, which approved the Class Range Table for Represented Management and Confidential Non-Sworn Classes,

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

SECTION I. AMENDMENT TO RESOLUTION NO. 2008-683. Exhibit "A" entitled, "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes," attached to Resolution No. 2008-683, is hereby amended as shown on the amended **Exhibit "A"** entitled "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective June 12, 2012," which is **attached** hereto and made a part hereof as though set forth in full herein. Said Exhibit "A" changes the salary range for Public Information Coordinator from salary range 425 to salary range 435.

SECTION II. EFFECTIVE DATE. This resolution shall become effective on and after June 12, 2012.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
CLASS RANGE TABLE
REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES
Effective **June 12, 2012**

RANGE	TITLE
407	Administrative Office Assistant II (Confidential)
411	Administrative Office Assistant III (Confidential)
412	Police Clerk II (Confidential)
414	Legal Secretary I
415	Administrative Services Technician I (Confidential) Senior Administrative Office Assistant (Confidential)
418	Legal Secretary II Systems Technician I
419	Administrative Services Technician II (Confidential) Workers' Compensation Claims Assistant
420	Deputy City Clerk Employee Benefits Coordinator Executive Assistant Senior Legal Secretary
422	Office Supervisor Systems Technician II Workers' Compensation Claims Examiner I
423	Custodian Supervisor Parking Services Supervisor
424	Buyer
425	Police Facilities Coordinator Public Information Analyst
426	Assistant Planner Central Stores Supervisor Financial Analyst I Senior Systems Technician
427	Administrative Analyst I Animal Control Supervisor

EXHIBIT A

RANGE TITLE

Human Resources Analyst I
Police Civilian Supervisor
Technology Solutions Analyst I
Workers' Compensation Claims Examiner II

428 Assistant City Clerk

430 Associate Planner
Financial Analyst II
Senior Buyer
Software Analyst I
Systems Engineer I

431 Administrative Analyst II
Events Coordinator
Human Resources Analyst II
Risk and Loss Control Coordinator
Senior Workers' Compensation Claims Examiner
Technology Solutions Analyst II

432 Compost Facility Supervisor
Junior Engineer
Neighborhood Preservation Supervisor
Operations Supervisor
Parks Project Coordinator
Recreation Supervisor
Senior Crime and Intelligence Analyst
Wastewater Collection Systems Supervisor
Water Quality Control Plant Maintenance Supervisor

433 Water Resources Analyst

434 Customer Services Supervisor
Financial Analyst III
Recycling Program Coordinator
Senior Community Development Program Specialist
Software Analyst II
Systems Engineer II

435 Assistant Transportation Planner
Business Analyst

RANGE TITLE

Cultural Services Program Manager
Emergency Medical Services Coordinator
Facility Supervisor
Management Analyst
Organizational Development Coordinator
Public Information Coordinator
Transit Analyst
Weed and Seed Program Coordinator

436 Assistant Engineer
Deputy Fire Marshal
Electrical Supervisor
Environmental and Water Quality Laboratory Supervisor
Housing Rehabilitation Supervisor
Senior Planner

437 Senior Human Resources Analyst

438 Associate Land Surveyor
Integrated Waste Specialist
Property Agent
Public Safety Business Services Analyst
Senior Financial Analyst
Senior Software Analyst
Senior Systems Engineer
Water Distribution and Production Supervisor

439 Administrative Services Officer
Associate Transportation Planner
Senior Business Analyst

440 Associate Engineer
Environmental Regulatory Compliance Administrator
Recreation Program Manager
Water Quality Control Operations Supervisor

RANGE TITLE

- 441 Building Maintenance Manager
 Events Supervisor
 Housing and Urban Development Manager
 Infrastructure Financing Program Administrator
 Parks Operations Manager
 Parks Planning and Development Manager
 Streets Manager
 Urban Forestry Manager
 Wastewater Collections Manager

- 442 Budget and Financial Analysis Manager
 Construction Inspection Supervisor
 Customer Services Manager
 Principal Accountant
 Principal Software Analyst
 Principal Systems Engineer
 Purchasing Manager

- 443 Associate Civil/Traffic Engineer
 Senior Transportation Planner

- 444 Airport Manager
 Building Inspection Program Coordinator
 Building Inspection Supervisor
 Fleet Manager
 Principal Planner
 Solid Waste Program Manager
 Transit Manager

- 446 Assistant Chief Building Official
 Information Technology Manager
 Water Quality Control Plant Manager

- 447 Traffic Operations Engineer
 Water Systems Manager

RANGE	TITLE
-------	-------

450	Business Development Manager Chief Building Official Planning Manager Senior Civil Engineer
-----	--

452	City Engineer Traffic Engineer
-----	-----------------------------------

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-238**

**RESOLUTION APPROVING A LETTER OF UNDERSTANDING BETWEEN
THE CITY OF MODESTO AND MODESTO CITY FIRE FIGHTERS'
ASSOCIATION TO AMEND THE 2006 MOU TO PROVIDE COMPENSATION
FOR EMPLOYEES IN THE FIRE FIGHTER RELIEF ASSIGNMENT**

WHEREAS, on December 12, 2006, the City Council, by Resolution No. 2006-783, approved a Memorandum of Understanding (MOU) with the Modesto City Fire Fighters' Association (MCFFA), and

WHEREAS, the Modesto Regional Fire Authority (MRFA) management has met and conferred with MCFFA to provide compensation for employees in the Fire Fighter relief assignment.

WHEREAS, this change will implement the parties agreement to allow MRFA to provided employees assigned as Relief Firefighters an additional two and one-half percent (2.5%) in compensation which was inadvertently omitted in the 2006 MOU.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Letter of Understanding between the City of Modesto and Modesto City Fire Fighters' Association to amend the 2006 MOU to provide employees assigned as Relief Fire Fighters an additional two and one-half percent (2.5%) in compensation.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-239**

A RESOLUTION AUTHORIZING THE SOLE SOURCE PROCUREMENT FOR THE PURCHASE OF AXON FLEX CAMERA VIDEO RECORDER PUBLIC SAFETY EQUIPMENT FOR THE MODESTO POLICE DEPARTMENT, TO TASER INTERNATIONAL, INC., SCOTTSDALE, AZ; AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE A PURCHASE ORDER FOR AN ESTIMATED TOTAL COST OF \$127,568

WHEREAS, law enforcement agencies throughout the country are using in-car videos to document interactions between law enforcement officers and citizens, and

WHEREAS, the newest and more efficient technology available today is to have officers wear recordable video and audio cameras, and

WHEREAS, these cameras can be utilized at any location and have many key benefits such as reducing citizen complaints, enhancing criminal convictions, streamlining investigations, and improving trust with the community, and

WHEREAS, utilizing this program funding to purchase the camera video recorders would be a vital asset to the Modesto Police Department, and

WHEREAS, extensive research, planning, and field testing began in May of 2011, and

WHEREAS, after months of field testing by Modesto Police Officers, and consultation with Information Technology and administration, the Taser AXON Flex body worn camera has been selected as the preferred body worn camera system for the department, and

WHEREAS, Taser International is the sole manufacturer and distributor of the Taser AXON Flex body worn camera system to law enforcement agencies, and

WHEREAS, a Grant Adjustment Notice was submitted and approved by US Department of Justice for the Sole Source Authorization, and

WHEREAS, on September 27, 2011, by Resolution 2011-391, Council approved the Edward Byrne Memorial Justice Assistance Grant and using the City of Modesto Police Department's allocation of \$127,568 to purchase wearable recording devices, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. However, there are exceptions to the rule set forth in the Modesto Municipal Code. One exception, MMC Section 8-3.204(b) states whereas the purchasing agencies' requirements can be met solely by a single article or process; the sole source procurement for the purchase of Axon Flex Camera Video Recorder Public Safety Equipment for the Modesto Police Department, to Taser International, Inc., Scottsdale, AZ, conforms to the Modesto Municipal Code,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the sole source procurement for the purchase of AXON Flex Camera Video Recorder Public Safety Equipment for the Modesto Police Department, to TASER International, Inc., Scottsdale, AZ,

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase order for an estimated total cost of \$127,568.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-240

RESOLUTION APPROVING NEIGHBORHOOD STABILIZATION PROGRAM 3 MEMORANDUMS OF UNDERSTANDING WITH THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS, HABITAT FOR HUMANITY, STANISLAUS COUNTY AND STANISLAUS COUNTY AFFORDABLE HOUSING CORPORATION; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN ALL RELATED DOCUMENTS CONTINGENT UPON THE SATISFACTORY COMPLETION OF ENVIRONMENTAL REVIEW AND RECEIPT BY CITY OF MODESTO OF A RELEASE OF FUNDS FROM THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT UNDER 24 CFR PART 58

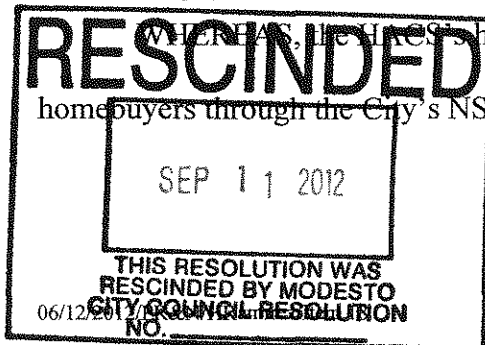
WHEREAS, on February 8, 2011, the City Council, by Resolution No. 2011-41, approved the Neighborhood Stabilization Program 3 (NSP3) grant award in the amount of \$2,951,549, and

WHEREAS, the U.S. Department of Housing and Urban Development (HUD) approved the City's original NSP3 Plan on March 9, 2011, and

WHEREAS, on May 22, 2012, the City Council, by Resolution No. 2012-200, authorized staff to prepare sub-recipient and developer agreements with the Housing Authority of the County of Stanislaus (HACS), Habitat for Humanity, Stanislaus County (Habitat) and Stanislaus County Affordable Housing Corporation (STANCO), respectively, to implement the NSP3 Plan, and

WHEREAS, the City will provide NSP3 funding to its partners in the form of forgivable and/or assumable acquisition and construction loans for each unit and will impose affordability restrictions on these units for a period of at least 20 years, and

Partial
WHEREAS, the HACS homeownership units will be sold to eligible homebuyers through the City's NSP Homebuyer Program, and



Only as it applies to a Neighborhood Stabilization Program 3 (NSP3) MOU with the Housing Authority of the County of Stanislaus dated June 12, 2012

WHEREAS, the program income received from the HACS sales will be recycled by the City for future eligible homebuyer loans, and

WHEREAS, Habitat's homeownership units will be sold to eligible homebuyers through Habitat for Humanity's Homebuyer Program in which homebuyers assume no-interest, amortized loans with Habitat as lender, and

WHEREAS, Habitat will retain the proceeds from the monthly mortgage payments, and

WHEREAS, rental proceeds will be retained by HACS or STANCO as net operating income to operate, maintain, and repair the units, and

WHEREAS, the draft MOU's were reviewed by the Citizens' Housing and Community Development Committee on May 16, 2012,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the NSP3 Memorandums of Understanding with the Housing Authority of the County of Stanislaus, Habitat for Humanity, Stanislaus County and Stanislaus County Affordable Housing Corporation.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to sign all related documents contingent upon the satisfactory completion of environmental review and receipt by City of Modesto of a release of funds from the U.S. Department of Housing and Urban Development under 24 CFR Part 58.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-241**

RESOLUTION APPROVING A SECOND AMENDMENT TO THE LEASE AGREEMENT WITH LOUIS BOER, JR., TO EXTEND THE LEASE OF CITY-OWNED PROPERTY LOCATED AT THE NORTHWEST CORNER OF FRAZINE ROAD AND LA COSTE LANE FOR AN ADDITIONAL FIVE YEARS, AND TO MODIFY THE PAYMENT REMITTANCE PROCESS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE SECOND AMENDMENT TO THE AGREEMENT

WHEREAS, the Frazine Road property is an agricultural land parcel of approximately twelve (12) acres and located at the northwest corner of Frazine Road and La Coste Lane, and

WHEREAS, property was acquired by the City of Modesto as part of a larger purchase of acreage to supply land for the Regional Water Treatment Plant storage tanks known as the Terminal Reservoir, and

WHEREAS, on May 23, 2006, by Resolution No. 2006-327, City Council approved a lease agreement with Louis Boer, Jr., and

WHEREAS, said lease will expire on May 29, 2012, and

WHEREAS, this second amendment will extend the lease agreement for another five-year term and to modify the payment remittance process for the property taxes and MID irrigation fees.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Second Amendment to the Agreement with Louis Boer, Jr., to extend the lease of city-owned property located at the northwest corner of Frazine Road and La Coste Lane for an additional five years, and to modify the payment remittance process.

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

The foregoing resolution was introduced at regular meeting of the Council of the City of Modesto held on the 12th day of June by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-242**

RESOLUTION APPROVING A CONSULTANT AGREEMENT WITH NORTHSTAR ENGINEERING GROUP, INC. FOR PRELIMINARY DESIGN REPORT FOR DEL RIO TANK, PUMP STATION, AND NEW WELL IN AN AMOUNT NOT TO EXCEED \$143,989 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS \$14,399 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF \$158,388, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City owns and operates the outlying water system in the community of Del Rio, located in Stanislaus County, and

WHEREAS, a hydraulic assessment of this system was performed in order to evaluate the system's ability to meet the community's current and build-out demands, and

WHEREAS, this assessment identified the need to construct a new 1000 gallon per minute domestic well, 250,000 gallon storage tank, and 1 million gallon per day booster pump station in order to correct existing deficiencies in the system, and

WHEREAS, in addition, the City is obligated to provide these improvements by July 15, 2013 in accordance with the terms of a Settlement Agreement between the City and the Del Rio Community Association, and

WHEREAS, in accordance with the Public Works Department Major Scope Policy approved on September 26, 2006, all projects exceeding \$1,000,000 are required to be presented at Council at the Preliminary Design Report stage if the projected cost estimate is expected to exceed the approved project budget by more than 10%, and

WHEREAS, given the unique and specialized expertise required for design of tanks and pump stations, it was determined that a consultant would be necessary to provide design services for this project, and

WHEREAS, the scope of services to be provided under this agreement includes completing 35% design services for the project and summarizing the design and cost estimate in a Preliminary Design Report (PDR), and

WHEREAS, upon completion, this report will be presented to City Council for acceptance, and

WHEREAS, it is then intended to execute a consultant agreement in order to prepare final design documents which will be bid for construction, and

WHEREAS, in compliance with Administrative Directive 3.1, Selection Procedures for Professional Consultants who Provide Architectural and Engineering Services for Capital Projects, approval was granted from the Director of Utility Planning & Projects to issue a combined Request for Qualifications and Request for Proposal (RFQ / RFP), and

WHEREAS, these RFQ/RFP's were mailed to 111 civil engineering firms, both local and non-local, and

WHEREAS, of those 111 firms, the City received 8 responses, and

WHEREAS, the selection committee, consisting of two UP&P Engineering staff and one Public Works Operations supervisor, reviewed all 8 of the submitted Statements of Qualifications and Proposals, and narrowed the selection to four consultants, and

WHEREAS, these top four firms were then selected to interview with the City, and

WHEREAS, NorthStar Engineering (NorthStar) was determined to be the most qualified consultant of the four firms to provide the required services for the project, and

WHEREAS, following this determination by the selection committee, a final consultant agreement scope, cost and schedule were negotiated with NorthStar, and

WHEREAS, as part of the RFQ/RFP, all responding consultants were required to indicate the total percentage of their estimated cost that would be applied to local firms, and

WHEREAS, in accordance with Administrative Directive 3.1, this percentage of local participation was then used as one of the scoring criteria in review of the RFQ/RFP, and

WHEREAS, NorthStar is a local firm, and is using local subconsultants for electrical design and geotechnical engineering services, and

WHEREAS, NorthStar has included a larger, non-local firm, Carollo Engineers, Inc. for purposes of providing peer review of their work product, and

WHEREAS, Based on the final negotiated cost of the agreement, 91.0% of the total agreement cost will be paid to local firms, and

WHEREAS, City staff recommends approving a Consultant Agreement with NorthStar for preparation of Preliminary Design Report for Del Rio Tank, Pump Station, and New Well as the City does not have the staffing level to complete the PDR for the Del Rio Tank, Pump Station, and New Well project, and current workload levels do not provide for timely in-house solutions/responses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Consultant Agreement for Preliminary Design Reports for Del Rio Tank, Pump Station, and New Well with NorthStar Engineering Group, Inc. for an

amount not to exceed \$143,989 for the identified scope of services, plus \$14,399 for additional services (if needed), for a maximum total amount of \$158,388.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Cogdill,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-243**

**RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF
MODESTO AND SUE FISCOE, DBA FISCOE MANAGEMENT, AUTHORIZING
THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE
AGREEMENT; AND RESCINDING RESOLUTION NO. 2011-275**

WHEREAS, the City of Modesto owns, operates and manages the Municipal Golf Course (“Muni”), Dryden Park Municipal Golf Course (“Dryden Course”), Dryden Park Municipal Golf Course Driving Range (“Dryden Range”), Creekside Municipal Golf Course (“Creekside Course”) and Creekside Municipal Golf Course Driving Range (“Creekside Range”), and

WHEREAS, on April 28, 2009, the City Council, by Resolution No. 2009-185, approved an agreement between the City of Modesto and FM Golf retaining FM Golf as golf course professional to provide golf professional services at Muni Golf Course, Dryden Course, Dryden Range, Creekside Course, Creekside Range, and to provide concession services at Municipal Course, Dryden Course Clubhouse and Creekside Clubhouse, and

WHEREAS, on March 24, 2011, an amendment to the above-mentioned agreement between the City of Modesto and FM Golf was approved by the City Manager to incorporate management changes through June 30, 2011 and to then revert back to all original language of the April 2009 agreement, and

WHEREAS, on July 12, 2011, the City Council, by Resolution No. 2011-275, approved a new agreement between the City of Modesto and FM to retain FM as golf course professional services at Dryden Course, Dryden Range, Creekside Course,

Creekside Range, and to provide concession services at Dryden Course Clubhouse and Creekside Clubhouse, and

WHEREAS, a new agreement between the City of Modesto and FM Golf is required to retain FM Golf as golf course professional to provide golf professional services and golf management services at Dryden Course, Dryden Range, Creekside Course, Creekside Range, and to provide concession services at Dryden Course Clubhouse and Creekside Clubhouse, and

WHEREAS, the City and FM have agreed to a two (2) year contract with two additional five (5) year extension options, and

WHEREAS, on June 2, 2009, the City Council, by Resolution No. 2009-236, established new green fee rates at all three Modesto Municipal golf courses, and

WHEREAS, on May 24, 2011, the City Council, by Resolution No. 2011-178, granted the Director of Parks, Recreation & Neighborhoods Department the authority to offer or approve golf specials at the City of Modesto golf courses, and

WHEREAS, the City desires that green fee rates be set by the contracted golf course professionals at the City of Modesto golf courses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement between the City of Modesto and Susan Fiscoe, dba Fiscoe Management to provide golf professional services and golf management services at Dryden Course, Dryden Range, Creekside Course and Creekside Range and to provide concession services at Dryden Course Clubhouse and Creekside Clubhouse effective July 1, 2012.

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

BE IT FURTHER RESOLVED that Resolution No. 2011-275 is hereby rescinded removing the authority of the City of Modesto set green fee rates effective July 1, 2012.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2012, by Councilmember Burnside, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-244

**A RESOLUTION APPROVING BUDGET GOALS AND BUDGET PRINCIPLES
AS OUTLINED IN THE MAYOR'S BUDGET MESSAGE AND
RECOMMENDED BY THE CITY COUNCIL FINANCE COMMITTEE AS
PART OF THE FY 2012-2013 BUDGET DEVELOPMENT PROCESS**

WHEREAS, as part of the Mayor's Proposed Budget for FY 2012-2013, the Mayor included Proposed Budget Goals and Budget Principles for the Council's consideration, and

WHEREAS, each year the City Council's Finance Committee makes recommendations regarding the upcoming Fiscal Year operating budget and capital improvement program, and

WHEREAS, in the development of the FY 2012-2013 operating budget, the Finance Committee reviewed and recommended for City Council consideration the **attached** Proposed Budget Goals and Budget Principles,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Proposed Budget Goals and Budget Principles as shown in **Attachments 4 and 5**, which are incorporated by reference herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of June, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh


NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

FY 2012-13 Proposed Budget Goals

Focus resources on vital public services.

Continue efforts which will result in long-term structural budget changes.

Reduce deferred maintenance.

Increase the City's economic opportunities.

Recommended Budget Principles

1. Annually Adopt a Structurally Balanced Budget

A structurally balanced budget means on-going revenues and on-going expenditures are in balance with on-going revenues meeting or exceeding expenditures during the same time period. If a structural imbalance occurs, a plan must be developed and implemented to bring the budget back into balance.

2. Use of One-Time Resources

Once brought into balance, one-time revenues (excess reserves about reasonable risk calculations, revenue spikes, prior year budget savings, sale of property, etc) shall not be used for current or new on-going operating costs. Examples of appropriate uses of one-time revenues include early retirement of debt, capital expenditures without significant operating or maintenance costs, and other non-reoccurring expenditures.

3. Budget Revisions

New programs, services, or staffing requests are considered in light of the Council's priorities and shall include a spending offset at the time of the request so that the request has a net-zero impact on the budget.

4. Reserves

All City funds must maintain an adequate reserve level and/or ending fund balance as determined annually as appropriate for each fund. For the General Fund, the contingency reserve amount, which a minimum of 8% of the operating budget shall be maintained. Any use of the General Fund contingency reserve will require a majority vote of the Council.

5. Debt Issuance

Long-term General Fund debt will not be incurred to support on-going operating costs (other than debt service) unless such issuance achieves net operating cost savings and such savings can be independently verified. All General Fund debt issuances shall identify a method of repayment or have a dedicated revenue source.

6. Employee Compensation

Recognizing that employees are the City's major resource, negotiations for employee compensation shall focus on the total compensation costs (e.g. increases in salary, steps, and benefit costs) while considering the City's fiscal condition, revenue growth, and changes in the cost of living.

7. Capital Improvement Projects

Capital Improvement Projects shall not proceed for projects with annual operating and maintenance costs in the General Fund without City Council certification that funding will be available in the applicable year of the cost impact. Certification shall demonstrate that the entire cost of the project, including operating and maintenance costs, will not require a decrease in the City's core services.

8. Fees and Charges

The development of fees and fee increases shall be utilized where appropriate to assure fee program costs are fully recovered by fee revenue.

9. Grants

Staff will seek out, apply for, and effectively administer grants that address the City's priorities, policy objectives, and provide an overall positive benefit to the City. Before a grant is pursued, staff shall provide a detailed fiscal analysis addressing both the immediate and long-term costs and benefits of the grant. With the exception of pilot projects, one-time grant revenues shall not be used to begin or support the costs of on-going programs.

10. General Plan

The General Plan is the primary long-term fiscal planning tool. Recommendations to create new development capacity beyond the existing General Plan shall be analyzed to ensure that capital improvements and operating/maintenance costs are within the City's financial capabilities.

11. Performance Measurement

All requests for funding shall include performance measure data so funding requests can be reviewed and approved in light of anticipated service level outcomes.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-245**

**A RESOLUTION APPOINTING GILLIAN WEGENER AS THE POET
LAUREATE OF THE CITY OF MODESTO FOR A TWO-YEAR TERM FROM
JULY 1, 2012 THROUGH JUNE 30, 2014**

WHEREAS, on July 13, 1993, by Resolution No. 93-412, the City Council established a non-salaried honorary position to be known as "The Poet Laureate of the City of Modesto", and

WHEREAS, the Culture Commission has the responsibility for nominating and recommending appointments to the Poet Laureate position, and

WHEREAS, the purpose of a Poet Laureate is to present original poems at various official occasions, and

WHEREAS, a copy of the City of Modesto Policy regarding said non-salaried honorary Poet Laureate position is on file in the office of the City Clerk, and

WHEREAS, the Culture Commission met on March 26, 2012 and concluded that Gillian Wegener met the criteria for fulfilling the obligations as Poet Laureate of the City of Modesto, and

WHEREAS, the Culture Commission recommended the appointment of Gillian Wegener as Poet Laureate of the City of Modesto, and

WHEREAS, the Safety and Communities Committee met on May 7, 2012 and supported the Culture Commission's recommendation to appoint Gillian Wegener as the City of Modesto's Poet Laureate, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the appointment of Gillian Wegener as the Poet Laureate of the City of Modesto from July 1, 2012 through June 30, 2014.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-246**

**RESOLUTION APPOINTING PHILIP S. ANSELMO TO THE EQUAL
OPPORTUNITY / DISABILITY COMMISSION**

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

WHEREAS, the Economic Development Committee met on June 11, 2012, and recommended appointment of Philip S. Anselmo to the Equal Opportunity/Disability Commission.

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

SECTION 1. PHILIP S. ANSELMO is hereby appointed to the Equal Opportunity / Disability Commission with a term expiration of January 1, 2016.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed member of the Equal Opportunity/Disability Commission, and the Secretary thereof.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Stephanie Lopez
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: S Wood
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-247

RESOLUTION APPROVING THE REAPPOINTMENT OF JEFFREY R.
DARNELL TO THE AIRPORT ADVISORY COMMITTEE

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

WHEREAS, whereas the City Council approved, by Resolution Number 2011-402, the appointment of Jeffrey R. Darnell to the Airport Advisory Committee for a term ending June 30, 2012, and

WHEREAS, Jeffrey R. Darnell has expressed interest in continuing to serve as a member of the Airport Advisory Committee,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Jeffrey R. Darnell is hereby reappointed to the Airport Advisory Committee with a term expiration of June 30, 2016.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez,
Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-248

RESOLUTION AMENDING THE FISCAL YEAR 2011-2012 ANNUAL
OPERATING BUDGET

WHEREAS, a financial analysis has been completed and it has been determined that a budget adjustment is required to the Annual Budgets of the City of Modesto for Fiscal Year 2011-2012,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2011-2012 annual operating budget as shown in **Exhibit A**, which is **attached** hereto and incorporated by reference herein.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez,
Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

(SEAL)


STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

COMMUNITY AND ECONOMIC DEVELOPMENT

The Capital Improvement Project Task Force approved \$1,300,000 in Right-of-Way match funding for the Pelandale Interchange at SR99 project. An adjustment is necessary to appropriate these funds from the Capital Facilities Fees – Streets Fund Reserves.

PUBLIC WORKS

A budget adjustment is necessary to appropriate \$292,500 from Storm Drain Reserves to Capital Improvement Project 100697, Maze/Emerald Flooding Solution, for Engineering to fund the construction of a French drain to accommodate flooding issues at the intersection of Maze Boulevard and Emerald Avenue.

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-249

RESOLUTION AMENDING THE FISCAL YEAR 2011-2012 ANNUAL
OPERATING BUDGET

WHEREAS, a financial analysis has been completed and it has been determined that a budget adjustment is required to the Annual Budgets of the City of Modesto for Fiscal Year 2011-2012,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2011-2012 annual operating budget as shown in Exhibit A, which is attached hereto and incorporated by reference herein.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)
APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

City of Modesto General Fund Mid-Year Budget Adjustments						
Account Number	Rev/Exp	Account Name	Department	Current Budget	Adjustment	Revised Budget
0100-05010-43610	Revenue	Legal Notice Fees	City Clerk	\$ -	\$ 1,207	\$ 1,207
0100-05010-47005	Revenue	Miscellaneous Revenue	City Clerk	\$ -	\$ 878	\$ 878
			City Clerk Total	\$ -	\$ 2,085	\$ 2,085
0100-1110-45004	Revenue	Interfund Charges - Service Credit Labor Charges	Community & Economic Dev	\$ 146,437	\$ (46,437)	\$ 100,000
0100-1110-47005	Revenue	Miscellaneous Revenue	Community & Economic Dev	\$ -	\$ 13,330	\$ 13,330
0100-14210-43201	Revenue	Plan Checking Fees	Community & Economic Dev	\$ 325,000	\$ (318,107)	\$ 6,893
0100-14210-43202	Revenue	Zoning/Admin Approval Fees	Community & Economic Dev	\$ -	\$ 1,500	\$ 1,500
0100-14210-43250	Revenue	Building Fee - All Inclusive	Community & Economic Dev	\$ 30,000	\$ (10,000)	\$ 20,000
0100-14210-43251	Revenue	Building Inspections	Community & Economic Dev	\$ 683,273	\$ (658,650)	\$ 24,623
0100-14210-43252	Revenue	Plumbing Inspections	Community & Economic Dev	\$ 69,066	\$ (65,341)	\$ 3,725
0100-14210-43253	Revenue	Electrical Inspections	Community & Economic Dev	\$ 111,298	\$ (105,984)	\$ 5,314
0100-14210-43254	Revenue	Heating/Cooling Code Inspections	Community & Economic Dev	\$ 87,967	\$ (84,643)	\$ 3,324
0100-14210-43260	Revenue	Residential Permits - Single Family Units	Community & Economic Dev	\$ -	\$ 13,115	\$ 13,115
0100-14210-43261	Revenue	Residential Permits - Multi-Family Units	Community & Economic Dev	\$ -	\$ 52,803	\$ 52,803
0100-14210-43262	Revenue	Residential Additions and Remodel Permits	Community & Economic Dev	\$ -	\$ 62,950	\$ 62,950
0100-14210-43263	Revenue	New Commercial Permits	Community & Economic Dev	\$ -	\$ 179,351	\$ 179,351
0100-14210-43264	Revenue	Commercial Additions and Remodel Permits	Community & Economic Dev	\$ -	\$ 111,356	\$ 111,356
0100-14210-43265	Revenue	Miscellaneous Permits	Community & Economic Dev	\$ -	\$ 808,150	\$ 808,150
0100-14210-43604	Revenue	Copying Fees	Community & Economic Dev	\$ 50	\$ (30)	\$ 20
0100-14210-45004	Revenue	Interfund Charges - Service Credit Labor Charges	Community & Economic Dev	\$ 42,106	\$ (15,893)	\$ 26,213
0100-14220-43280	Revenue	Vacant Properties Ordinance Registration Fee	Community & Economic Dev	\$ 145,000	\$ (20,000)	\$ 125,000
0100-14220-43521	Revenue	NPU Re-Inspection Fees	Community & Economic Dev	\$ 100	\$ 400	\$ 500
0100-14220-45004	Revenue	Interfund Charges - Service Credit Labor Charges	Community & Economic Dev	\$ 92,317	\$ (32,317)	\$ 60,000
0100-14220-46505	Revenue	Compliance Order Fines	Community & Economic Dev	\$ 40,000	\$ (11,000)	\$ 29,000
0100-14310-43205	Revenue	Land Division Fees	Community & Economic Dev	\$ 105,000	\$ (81,022)	\$ 23,978
0100-14310-43208	Revenue	Map Checking Fees	Community & Economic Dev	\$ 15,500	\$ (3,820)	\$ 11,680
0100-14310-43259	Revenue	Legal Description Check	Community & Economic Dev	\$ -	\$ 520	\$ 520
0100-14310-43342	Revenue	Inspection	Community & Economic Dev	\$ -	\$ 1,520	\$ 1,520
0100-14310-43809	Revenue	Will Serve Letter Fee - Water	Community & Economic Dev	\$ -	\$ 1,840	\$ 1,840
0100-14310-43856	Revenue	Outside City Sewer Agreements	Community & Economic Dev	\$ 2,000	\$ 1,600	\$ 3,600
0100-14310-43860	Revenue	Stormwater Quality Review	Community & Economic Dev	\$ -	\$ 3,196	\$ 3,196
0100-14310-43861	Revenue	Will Serve Letter Fee - Sewer	Community & Economic Dev	\$ -	\$ 1,840	\$ 1,840
0100-14310-44023	Revenue	Permits - Removal	Community & Economic Dev	\$ 8,000	\$ 1,240	\$ 9,240
0100-14310-44025	Revenue	Permits - Encroachment	Community & Economic Dev	\$ 35,000	\$ 2,278	\$ 37,278
0100-14410-45004	Revenue	Interfund Charges - Service Credit Labor Charges	Community & Economic Dev	\$ 909,526	\$ (309,526)	\$ 600,000
0100-14410-47005	Revenue	Miscellaneous Revenue	Community & Economic Dev	\$ 6,391	\$ (941)	\$ 5,450
0100-14410-43201	Revenue	Plan Checking Fees	Community & Economic Dev	\$ 5,040	\$ (5,040)	\$ -
0100-14410-43202	Revenue	Zoning/Admin Approval Fees	Community & Economic Dev	\$ 83,175	\$ (29,169)	\$ 54,006
0100-14410-43203	Revenue	Environmental Review Fees	Community & Economic Dev	\$ 7,770	\$ (5,298)	\$ 2,472
0100-14410-43204	Revenue	General Plan/Specific Plan	Community & Economic Dev	\$ 69,257	\$ (61,725)	\$ 7,532
0100-14410-43205	Revenue	Land Division Fees	Community & Economic Dev	\$ 22,805	\$ (10,481)	\$ 12,324
0100-14410-43206	Revenue	Annexation Fees	Community & Economic Dev	\$ 9,666	\$ (9,666)	\$ -
0100-14410-43257	Revenue	General Plan Maintenance Fee	Community & Economic Dev	\$ -	\$ 15,100	\$ 15,100
0100-14410-43258	Revenue	Time and Materials Fees	Community & Economic Dev	\$ 88,490	\$ (44,000)	\$ 44,490
0100-14410-43604	Revenue	Copying Fees	Community & Economic Dev	\$ -	\$ 50	\$ 50
0100-14410-44027	Revenue	Permits - Miscellaneous Fees	Community & Economic Dev	\$ 4,972	\$ (2,704)	\$ 2,268
0100-14410-45004	Revenue	Interfund Charges - Service Credit Labor Charges	Community & Economic Dev	\$ 186,137	\$ (46,005)	\$ 140,132
0100-14410-47005	Revenue	Miscellaneous Revenue	Community & Economic Dev	\$ -	\$ 7,050	\$ 7,050
			Community & Economic Dev Total	\$ 3,331,343	\$ (698,610)	\$ 2,632,733
0100-12110-43603	Revenue	Revenue Bond Admin Fees	Finance	\$ 1	\$ 24,999	\$ 25,000
0100-12430-47071	Revenue	Collection Fee	Finance	\$ 20,000	\$ 2,500	\$ 22,500
0100-12440-43602	Revenue	Payoff Demand Fees	Finance	\$ 4,001	\$ 5,999	\$ 10,000
0100-12440-47071	Revenue	Collection Fee	Finance	\$ 5,000	\$ 2,500	\$ 7,500
0100-12510-47005	Revenue	Miscellaneous Revenue	Finance	\$ 4,000	\$ 3,997	\$ 7,997
			Finance Total	\$ 33,002	\$ 39,995	\$ 72,997
0100-90001-41101	Revenue	Property Tax- CY Secured Taxes	General	\$ 10,272,900	\$ 200,000	\$ 10,472,900
0100-90001-41201	Revenue	Sales and Use Taxes	General	\$ 17,680,037	\$ 875,000	\$ 18,555,037
0100-90001-41202	Revenue	Tripleflip Sales Tax	General	\$ 6,401,311	\$ 125,000	\$ 6,526,311
0100-90001-41402	Revenue	Mill Tax	General	\$ 7,648,207	\$ 225,000	\$ 7,873,207
0100-90001-42157	Revenue	VLF Swap Adjustment	General	\$ 12,008,914	\$ 200,000	\$ 12,208,914
			General Total	\$ 54,011,369	\$ 1,625,000	\$ 55,636,369
0100-35220-53110	Expense	Repair and Maintenance Services - Vandalism	Parks, Recreation & Neighborhoods	\$ -	\$ 112,783	\$ 112,783
			Parks, Recreation & Neighborhoods Total	\$ -	\$ 112,783	\$ 112,783
0100-19110-43356	Revenue	Police Services Reimbursement	Police	\$ -	\$ 16,013	\$ 16,013
0100-19220-42301	Revenue	County Contribution	Police	\$ -	\$ 32,391	\$ 32,391
0100-19305-43355	Revenue	Police Smart Reimbursement	Police	\$ -	\$ 3,973	\$ 3,973
0100-19310-43304	Revenue	Contract Police Services	Police	\$ 85,000	\$ 150,000	\$ 235,000
0100-19340-42040	Revenue	Department of Justice	Police	\$ 8,750	\$ (8,750)	\$ -
0100-19420-42412	Revenue	POST	Police	\$ 80,000	\$ (15,000)	\$ 65,000
0100-19420-42419	Revenue	POST Reimbursement	Police	\$ 10,400	\$ (10,400)	\$ -
			Police Total	\$ 184,150	\$ 168,227	\$ 352,377
			Grand Total	\$ 57,559,864	\$ 1,249,480	\$ 58,809,344

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-250

RESOLUTION AMENDING THE FISCAL YEAR 2012-2013 ANNUAL
OPERATING BUDGET

WHEREAS, a recommendation was made when the Fiscal Year 2012-2013 budget was adopted on June 21, 2012, and it has been determined that budget adjustments are required to the Annual Budget of the City of Modesto for Fiscal Year 2012-2013,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2012-2013 annual operating budget as shown in **Exhibit A**, which is **attached** hereto and incorporated by reference herein.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

City of Modesto Budget Adjustment - Recommended at Adoption Meeting				
Rev/Exp	Account Name	Department/Fund	Adjustment-Inc/(Dec)	Description
Expense	Budget Only - Salary Adjustment - Increase	Police/General Fund	\$ 327,535	Restore five (5) Police Officer positions
Expense	Budget Only - Benefit Adjustment - Increase	Police/General Fund	\$ 200,875	Restore five (5) Police Officer positions
Expense	Budget Only - Salary Adjustment - Increase	Police/General Fund	\$ 88,109	Restore one (1) Police Sergeant position
Expense	Budget Only - Benefit Adjustment - Increase	Police/General Fund	\$ 50,218	Restore one (1) Police Sergeant position
Expense	Budget Only - Salary Adjustment - Decrease	Police/General Fund	\$ (36,754)	Eliminate one (1) Police Clerk II position
Expense	Budget Only - Benefit Adjustment - Decrease	Police/General Fund	\$ (13,432)	Eliminate one (1) Police Clerk II position
Expense	Budget Only - Salary Adjustment - Decrease	Parks, Recreation & Neighborhoods/GF	\$ (23,707)	Eliminate .75 Admin Office Asst position
Expense	Budget Only - Benefit Adjustment - Decrease	Parks, Recreation & Neighborhoods/GF	\$ (15,804)	Eliminate .75 Admin Office Asst position
Expense	Budget Only - Salary Adjustment - Increase	Parks, Recreation & Neighborhoods/GF	\$ 20,246	Restore PR&N funding for workload reorganization
Expense	Budget Only - Benefit Adjustment - increase	Parks, Recreation & Neighborhoods/GF	\$ 13,497	Restore PR&N funding for workload reorganization
Expense	Worker's Compensation	General Fund	\$ (610,783)	Reduction to General Fund Worker's Comp Expense
Expense	Worker's Compensation	Non-General Funds	\$ (101,280)	Reduction to Non-General Fund Worker's Comp Expense
Revenue		Worker's Compensation Fund	\$ (712,063)	Reduction to Worker's Compensation Fund Revenue

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-251**

**RESOLUTION REJECTING ALL BIDS FOR THE THIRD PARTY
ADMINISTRATION OF GENERAL LIABILITY CLAIMS**

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Proposals (RFP) for the furnishing of General Liability Third Party Administration Services, and

WHEREAS, the Purchasing Division issued RFP No. 1112-02 General Liability Third Party Administrative Services to twenty-six (26) prospective proposers, two (2) of which were local companies, posted the bid on the City's website and formally advertised as required by law, and

WHEREAS, Proposals were formally opened in the City Clerk's Office. Nine (9) companies chose to respond, one of which was a local vendor. All nine (9) companies provided responsive and responsible proposals, and

WHEREAS, an evaluation committee on one City staff member and three (3) technical experts from outside the City evaluated and graded the proposals, and

WHEREAS, City staff requests proposal rejections based on the following reasons:

- Amount of services more costly than anticipated,
- Regulations regarding federally mandated Medicare reporting of general liability settlements has become less demanding since the RFP process was initiated, and
- Outsourcing would not lead to staff reduction.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes RFP rejection for the furnishing General Liability Third Party Administration Services for the Department of Human Resources Department, Risk Management Division.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-252**

**RESOLUTION APPROVING A JOB SHARING AGREEMENT WITH THE
CITY OF OAKDALE FOR THE SERVICES OF AN ASSOCIATE PLANNER ON
A PART-TIME BASIS THROUGH FISCAL YEAR 2012-13; AND
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE
THE AGREEMENT**

WHEREAS, on August 10, 2010, the City Council, by Resolution No. 2010-352, approved a job sharing agreement with the City of Oakdale for Associate Planner services on a part-time basis through Fiscal Year 2010-11, and

WHEREAS, on September 6, 2011, the City Council, by Resolution No. 2011-361, approved an extension of the job sharing agreement with the City of Oakdale for the services of an Associate Planner on a part-time basis through Fiscal Year 2011-12, and

WHEREAS, the City of Oakdale has submitted a letter expressing interest to extend job sharing services through Fiscal Year 2012-13, and

WHEREAS, the City of Oakdale seeks the services of a qualified Associate Planner from the City of Modesto on a part-time basis, and

WHEREAS, the City of Modesto represents that it has qualified Associate Planners able to provide planning services required by the City of Oakdale including, but not limited to, current planning, advanced (long-range) planning, environmental analysis, design review, growth management, redevelopment, and a variety of other duties as by the City of Oakdale Community Development & Services Director, and

WHEREAS, the number of hours of service by an Associate Planner is anticipated to be 16 hours per week, or 832 hours through Fiscal Year 2012/13, and

WHEREAS, the agreement continues in effect through June 30, 2013, unless terminated in accordance with the provisions of the termination clause of the Agreement, and

WHEREAS, the Agreement enables planning services to be shared between two cities, serves as a revenue source to the City of Modesto, and serves to retain experienced and well trained planning staff,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a job sharing Agreement with the City of Oakdale for the services of an Associate Planner on a part-time basis through Fiscal Year 2012-13.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(SEAL)

ATTEST:


STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-253**

**RESOLUTION APPROVING A JOB SHARING AGREEMENT WITH THE
CITY OF HUGHSON FOR THE SERVICES OF A SENIOR PLANNER ON AN
ON-CALL BASIS THROUGH FISCAL YEAR 2012-13; AND AUTHORIZING
THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, on August 10, 2010, the City Council, by Resolution No. 2010-351, approved a job sharing agreement with the City of Hughson for the services of a Senior Planner on a part-time basis through Fiscal Year 2010-11, and

WHEREAS, on September 6, 2011, the City Council, by Resolution No. 2011-362, approved an extension of the job sharing agreement with the City of Hughson for the services of a Senior Planner on a part-time basis through Fiscal Year 2011-12, and

WHEREAS, the City of Hughson has submitted a letter expressing interest to extend job sharing services through Fiscal Year 2012-13, and

WHEREAS, the City of Hughson seeks the services of a qualified Senior Planner from the City of Modesto on a on-call basis, and

WHEREAS, the City of Modesto represents that it has qualified Senior Planners able to provide planning services required by the City of Hughson including, but not limited to, current planning, advanced (long-range) planning, environmental analysis, design review, growth management, redevelopment, and a variety of other duties as assigned by the City of Hughson Planning Director, and

WHEREAS, the agreement continues in effect through June 30, 2013, unless terminated in accordance with the provisions of the termination clause of Agreement, and

WHEREAS, the Agreement enables planning services to be shared between two cities, serves as a revenue source to the City of Modesto, and serves to retain experienced and well trained planning staff,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a job sharing Agreement with the City of Hughson for the services of a Senior Planner on a part-time basis through Fiscal Year 2012-13.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-254

RESOLUTION ESTABLISHING THE CALCULATION FOR THE
APPROPRIATION LIMIT FOR THE FISCAL YEAR 2012-2013 ANNUAL
BUDGET

WHEREAS, Proposition IV of the California State Constitution requires the City to establish an appropriation limit calculation each fiscal year, and

WHEREAS, Article XIII B of the California Constitution specifies that appropriations made by State and local governments may increase annually by a factor comprised of the change in population combined with either the change in California per capita personal income or the change in the local assessment roll due to local nonresidential construction, and

WHEREAS, the **attached** schedule shows the preferred price and population factors to be used and the appropriation limit with the recommended factors in calculating the limit are the price factor of "state growth in per capita income" and the population factor of "growth rate in the city limits of Modesto", and

WHEREAS, a copy of said report is on file in the City of Modesto Finance Department,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the appropriation limit calculation is hereby established as shown on Schedule A, **attached** hereto, and made a part hereof.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

FISCAL YEAR 2012-2013

PROPOSITION 4

APPROPRIATION LIMIT CALCULATION

FY2011-2012 Appropriation Limit	\$328,704,401
---------------------------------	---------------

Adjustment Factors

Per Capita Personal Income Change	3.77%
-----------------------------------	-------

Population Change (Modesto)	0.68%
-----------------------------	-------

Per Capita converted to a ratio	1.0377
---------------------------------	--------

Population converted to a ratio	1.0068
---------------------------------	--------

Calculation of factor for FY2012-2013	1.0448
---------------------------------------	--------

Adjustment	<u>\$14,725,957</u>
------------	---------------------

FY2012-2013 Appropriation Limit	<u><u>\$343,430,358</u></u>
---------------------------------	-----------------------------

Article XIII B places a limit on most, but not all, government revenue sources. The limit applies to appropriations from proceeds of taxes from both the general fund and special funds of government entities. Proceeds of taxes include tax revenues, interest earnings on invested tax revenues, and any revenues collected by a regulatory license fee or user charge in excess of the amount needed to cover the cost of providing the regulation, product, or service.

Appropriations from nontax revenues, including the City's enterprise funds, are not subject to the limit.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-255**

RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE PURCHASE OF AIRCRAFT RESCUE FIRE FIGHTING (ARFF) EQUIPMENT, TOOLS AND CLOTHING, THROUGH THE PUBLIC WORKS DEPARTMENT, MODESTO-CITY AIRPORT DIVISION, TO L.N. CURTIS & SONS, OAKLAND, CA, FOR AN ESTIMATED TOTAL COST OF \$58,676

WHEREAS, the Modesto City-County Airport is required to maintain an FAA approved level of fire/rescue support for commercial airline operations. The on-airport fire station is staffed by Modesto Fire personnel during commercial operations and is equipped with two specialized ARFF trucks, and

WHEREAS, the Federal Aviation Administration grant was approved on June 10, 2008, the City Council, by Resolution No. 2008-346, accepted Federal Airport Improvement Grant Offer AIP # 3-06-0153-32 in the amount of \$1,045,000 that included funding for the new Aircraft Rescue Fire Fighting Truck, Tools, Equipment and Clothing, and

WHEREAS, the City Council, by Resolution No. 2008-592, authorized the Purchasing Manager to issue formal Request for Bids (RFB), for equipment through various competitive processes with the Purchasing Division coming back to Council for award authorization, and

WHEREAS, the Purchasing Division issued RFB No. 1112-28 for the purchase of ARFF Equipment, Tools and Clothing to twenty-eight (28) prospective bidders, posted the bid on the City's website and formally advertised as required by law. No local vendors can provide this type of specialized equipment, tools and clothing, and

WHEREAS, RFB's were formally opened in the City Clerk's office. Of the twenty-eight (28) prospective bidders, six (6) companies chose to respond. All six (6) companies provided responsive and responsible bids, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2011-12, in CIP # 100422, and

WHEREAS, a Federal Aviation Administration (FAA) Airport Improvement Program Grant is providing 95% of the funding for this equipment, tools and clothing acquisition. The remaining 5% of the cost is reimbursable by the Passenger Facility Charge collected on airline passengers, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. The award of bid for the purchase of Aircraft Rescue Fire Fighting Equipment, Tools and Clothing to L.N. Curtis & Sons, Oakland, CA, 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 for the purchase of Aircraft Rescue Fire Fighting (ARFF) Equipment, Tools and Clothing, through the Public Works Department, Modesto-City Airport Division, to L.N. Curtis & Sons, Oakland, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase order for a total estimated cost of \$58,676.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-256**

RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE PURCHASE OF A TRUCK WITH AERIAL BUCKET FOR THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT, PRUNED REFUSE COLLECTION DIVISION, THROUGH THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, TO TEREX UTILITIES INC., WATERTOWN, SD, FOR AN ESTIMATED COST OF \$175,778

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, through various competitive processes, with the Purchasing Division coming back to Council for award authorization. The truck with aerial bucket is included in the new vehicles and heavy equipment list authorized by the City Manager, and

WHEREAS, the truck with aerial bucket is used by the Parks, Recreation and Neighborhoods Department, Pruned Refuse Collection Division. The truck with aerial bucket has been subjected to a thorough evaluation and has met or exceeded the replacement criteria before being placed on the replacement list. The truck with aerial bucket falls under the City's compliance program, approved by the California Air Resources Board, requiring a progressive program to remove older diesel trucks from service, and

WHEREAS, the Purchasing Division issued RFB No. 1112-31 for the purchase of a truck with aerial bucket to twelve (12) prospective bidders, posted the bid on the City's website and formally advertised as required by law. No local vendors can provide this type of vehicle, and

WHEREAS, RFB's were formally opened in the City Clerk's office. Of the twelve (12) prospective bidders, two (2) companies chose to respond. One company provided a responsive and responsible bid, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid for the purchase of a truck with aerial bucket to Terex Utilities, Inc., Watertown, SD, for a total estimated cost of \$175,778, and

WHEREAS, Sufficient funds are budgeted in Fiscal Year 2011-12, in account # 5410-53241-57003, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. The award of bid for the purchase of a truck with aerial bucket to Terex Utilities, Inc., Watertown, SD, 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 for the purchase of a truck with aerial bucket for the Parks, Recreation and Neighborhoods Department, Pruned Refuse Collection Division, through the Public Works Department, Fleet Services Division, to Terex Utilities Inc., Watertown, SD.

BE IT FURTHER RESOLVED that the Purchasing Manager or his designee to issue a purchase order for a total estimated cost of \$175,778.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-257**

RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE PURCHASE OF A UTILITY TRUCK WITH CRANE FOR THE PUBLIC WORKS DEPARTMENT, WASTEWATER DIVISION, THROUGH THE FLEET SERVICES DIVISION, TO TOWNE FORD, REDWOOD CITY, CA, FOR AN ESTIMATED TOTAL COST OF \$80,613

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, through various competitive processes, with the Purchasing Division coming back to Council for award authorization. The utility truck with crane is included in the new vehicles and heavy equipment list authorized by the City Manager, and

WHEREAS, the utility truck with crane is used by the Public Works Department, Wastewater Division. The utility truck with crane has been subjected to a thorough evaluation and has met or exceeded the replacement criteria before being placed on the replacement list. The utility truck with crane falls under the City's compliance program, approved by the California Air Resources Board, requiring a progressive program to remove older diesel trucks from service, and

WHEREAS, the Purchasing Division issued RFB No. 1112-21 for the purchase of a utility truck with crane to nineteen (19) prospective bidders, posted the bid on the City's website and formally advertised as required by law. Two (2) of the bidders are located within Stanislaus County, one of which is a local vendor, and

WHEREAS, RFB's were formally opened in the City Clerk's office. Of the nineteen (19) prospective bidders, three (3) companies chose to respond. The local vendor did not submit a bid. All three (3) companies provided responsive and responsible bids, and

WHEREAS, Based on providing the lowest responsive and responsible bid, City staff recommends the award of bid for the purchase of a utility truck with crane to Towne Ford, Redwood City, CA, for a total estimated cost of \$80,613, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2011-12, in account # 5410-53241-57003, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. The award of bid for the purchase of a utility truck with crane to Towne Ford, Redwood City, CA, 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 for the purchase of a utility truck with crane for the Public Works Department, Wastewater Division, through the Fleet Services Division to Towne Ford, Redwood City, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager or his designee to issue a purchase order for a total estimated cost of 80,613.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-258**

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO PURCHASE DELL COMPUTER WORKSTATION REPLACEMENTS, TECHNOLOGY HARDWARE/SOFTWARE PRODUCTS AND SERVICES THROUGH DELL MARKETING L.P. FOR FISCAL YEAR 2011-2012 BY ACCESSING THE TERMS OF THE WESTERN STATE CONTRACT ALLIANCE (WSCA) CONTRACT NUMBER B27160 IN THE AMOUNT NOT TO EXCEED \$650,000

WHEREAS, the City has an ongoing need to purchase computer workstation replacements, technology hardware/software products, and services managed by the Information Technology Department, and

WHEREAS, Dell Marketing has been providing personal computers to the City for the past fifteen years, and

WHEREAS, during that time the City has received Dell contractual pricing by taking advantage of the Western States Contracting Alliance (WSCA), and

WHEREAS, WSCA is a coalition of fifteen western states which formed as a means by which participating states could join together to receive cost effective pricing on personal computers based on economics of scale, and

WHEREAS, the expenditures for the Dell Computer Workstations have been approved by Council through the budget process, and

WHEREAS, the funds will be available for the purchase of Dell Workstations in the amount not to exceed \$650,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to purchase computer workstations replacements, technology hardware/software products and services through Dell

Marketing L.P. in the amount not to exceed \$650,000 by accessing the terms of the WSCA contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:


SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-259

A RESOLUTION AMENDING THE FISCAL YEAR 2011-2012 INFORMATION TECHNOLOGY OPERATING BUDGET TO APPROPRIATE \$300,000 FROM THE INFORMATION TECHNOLOGY FUND

WHEREAS, the City has a need to amend the Fiscal Year 2011-2012 Information Technology budget to purchase Dell Computer Workstations managed by the Information Technology Department, and

WHEREAS, the expenditures for the Dell Computer Workstations have been approved by Council through the budget process, and

WHEREAS, upon approval, the funds will be available for the purchase of Dell Workstations in an amount not to exceed \$650,000, and

WHEREAS, the Fiscal Year 2011-2012 Operating Budget must be amended as shown in **Exhibit A**, which is incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2011-2012 Information Technology Operating Budget as shown in **Exhibit A**.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Exhibit A

The City of Modesto is in need of replacing computer workstations in the amount not to exceed \$650,000. The Fiscal Year 2011-2012 operating budgets will be amended to appropriate \$300,000 from the Information Technology Fund Reserves to 5230-07510-57005 in order to purchase the computer workstations.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-260**

A RESOLUTION APPROVING AN AMENDMENT TO THE COST SHARING AGREEMENT BETWEEN THE CITY OF MODESTO AND THE COUNTY OF STANISLAUS FOR THE OPERATION OF GOVERNMENT AND EDUCATIONAL PROGRAMMING ON ACCESSMODESTO COMMUNITY TELEVISION; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO AGREEMENT

WHEREAS, the City has an ongoing need to manage the education and government access channels on AccessModesto, and

WHEREAS, the City of Modesto and the County of Stanislaus entered into a Cost Sharing Agreement for the operation of Government and Educational Programming on AccessModesto Community Television, effective July 2, 2002, for a period of ten years, and

WHEREAS, the City of Modesto and the County of Stanislaus have shared equally the costs for the management of the education and government access channel on AccessModesto, and

WHEREAS, the Cost Sharing Agreement between the City of Modesto and the County of Stanislaus will expire on July 2, 2012, and

WHEREAS, the City of Modesto and the County of Stanislaus wish to extend the term of the Cost Sharing Agreement for an additional two (2) years,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to the Cost Sharing Agreement between the City of Modesto and the County of Stanislaus to extend the Agreement for an additional two (2) years.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-261**

A RESOLUTION APPROVING AN AMENDMENT TO THE BUDGET TO EXTEND THE TERM OF THE ORIGINAL COST SHARING AGREEMENT BETWEEN THE CITY OF MODESTO AND THE COUNTY OF STANISLAUS FOR THE OPERATION OF THE EDUCATION AND GOVERNMENT PROGRAMMING ON ACCESSMODESTO COMMUNITY TELEVISION FOR AN ADDITIONAL TWO (2) YEARS IN THE AMOUNT OF \$284,720 IN FY 13-14 TO BE EQUALLY SHARED IN THE AMOUNT OF \$142,360

WHEREAS, the City has an ongoing need to manage the education and government access channels on AccessModesto, and

WHEREAS, the City of Modesto and the County of Stanislaus entered into a Cost Sharing Agreement for the operation of Government and Educational Programming on AccessModesto Community Television, effective July 2, 2002, for a period of ten years, and

WHEREAS, the City of Modesto and the County of Stanislaus have shared equally the costs for the management of the education and government access channel on AccessModesto, and

WHEREAS, the Cost Sharing Agreement between the City of Modesto and the County of Stanislaus will expire on July 2, 2012, extended, and

WHEREAS, the City of Modesto and the County of Stanislaus County wish to extend the term of the Cost Sharing Agreement for an additional two (2) years, and

WHEREAS, there will be an increase in costs for the continued operation of AccessModesto between the City of Modesto and the County of Stanislaus to be shared equally in the amount of \$142,360,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the FY 13/14 budget in the amount of \$284,720 to be

shared equally in the amount of \$142,360 between the City of Modesto and the County of Stanislaus for the operation of education and government programming on AccessModesto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-262**

**RESOLUTION APPROVING THE FREEZING OF THE ANNUAL
INFLATIONARY ADJUSTMENT FOR THE WASTEWATER CAPACITY
CHARGE AND THE WATER CONNECTION CHARGE FOR FISCAL YEAR
2012/2013**

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

WHEREAS, on May 8, 2007, by Resolution No. 2007-287, the City Council authorized the Director of Public Works to administratively make an annual inflation adjustment to the Wastewater Capacity Charges, and

WHEREAS, Resolution No. 2007-287 was superseded by Resolution 2012-164, which did not alter provision for making inflationary adjustments but refined the definition of the Director responsible for applying the inflationary adjustment, and

WHEREAS, Section 11-1.04 of the MMC authorizes the Council, by resolution, to establish charges for water service installation, and MMC Section 11-1.05 authorizes the Council, by resolution, to establish charges for water main connection charges, and MMC Section 11-6.05 authorizes the Council, by resolution, to establish charges for metered water services, and MMC Section 11-6.06 authorizes the Council, by resolution, to establish charges for unmetered water services, and

WHEREAS, on November 23, 2004, the City Council, by Resolution No. 2004-627, rescinded all previous water fee resolutions, establishing a single rate base, and establishing fees for the provision of water and all fees associated with water operations and management, and

WHEREAS, on April 26, 2005, the City Council, by Resolution No. 2005-204, amended Sections 3 and 14 of Resolution No. 2004-267 to clarify that water connection charges are actual hookup fees and are not land based, and

WHEREAS, on October 4, 2005, the City Council, by Resolution No. 2005-492, amended and restated Resolution No. 2005-282 to add section 10A clarifying policy issues on water connection fees and amending Section 14, footnote 1 to clarify inflation adjustment for connection charges, and

WHEREAS, on July 7, 2009, the City Council, by Resolution 2009-299, authorized the Director of Public Works to administratively make an annual inflation adjustment to the Water Connection Charges, and

WHEREAS, on November 4, 2009, the City Council, by Resolution No. 2009-519, established the Utility Planning and Projects Department and the position of Director of Utility Planning and Projects who would assume a portion of the duties previously assigned to the Director of Public Works, and

WHEREAS, on July 5, 2011, the City Council, by Resolution 2011-266, froze the annual inflationary adjustment due to the unprecedented economic situation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves freezing the annual inflationary adjustment for the Wastewater Capacity Charge and the Water Connection Charge for Fiscal Year 2012/2013.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO 2012-263**

A RESOLUTION APPROVING THE AMENDED AND RESTATED SERVICE AGREEMENT FOR THE SUPPLY AND ACCEPTANCE OF SOLID WASTE WITH COVANTA STANISLAUS, INC., AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE NEW SERVICE AGREEMENT

WHEREAS, on December 17, 1985, the City of Modesto and County of Stanislaus (Contracting Communities) entered into an agreement for administration of the City/County Service Agreement with the Stanislaus Waste Energy Company (now Covanta Stanislaus) for supply and acceptance of solid waste, and

WHEREAS, since that time, the City has been partners with Stanislaus County and Covanta Stanislaus in the Stanislaus Resource Recovery Facility (the "Waste-to-Energy" or "WTE" Facility), and

WHEREAS, the City and County operate the project as a Joint Powers Agency under a Joint Powers Agreement, with the County acting as the Treasurer, and

WHEREAS, under the current Service Agreement, the Contracting Communities pay Covanta a service fee to operate the facility and are also responsible for all pass through costs associated with the facility such as taxes, insurance, air permit fees, ash disposal, etc., and

WHEREAS, the Contracting Communities are also responsible for any costs associated with unforeseen circumstances such as changes in law, major upgrades or any acts, events or conditions that have a material adverse effect on the operation of the facility, and

WHEREAS, the Contracting Communities are responsible for delivering wastes to the facility under a minimum tonnage guarantee of 243,300 tons, and Covanta uses this

waste to generate electricity, which it sells to PG&E under a Power Purchase Agreement (PPA), and

WHEREAS, the Contracting Communities currently retain 90% of the electric revenue generated by the facility, all of the disposal fees, 50% of metal recycling revenue and 30% of supplemental waste revenue, which revenues are used to offset costs, and

WHEREAS, the existing Service Agreement was set to expire on December 31, 2009, and in 2007, staff from the County Department of Environmental Resources and the City of Modesto Solid Waste Division began negotiations on a new contract with Covanta, and

WHEREAS, those negotiations proved unsuccessful with Covanta asking for more concessions that staff were willing to agree to, so in May 2009, the County and the City of Modesto exercised an option given in the original contract to extend the contract under the same terms an additional six years through December 31, 2015, and

WHEREAS, when the Power Purchase Agreement (PPA) with PG&E expired in January, 2010, Covanta elected to extend its contract with PG&E under extension provisions pursuant to California Public Utilities Commission (CPUC) Decision No. 07-09-040, and

WHEREAS, those provisions caused the price paid for power to revert to the Short Run Avoided Cost, or "SRAC", which was about \$55 per MW at the time and has since dropped even further, and

WHEREAS, this pricing also did not include a premium for renewable energy, and the capacity payment was reduced, and as a result, revenues from electricity generation declined sharply resulting in a significant operating deficit, and

WHEREAS, both the Contracting Communities and Covanta recognized that it would be in our joint interests to return to the negotiating table and secure a long term commitment that would motivate Covanta to negotiate a new PPA at much more favorable rates than current SRAC rates, and

WHEREAS, a new negotiating team was formed and reopened negotiations with Covanta, with the objectives of preserving the current RRA balance, a stable and predictable tipping fee, a commitment to no increased importation of waste, meeting diversion requirements and preserving landfill capacity, and reducing City//County risk exposure from change-in-law, public perception, and change in science/technology, and

WHEREAS, the Contracting Communities negotiating team has met on a regular basis over the past year and has provided periodic updates on the status of negotiations to the Solid Waste-to-Energy Executive Committee and the City-County Liaison Committee, and

WHEREAS, major deal points from the negotiations were agreed upon by the team and Covanta and were outlined in a Term Sheet approved by the Council and Board of Supervisors, and

WHEREAS, the negotiating team and Legal Counsel to the Executive Committee, Sidley Austin LLP, have negotiated a new Service Agreement and Lease Agreement with Covanta, to become effective on July 1, 2012, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the new Service Agreement with Covanta Stanislaus, Inc., a copy of which is **attached** hereto as Attachment "A" and incorporated herein by reference.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**AMENDED AND RESTATED
SERVICE AGREEMENT
FOR THE SUPPLY AND ACCEPTANCE
OF SOLID WASTE**

among

COVANTA STANISLAUS, INC.

And

**THE CITY OF MODESTO
and
THE COUNTY OF STANISLAUS**

DATED AS OF JULY 1, 2012

TABLE OF CONTENTS

		<u>Page</u>
ARTICLE I – DEFINITIONS AND INTERPRETATION.....		2
1.01	Incorporation by Reference.....	2
1.02	Definitions.....	2
1.03	Interpretation.....	10
ARTICLE II – CONDITIONS PRECEDENT		10
2.01	Conditions Precedent to the Obligations and Liabilities of the Contracting Communities.....	10
2.02	Conditions Precedent to the Obligations and Liabilities of the Company.....	11
2.03	Satisfaction of Conditions Precedent.....	11
ARTICLE III – REPRESENTATIONS.....		11
3.01	Representations of the County.....	11
3.02	Representations of the City.....	12
3.03	Representations of the Company.....	13
ARTICLE IV – OPERATION OF FACILITY; DELIVERY AND PROCESSING OF WASTE		14
4.01	Commitment to Deliver Waste.....	14
4.02	Commitment to Accept, Process and/or Dispose of Waste.....	15
4.03	Contracting Communities Right of First Use.....	15
4.04	Operation of the Facility.....	17
4.05	Facility Maintenance.....	17
4.06	Contracting Communities’ Visits and Inspections; Record Keeping and Reporting; Testing.....	18
4.07	Rejection Rights.....	20
4.08	Receiving and Operating Hours.....	20
4.09	Weighing of Waste Deliveries, Etc.....	20
4.10	Storage.....	22
4.11	Regulation of Haulers.....	22
4.12	Assistance with Water and Utilities.....	23
ARTICLE V – DISPOSAL OF PROCESS RESIDUE AND PROCESS REJECTS.....		23
5.01	Disposal.....	23
5.02	Inadvertent Deliveries of Process Rejects.....	23
5.03	Provision of Disposal Site.....	25

ARTICLE VI – SERVICE FEE AND OTHER PAYMENTS	25
6.01 Service Fee.....	25
6.02 Costs and Benefits of Facility.....	26
6.03 BTU Values.....	27
6.04 Billing and Payments.....	27
6.05 Unforeseen Circumstances.....	28
6.06 No Offset or Waiver.....	33
6.07 Contracting Communities’ Permit Obligations.....	33
ARTICLE VII – FURTHER AGREEMENTS	33
7.01 Licenses, Approvals and Permits.....	33
7.02 Nondiscrimination.....	33
7.03 Insurance.....	34
7.04 Joint and Several Obligations.....	34
ARTICLE VIII – DEFAULT AND TERMINATION	34
8.01 Events of Default by the Company.....	34
8.02 Events of Default by Contracting Communities.....	35
8.03 Event of Default Remedies.....	35
8.04 Limit of Liability.....	36
8.05 Special Termination Right.....	37
ARTICLE IX – MISCELLANEOUS	37
9.01 Assignment.....	37
9.02 Indemnification.....	37
9.03 Effect of Termination.....	38
9.04 Overdue Obligations to Bear Interest.....	38
9.05 Exclusion of Liability.....	38
9.06 Intellectual Property Rights.....	39
9.07 Relationship of the Parties.....	39
9.08 Notices.....	39
9.09 No Waiver.....	41
9.10 Entire Agreement; Modifications.....	41
9.11 Headings.....	41
9.12 Governing Law.....	41
9.13 Counterparts.....	41
9.14 Severability.....	41
9.15 Right of First Refusal.....	41
9.16 Fair Market Value Purchase Option.....	42
9.17 Cooperation Regarding Claims.....	43
9.18 Venue.....	43
9.19 Further Assurances.....	44
9.20 Arbitration.....	44

LIST OF SCHEDULES

Schedule 1	Waste Delivery Schedule
Schedule 2	Facility Site Description
Schedule 3	Amended and Restated Facility Site Lease Agreement
Schedule 4	Parent Guaranty
Schedule 5	Required Insurance
Schedule 6	Hauler Requirements

AMENDED AND RESTATED SERVICE AGREEMENT
FOR THE SUPPLY AND ACCEPTANCE
OF SOLID WASTE

This AMENDED AND RESTATED SERVICE AGREEMENT FOR THE SUPPLY AND ACCEPTANCE OF SOLID WASTE (this "*Agreement*") is entered into as of July 1, 2012, by and among Covanta Stanislaus, Inc., a California corporation (the "*Company*"), the County of Stanislaus, a political subdivision of the State of California, acting by and through its Board of Supervisors (the "*County*"), and the City of Modesto, a municipal corporation, acting by and through its City Council (the "*City*"). The County and City are collectively referred to herein as the "*Contracting Communities*."

Recitals

WHEREAS, the Company and the Contracting Communities are parties to that certain Amended and Restated Service Agreement for the Supply and Acceptance of Solid Waste dated as of June 1986, as amended by Amendment No. 1 to such Agreement dated as of September 27, 1988, Amendment No. 2 to such Agreement dated as of May 17, 1990, Amendment No. 3 to such Agreement dated as of February 2, 2000 and Amendment No. 4 to such Agreement dated as of May 21, 2001(as so amended, the "*Original Agreement*");

WHEREAS, pursuant to the Original Agreement, the Company has designed and built, and currently is operating and maintaining, a mass burn resource recovery facility for disposing of Acceptable Waste (defined below), producing saleable electricity and recovering other Recovered Resources (defined below), which facility is located at 4040 Fink Road, Crows Landing, California 95313 (together with all additions, replacements, appurtenant structures, improvements and equipment in connection therewith, the "*Facility*").

WHEREAS, Contracting Communities and the Company wish to amend and restate the Original Agreement in its entirety as provided herein; and

WHEREAS, the Contracting Communities and the Company intend that this Agreement become legally effective as of the date first above written (the "*Contract Date*" or the "*Service Commencement Date*"), become operative and commence governing rights, obligations, use, operation and maintenance of the Facility thereon and continue until the 15th anniversary of the Service Commencement Date, subject to earlier termination in accordance with the provisions of this Agreement (the "*Service Term*").

AGREEMENT

NOW, THEREFORE, for and in consideration of the premises and of the mutual obligations undertaken herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound, the Company and the Contracting Communities hereby agree as follows:

ARTICLE I – DEFINITIONS AND INTERPRETATION

1.01 Incorporation by Reference.

The above Recitals are incorporated into this Agreement by this reference. Schedules 1 through 6 attached to this Agreement are incorporated into this Agreement by this reference.

1.02 Definitions.

The following terms shall have the following meaning:

“Acceptable Waste” means that portion of Solid Waste which has characteristics such as that collected and disposed of as part of normal collection of Solid Waste in the Contracting Communities, such as, but not limited to: garbage, trash, rubbish, refuse, offal, beds, mattresses, sofas, bicycles, baby carriages, automobile or small vehicle tires, as well as processible portions of commercial (including cannery) and industrial Solid Waste, and logs if no more than four (4) feet long and six (6) inches in diameter, branches, leaves, twigs, grass and plant cuttings, excepting, however, Unacceptable Waste and Hazardous Waste.

“Affiliate” means a Person that controls, is controlled by, or is under common control with the Company.

“Alternate Disposal Methods” means the use of the Landfill or other reasonable methods of disposal of Acceptable Waste, other than the normal operation of the Facility, either through the use of the Facility, the Facility Site or any portion thereof, or otherwise through the use of alternate equipment or facilities (including a permitted sanitary landfill), subject to the reasonable approval of the Contracting Communities.

“Applicable Laws” means all applicable federal, State, County or local laws ordinances and regulations.

“Amortized Portion” has the meaning specified in Section 6.05(c)(4) hereof.

“Billing Period” means each calendar month in each Contract Year, except that (a) the first Billing Period shall begin on the Service Commencement Date and shall continue to the last day of the month in which the Service Commencement Date occurs and (b) the last Billing Period shall end on the last day of the final Contract Year.

“Billing Period Tonnage” means for each Billing Period that quantity of Acceptable Waste set forth for such Billing Period on Schedule 1 for delivery to the Facility (subject to

adjustments pursuant to Section 4.02(b)), the sum total of which in each Contract Year shall be equal to the Guaranteed Tonnage.

“*BTU*” means British thermal unit.

“*By-Pass Waste*” means Acceptable Waste that the Company is obligated to accept but that is rejected upon delivery at the Facility, directed by the Company to be disposed of by Alternate Disposal Methods, or that is removed from the Facility before Processing for reasons other than Contracting Communities Fault or Unforeseen Circumstances.

“*Cap & Trade Costs*” has the meaning specified in Section 6.05(c)(2)(ii) hereof.

“*Capital Cost*” has the meaning specified in Section 6.05(c)(4) hereof.

“*Change in Law*” means (a) the enactment, promulgation, amendment or official interpretation or reinterpretation by any order, decision or judgment of any federal, state or local court, administrative agency or governmental body after the Contract Date of (i) any federal statute or regulation not enacted, promulgated, amended, interpreted or reinterpreted on or before the Contract Date, as applicable, or (ii) any state, County or City statute, ordinance, or regulation that was not so enacted, promulgated, amended, interpreted or reinterpreted on or before the Contract Date, as applicable, or (b) the imposition of any material conditions in connection with the issuance, renewal, or modification of any official permit, license, or approval after the Contract Date, including any change in specific permit emission limitations pursuant to a condition in the Prevention of Significant Deterioration Permit authorizing modification of such limitations subsequent to issuance of said permit, which in the case of either (a) or (b) establishes requirements making the ownership, operation or maintenance of the Facility more burdensome than the most stringent requirements (x) in effect as of the Contract Date, (y) agreed to in any applications of the Company for official permits, licenses, or approvals, or (z) contained in any official permits, licenses, or approvals with respect to the Facility obtained as of the Contract Date; provided that except for Discriminatory Taxes (defined below), a change in federal, State, County, City, or any other tax law shall not be a Change in Law.

“*Company Indemnified Parties*” has the meaning specified in Section 9.02(b) hereof.

“*Consulting Engineer*” means a nationally recognized consulting engineering company, with demonstrated experience in the area of resource recovery facilities, which is designated in writing by the Contracting Communities.

“*Contract Date*” has the meaning specified in the Fourth Recital.

“*Contract Year*” means the fiscal year ending June 30th. The first Contract Year shall commence on the Service Commencement Date and shall end on the following June 30th. The last Contract Year shall commence on July 1 and end on the last day of the Service Term of this Agreement. Annual quantities described herein shall be ratably adjusted if the first and last Contract Years are less than three hundred sixty-five (365) days. Each Contract Year after the first Contract Year shall commence on the July 1st following the termination of the prior Contract Year.

“Contracting Communities Fault” means any act or failure to act on the part of the City or the County that constitutes a breach of its obligations under this Agreement or a violation of any duty of the City or County to the Company imposed under law.

“Contracting Communities Indemnified Parties” has the meaning specified in Section 9.02(a) hereof.

“Cost Substantiation” means (a) with respect to any cost incurred by the Company, delivery to the Contracting Communities of a certificate signed by the chief financial officer or principal engineering officer, as applicable, of the Company, or his or her respective designee, setting forth the amount of such cost and the reason why such cost is properly chargeable to the Contracting Communities, and stating that such cost is an arm’s length and competitive price for the service or materials supplied, and (b) with respect to any cost incurred by the Contracting Communities delivery to the Company of a certificate signed by the Chief Executive Officer of the County and the City Manager or their designees, setting forth the amount of such cost and the reason why such cost is properly chargeable to the Company, and stating that such cost is an arm’s length and competitive price for the service or materials supplied, and (c) in either case, such other documentation as may be reasonably necessary to properly evidence such costs.

“Discriminatory Taxes” has the meaning specified in Section 6.02(b) hereof.

“Energy Revenues” all revenues derived from the sale of electric energy, capacity or ancillary services from the Facility, including any benefit of environmental attributes reflected in the price of the foregoing, if the environmental attributes are included in the sale transaction for energy, capacity or ancillary services by operation of law and such sale transaction does not include a separate certificate evidencing the sale of such environmental attributes.

“Event of Default” has the meaning specified in Sections 8.01 and 8.02 hereof.

“Excess Electric Revenues” has the meaning specified in Section 6.05(c)(2)(ii) hereof.

“Excess Tipping Fee Revenues” has the meaning specified in Section 4.03(b).

“Excess Waste” has the meaning specified in Section 4.01(b).

“Excess Waste Tipping Fee” has the meaning specified in Section 6.01 hereof.

“Facility” has the meaning set forth in the Second Recital.

“Facility Site” means the real property described on Schedule 2, upon which the Facility is located.

“Facility Site Lease Agreement” means the Amended and Restated Facility Site Lease Agreement between the Company and the County for the Facility Site, as amended from time to time, the form of which is attached hereto as Schedule 3.

“Fair Market Value” has the meaning specified in Section 9.16.

“Guaranteed Tonnage” means 243,300 Tons of Acceptable Waste which the Contracting Communities are obligated to deliver to the Facility in each Contract Year, to be measured by calculating the sum of the Billing Period Tonnages for the Contract Year.

“Guaranteed Tonnage Tipping Fee” has the meaning specified in Section 6.01 hereof.

“Hauler” means any Person licensed by the County or the City to collect and transport waste to the Facility or, as applicable, to alternate facilities in accordance with Alternate Disposal Methods; a list of all Haulers so licensed by the County or City shall be prepared by the Contracting Communities and provided to the Company on or before each Contract Year and revised from time to time, as necessary.

“Hazardous Waste” means that portion of Solid Waste which, by reason of its composition or characteristics, is: (a) hazardous waste as defined in the Solid Waste Disposal Act, 42 USC §§6901 et seq., and the regulations thereunder, the California Health & Safety Code, Div. 20, Chs. 6.5, 6.7 and 6.8, the California Administrative Code, Title 22, Div. 4, Ch. 30, and any similar or substituted legislation or regulations or amendments to the foregoing; (b) any other materials which any governmental agency or unit having appropriate jurisdiction shall determine from time to time is harmful, toxic, or dangerous, or otherwise ineligible for disposal through the Facility; and (c) any material, other than residential or commercial Solid Waste of the type historically collected by the County and the City as acceptable for disposal into non-Hazardous Waste landfills, which would result in Process Residue being Hazardous Waste under (a) or (b) above.

“Initial UCC Termination Threshold” has the meaning specified in Section 6.05(d) hereof.

“Landfill” means the Fink Road landfill located immediately adjacent to the Facility Site.

“Landfill Tipping Fee” has the meaning specified in Section 5.03 hereof.

“Legal Holidays” means those holidays observed by the Contracting Communities and specified by the Contracting Communities in a list delivered to the Company at least thirty (30) days before the beginning of each Contract Year.

“Limit of Liability” has the meaning specified in Section 8.04(a).

“Martin, GmbH” means Martin GmbH fur Umwelt and Energietechnik, a limited liability company under the laws of the Federal Republic of Germany, having an office in Munich, Germany.

“MWH” means megawatt hour.

“Original Agreement” has the meaning set forth in the First Recital.

“Other Amounts” has the meaning specified in Section 6.04(a)(ii)(C) hereof.

“Overdue Rate” means the maximum annual rate of interest permitted by the laws of the State, if applicable, or one percent (1%) per annum over the then current rate which Bank of America (or its successor) loans money to its preferred commercial borrowers and is publicly announced as its “prime rate,” whichever rate is lower.

“Parent” means Covanta Holding Corporation and its successors and assigns.

“Parent Guaranty” means the guaranty agreement provided by the Parent substantially in the form of Schedule 4.

“Person” means a corporation, political subdivision, municipal corporation, public benefit corporation, partnership, business trust, trust, joint venture, company, firm, or individual.

“Process Rejects” means Unacceptable Waste and Hazardous Waste which is inadvertently accepted by Company.

“Process,” “Processing,” or “Processed,” as applicable, means the combustion of Acceptable Waste in the Facility.

“Processing Capacity” means the actual Processing capacity of the Facility but not more than 310,000 Tons per Contract Year unless the Contracting Communities consent to the establishment of a greater amount, which consent for a greater amount shall not be unreasonably withheld, conditioned or delayed if the basis for the Processing Capacity being set above 310,000 Tons per Contract Year is due to the lower heating value of the waste then being Processed at the Facility. This definition of Processing Capacity shall not alter or diminish the Company’s obligation to accept the Guaranteed Tonnage.

“Process Residue” means bottom ash, fly ash, grate siftings, and other material derived from Acceptable Waste which remains after the combustion of Acceptable Waste.

“Procurement Commission” has the meaning specified in Section 4.03(b).

“Receiving Times” means the hours between 4:00 a.m. and 6:00 p.m. Monday through Sunday, excluding Legal Holidays, or any other times agreed upon by Company and the Contracting Communities, provided, however, that between the hours of 4:00 a.m. and 6:00 a.m. each day, and from 4:00 p.m. to 6:00 p.m. each day, and all day Sunday, an electronic ticket entry is required and there is no staffing.

“Recovered Resources” means (i) steam, electric energy, capacity, ancillary services, ferrous and non-ferrous metals, ash and such other materials of whatever nature or description as the Company may from time-to-time recover from Solid Waste, Process Residue or any other material, whether at the Facility or elsewhere, as determined by the Company in its sole and absolute discretion, and (ii) offsets, credits or benefits of whatever nature or description, for emissions, pollution, green house gas, renewable energy generation, investment, production, taxes or any certificate, grant or intangible entitlement relating to the Facility or its operation, exclusive of diversion credits from the State for waste processed by the Facility.

“Scale Operators” has the meaning specified in Section 4.09(a) hereof.

“*Second Notice*” has the meaning specified in Section 6.05(c)(1) hereof.

“*Service Commencement Date*” has the meaning specified in the Fourth Recital.

“*Service Fee*” has the meaning specified in Section 6.01 hereof.

“*Service Term*” has the meaning specified in the Fourth Recital.

“*Shortfall Payment*” has the meaning specified in Section 4.03(b) hereof.

“*Solid Waste*” means all materials or substances discarded or rejected as being spent, useless, worthless, or in excess to the owners at the time of such discard or rejection, including but not limited to garbage, refuse, industrial and commercial waste, sludges from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous materials, incinerator residue, demolition and construction debris and offal, but excluding sewage and other highly diluted water-carried materials or substances and those in gaseous form, or special nuclear or by-product materials within the meaning of the Atomic Energy Act of 1954, as amended.

“*Special Waste*” means Acceptable Waste requiring special handling or secure or certified destruction for Processing.

“*State*” means the State of California.

“*Subsequent UCC Termination Threshold*” has the meaning specified in Section 6.05(d) hereof.

“*Termination Avoidance Amount*” has the meaning specified in Section 6.05(d) hereof.

“*Termination Payment*” has the meaning specified in Section 6.05(e) hereof.

“*Third Party Tipping Fee*” has the meaning specified in Section 4.03(b) hereof.

“*Ton*” means a “short ton” of 2,000 pounds.

“*UCC Termination*” has the meaning specified in Section 6.05(d) hereof.

“*Unacceptable Waste*” means that portion of Solid Waste, exclusive of Hazardous Waste, such as, but not limited to: explosives, pathological and biological waste (unless sterilized and otherwise processed to permit incineration in the Facility in accordance with all applicable health and environmental requirements), radioactive materials, ashes, wet cannery waste, foundry sand, sewage sludge unless processed to permit incineration, cesspool and other human waste, human and animal remains, motor vehicles, including such major motor vehicle parts as automobile transmissions, rear ends, springs and fenders, agricultural and farm machinery and equipment, marine vessels and major parts thereof, any other large type of machinery or equipment, liquid wastes, nonburnable construction materials and/or demolition debris, or any other material which (a) may represent a substantial endangerment to public health or safety, as confirmed by an appropriate public health or safety official, or (b) which would

cause applicable air quality or water effluent standards to be violated by virtue of a change in the composition of waste which prevents the Facility from operating as designed and in accordance with applicable environmental and other permits or (c) material not normally collected as part of residential and commercial collections and which has a reasonable possibility of adversely affecting the operation of the Facility, unless such Unacceptable Waste is delivered in minimal quantities and concentrations as part of normal collections but still classified under Applicable Law as Acceptable Waste.

“Unforeseen Circumstance” means any act, event, or condition that has had, or, at the time of the occurrence of such act, event or condition may reasonably be expected to have, a material adverse effect on the rights or the obligations of the parties under this Agreement, or a material adverse effect on the Facility, or the ownership, possession, or operation of the Facility by the Company or its permitted assigns pursuant to Section 9.01 of this Agreement, if such act, event, or condition is beyond the reasonable control of the party relying thereon as justification for not performing an obligation or complying with any condition required of such party under this Agreement and is the proximate cause of such failure to perform or comply; provided that no act, event, or condition that results from the Company’s failure to maintain the Facility in accordance with Article IV shall be deemed an Unforeseen Circumstance. Such acts or events may include, but shall not be limited to, the following:

(a) An act of God, including volcanic eruption, landslide, lightning, earthquake, fire, flood (but excluding reasonably anticipated weather conditions for the geographic area of the Facility); explosion, sabotage, or similar occurrence; acts of a public enemy, extortion, terrorism, war, blockade, or insurrection, riot or civil disturbance;

(b) The order and/or judgment of any federal, state, or local court, administrative agency or governmental body, excepting decisions of federal courts interpreting the federal tax laws and decisions of state courts interpreting state tax laws (or, in the case of ownership of the Facility for tax purposes, excepting the decision of or regulations promulgated by any federal, state, or local court, administrative agency or governmental body), if it is not also the result of the willful or negligent action or inaction of the party relying thereon; provided that neither the contesting in good faith of any such order and/or judgment nor the failure to so contest shall constitute or be construed as a willful or negligent action or inaction of such party;

(c) The failure to issue, suspension, termination, interruption, denial or failure of renewal of any permit, license, consent, authorization or approval essential to the ownership, operation or maintenance of the Facility, but excluding the license or consent of Martin, GmbH, provided that such act or event is the result of the imposition of standards or requirements exceeding those in effect on the Contract Date; provided further that such act or event shall not be the result of the willful or negligent action or inaction of the party relying or seeking to rely thereon but that neither the contesting in good faith of any such order nor the failure to so contest shall be construed as a willful or negligent action or inaction of such party;

(d) A Change in Law;

(e) The failure of any appropriate federal, state, County, City, or local public agency or private utility having operational jurisdiction in the area in which the Facility is

located, to provide and maintain utilities, services, water, and sewer lines and power transmission lines to the Facility Site which are required for and essential to the ownership, operation or maintenance of the Facility;

(f) The failure of any subcontractor or supplier to furnish labor, services, materials, or equipment on the dates agreed to; provided that such failure is itself caused by an Unforeseen Circumstance and materially adversely affects the Company's ability to perform its obligations, and the Company was not reasonably able to foresee such event and is not reasonably able to obtain substitute labor, services, materials, or equipment on the agreed-upon dates;

(g) The condemnation, taking, seizure, involuntary conversion, or requisition of title to or use of the Facility, the Facility Site, or any material portion or part thereof by the action of any federal, State, or local government or governmental agency or authority; or

(h) Any action or failure to act of any Hauler if at the time of such action or failure to act such Person is on the Facility Site and not under the specific direction and control of the Company or the Parent, except as provided for in Section 5.02.

It is expressly understood and agreed that, subject to Applicable Law, the following shall not constitute an Unforeseen Circumstance if not the result of any of the events or conditions specifically described in subparagraphs (a) through (h) above;

(i) adverse changes in the financial ability of any party to perform its obligations hereunder or of the Parent to perform its obligations under the Parent Guaranty;

(ii) the consequences of errors of design, construction, start up, operation or maintenance on the part of the Company or any of its employees, agents, contractors, subcontractors, suppliers or affiliates;

(iii) the failure of the Company to secure licenses or other legal rights in connection with the technology necessary to own, operate or maintain the Facility;

(iv) the lack of fitness for use, or the failure to comply with specifications or design, of any materials, equipment or parts constituting part of the Facility provided that such lack or failure shall not have been the result of the occurrence of a Change in Law;

(v) the result of changed economic circumstances, or impracticability of technology to perform;

(vi) labor disputes other than strikes, lock-outs or breaches of the peace;

"Unforeseen Circumstance Costs" has the meaning specified in Section 6.05(c)(4).

"Waste Delivery Shortfall" has the meaning specified in Section 4.03(b) hereof.

1.03 Interpretation.

In this Agreement, unless the context otherwise requires:

(a) The terms “hereof”, “herein”, “hereunder” and any similar terms, as used in this Agreement, refer to this entire Agreement.

(b) Words of the masculine gender shall mean and include correlative words of the feminine and neuter genders and words importing the singular number shall mean and include the plural number or vice versa.

(c) The terms “including” and “includes”, as used in this Agreement, shall be deemed to be followed by the phrase “without limitation”, whether such phrase or words of similar import actually follow or not.

(d) The term “delivered on behalf of the Contracting Communities” and similar terms shall mean delivered by Haulers under contract or franchise arrangement with the Contracting Communities or by other local governmental authorities on behalf of the Contracting Communities.

ARTICLE II – CONDITIONS PRECEDENT

The obligations and liabilities of each party hereunder shall be subject to the satisfaction of each of the conditions precedent to the obligations and liabilities of such party, as set forth in this Article II, on or prior to the Service Commencement Date.

2.01 Conditions Precedent to the Obligations and Liabilities of the Contracting Communities.

The obligations and liabilities of the Contracting Communities shall be subject to the satisfaction of each of the following conditions precedent on or prior to the Service Commencement Date:

(a) The Parent shall have entered into the Parent Guaranty for the benefit of the Contracting Communities, and the Contracting Communities shall have received a legal opinion from counsel for Guarantor as to the due authorization, execution and delivery of the Guaranty, and to its enforceability, in a form reasonably acceptable to counsel to the Contracting Communities.

(b) The representations of the Company set forth in Section 3.03 hereof shall be true and correct in all material respects as of the Service Commencement Date as if made on and as of such date.

(c) no action, suit, proceeding, or official investigation shall have been overtly threatened, publicly announced, or commenced by any federal, state, or local governmental authority or agency, or by any party in any federal, state, or local court, that seeks to enjoin, assess civil or criminal penalties against, assess civil damages against or obtain any judgment,

order or consent decree with respect to any party to this Agreement as a result of such party's participation or intended participation in any transaction contemplated hereby.

(d) The Amended and Restated Facility Site Lease Agreement in the form set forth in Schedule 3 hereto shall have been duly executed and delivered between the Company and the County.

2.02 Conditions Precedent to the Obligations and Liabilities of the Company.

The obligations and liabilities of the Company shall be subject to the satisfaction of each of the following conditions precedent on or prior to the Service Commencement Date:

(a) The representations of the Contracting Communities in Sections 3.01 and 3.02 hereof shall be true and correct in all material respects as of the Service Commencement Date as if made on and as of such date.

(b) No action, suit, proceeding, or official investigation shall have been overtly threatened, publicly announced or commenced by any federal, state, or local government authority or agency, or by any party in any federal, state, or local court, that seeks to enjoin, assess civil or criminal penalties against, assess civil damages against or obtain any judgment, order, or consent decree with respect to any party to this Agreement as a result of such party's participation or intended participation in any transaction contemplated thereby.

(c) The Amended and Restated Facility Site Lease Agreement in the form set forth in Schedule 3 hereto shall have been duly executed and delivered between the Company and the County.

2.03 Satisfaction of Conditions Precedent.

The parties shall exercise good faith and due diligence in satisfying the foregoing conditions precedent and each party shall give prompt notice to the other party when such conditions precedent shall have been satisfied or waived in writing by the party whose obligation is conditioned thereon.

ARTICLE III – REPRESENTATIONS

3.01 Representations of the County.

The County represents that as of the Contract Date:

(a) The County is a political subdivision of the State, acting by and through its Board of Supervisors, and is duly qualified and authorized to carry on the governmental functions and operations as contemplated by this Agreement, and each other agreement or instrument entered into or to be entered into by the County pursuant to this Agreement.

(b) The County has the power, authority, and legal right to enter into and perform this Agreement, and each other agreement or instrument entered into or to be entered into by the County pursuant to this Agreement, and the execution, delivery, and performance hereof and

thereof (i) have been duly authorized, (ii) do not require the approval of any other governmental body, (iii) will not violate any judgment, order, law, or regulation applicable to the County and (iv) do not (A) conflict with, (B) constitute a default under, or (C) result in the creation in favor of any third party of any lien, charge, encumbrance or security interest upon any assets of the County under, any agreement or instrument to which the County is a party or by which the County or its assets may be bound or affected.

(c) This Agreement, and each other agreement or instrument entered into by the County pursuant to this Agreement, have been duly entered into and constitute, and each agreement or instrument to be entered into by the County pursuant to this Agreement, when entered into, will be duly entered into and will constitute, legal, valid, and binding obligations of the County, enforceable in accordance with their respective terms, except to the extent that enforceability may be limited by the operation of bankruptcy, insolvency or similar laws affecting the rights of creditors generally and to the extent that the enforceability of the Agreement is subject to general principles of equity.

(d) There are no pending or threatened actions or proceedings before any court or administrative agency which would materially and adversely affect the ability of the County to perform its obligations under this Agreement, or any other agreement or instrument entered into or to be entered into by the County pursuant to this Agreement.

3.02 Representations of the City

The City represents that as of the Contract Date:

(a) The City is a municipal corporation under State law acting by and through its City Council, and is duly qualified and authorized to carry on the governmental functions and operations as contemplated by this Agreement and each other agreement or instrument entered into or to be entered into by the City pursuant to this Agreement.

(b) The City has the power, authority, and legal right to enter into and perform this Agreement, and each other agreement or instrument entered into or to be entered into by the City pursuant to this Agreement, and the execution, delivery, and performance hereof and thereof (i) have been duly authorized, (ii) do not require the approval of any other governmental body (other than the County), (iii) will not violate any judgment, order, law, or regulation applicable to the City and (iv) do not (A) conflict with, (B) constitute a default under, or (C) result in the creation of any lien, charge, encumbrance or security interest upon any assets of the City under, any agreement or instrument to which the City is a party or by which the City or its assets may be bound or affected.

(c) This Agreement, and each other agreement or instrument entered into by the City pursuant to this Agreement, have been duly entered into and constitute, and each agreement or instrument to be entered into by the City pursuant to this Agreement, when entered into, will be duly entered into and will constitute, legal, valid, and binding obligations of the City, enforceable in accordance with their respective terms, except to the extent that enforceability may be limited by the operation of bankruptcy, insolvency or similar laws affecting the rights of creditors

generally and to the extent that the enforceability of the Agreement is subject to general principles of equity.

(d) There are no pending or threatened actions or proceedings before any court or administrative agency which would materially and adversely affect the ability of the City to perform its obligations under this Agreement, or any other agreement or instrument entered into or to be entered into by the City pursuant to this Agreement.

3.03 Representations of the Company.

The Company represents that as of the Contract Date:

(a) The Company is a corporation duly organized, validly existing, and in good standing under the laws of the State of California and has all necessary corporate power and authority to own, lease, and operate its properties and to carry on its business as now being conducted by it, and is duly qualified to do business and is in good standing in all other jurisdictions in which the nature of the Company's business or of its properties makes such qualification necessary, and is in compliance in all material respects with all laws, regulations, and requirements where failure to so comply would have material adverse effect on the Company's business.

(b) The Company has the power, authority, legal capacity, and right to enter into, and to perform, its obligations under this Agreement, and each other agreement or instrument entered into or to be entered into by the Company pursuant to this Agreement, and the execution, delivery, and performance hereof and thereof and the transactions contemplated hereby and thereby (i) have been duly authorized by the Company's Board of Directors and, if necessary, by the Company's shareholders, (ii) have the requisite approval of all governmental bodies other than permits or approvals which have been or, in due course, will be applied for, but are not yet issued, (iii) will not result in a violation of any of the terms or provisions of the Articles of Incorporation or Bylaws of the Company, of any indenture or other agreement to which the Company may be a party or by which the Company may otherwise be bound, or of any law, rule, license, regulation, judgment, order, ruling, or decree governing or affecting the operation of the Company or its business, nor will the same constitute an event permitting termination of any agreement or the acceleration of any indebtedness, (iv) do not (A) conflict with, (B) constitute a default under, or (C) result in the creation of any lien, charge, encumbrance, or security interest upon any assets of the Company under any agreement or instrument to which the Company is a party or by which the Company or its assets may be bound or affected.

(c) The Company holds, or is expressly authorized under, the necessary operating permits, patent rights, licenses, and franchises to operate the Facility consistent with, and as may be required by, this Agreement.

(d) This Agreement, and each other agreement or instrument entered into by the Company pursuant to this Agreement, have been duly entered into and constitutes, and each agreement or instrument to be entered into by the Company pursuant to this Agreement, when entered into, will be duly entered into and will constitute, legal, valid, and binding obligations of the Company, enforceable in accordance with their respective terms, except to the extent that

enforceability may be limited by the operation of bankruptcy, insolvency or similar laws affecting the rights of creditors generally and to the extent that the enforceability of the Agreement is subject to general principles of equity.

(e) No suit, action, arbitration, or legal, administrative, or other proceeding or governmental investigation is pending or threatened against the Company, the business of the Company, or any related assets before any court or administrative agency which would materially adversely affect the financial condition of the Company, or the ability of the Company to perform its obligations under this Agreement, or any other agreement or instrument entered into or to be entered into by the Company pursuant to this Agreement.

**ARTICLE IV – OPERATION OF FACILITY;
DELIVERY AND PROCESSING OF WASTE**

4.01 Commitment to Deliver Waste.

(a) On and after the Service Commencement Date, the Contracting Communities shall deliver or cause to be delivered to the Facility or, as applicable, in accordance with Alternate Disposal Methods, on a put-or-pay basis, the Billing Period Tonnage for each Billing Period and the Guaranteed Tonnage for each Contract Year. Acceptable Waste delivered or tendered for delivery to the Facility by or on behalf of the Contracting Communities and rejected by the Company due to one or more scheduled maintenance outages during any Contract Year which aggregate more than 672 hours shall count towards such put-or-pay obligation of the Contracting Communities, in addition to other remedies, if any, applicable to such rejection under this Agreement.

(b) In addition to the Guaranteed Tonnage, the Contracting Communities may tender for delivery, and if so tendered and if Processing Capacity at the Facility is available, the Company shall accept, additional Acceptable Waste (originating within the territorial limits of the Contracting Communities) in excess of the Guaranteed Tonnage up to the Processing Capacity of the Facility (“*Excess Waste*”).

(c) In order to assist the Contracting Communities and their Haulers in cost-effective routing of waste to alternative disposal sites when necessary, the Company shall continue to notify the Contracting Communities promptly of any unscheduled outage at the Facility. In addition, the Company shall continue to notify the Contracting Communities no less than 12 (twelve) hours in advance of any known or readily identifiable operational condition at the Facility, such as a quantity of waste in the pit which would cause the Facility to not meet permitted pit turnover requirements, which would cause the Facility to be unable to accept Acceptable Waste for processing and to divert such Acceptable Waste to an alternate disposal site. Said notice shall include the approximate duration of the diversion and shall be provided to both the City and the County Solid Waste Offices via e-mail or other method mutually acceptable to the parties, so that City and County can notify their Haulers to use alternative disposal sites.

(d) The Contracting Communities hereby designate the Facility as the Contracting Communities’ resource recovery facility for the disposal of not less than the Guaranteed

Tonnage each Contract Year and agree to maintain such designation during the term of this Agreement.

4.02 Commitment to Accept, Process and/or Dispose of Waste.

(a) The Company shall accept and Process, and/or dispose of Acceptable Waste utilizing the Facility or Alternate Disposal Methods, in an amount at least equal to the Billing Period Tonnage for each Billing Period and in an amount at least equal to the Guaranteed Tonnage for each Contract Year.

(b) Upon either party's request, the monthly schedule of Billing Period Tonnage in Schedule 1 shall be reviewed for potential annual adjustments to accommodate scheduled maintenance and other anticipated downtime of the Facility, seasonal variations in waste generation, and maximization of electricity generation during peak electric demand periods. Such annual adjustments shall only be made upon the mutual consent of the Contracting Communities and the Company, the consent for which from each party shall not be unreasonably withheld.

(c) In the event the Facility is unable to Process any Billing Period Tonnage, or the Guaranteed Tonnage for any Contract Year and the Company is in compliance with Section 4.03 below, the Company shall be entitled to fulfill its obligations to accept, Process, and/or dispose of Acceptable Waste by using Alternate Disposal Methods, which use of Alternate Disposal Methods may include use of the Facility as a transfer station. If the Company determines to use an Alternate Disposal Method during any Billing Period, the Company shall, as promptly as practicable, notify the Contracting Communities by telephone (which notice shall be confirmed in writing within five (5) days) of such determination and shall consult with the Contracting Communities with regard to (i) the use of any Alternate Disposal Method and (ii) the amount of County or City Tons, per day, delivered by the County or City pursuant to such Alternate Disposal Methods; provided that the Company shall continue to accept Acceptable Waste at the Facility for thirty-six (36) hours after giving such telephonic notice to the extent that such acceptance will not violate any environmental permit or Applicable Laws. The Company shall give the Contracting Communities equivalent notice of its intention to terminate use of Alternate Disposal Methods and will consult with the Contracting Communities regarding the need for any additional alternate facility.

(d) The Company has the right, without any obligation to pay damages or adjustments during any Billing Period, to not Process Acceptable Waste from the Contracting Communities for up to 672 hours in each Contract Year for scheduled maintenance outages, provided that this right shall be subject to the Company's obligations under this Agreement to Process the Guaranteed Tonnage and the Company's obligations under Section 4.03 below.

4.03 Contracting Communities Right of First Use.

(a) Unused Capacity. The Contracting Communities shall have a right of first use of all Processing Capacity at the Facility in accordance with this Section 4.03. If at any time and from time to time, the Contracting Communities have not delivered sufficient Acceptable Waste to fill the Processing Capacity of the Facility, then within twenty-four (24) hours of the

Company's notice to the Contracting Communities of the existence of unused Processing Capacity at the Facility, the Company shall have the right to market, for the benefit of both the Contracting Communities and the Company, as provided in Sections 4.03(b) and (c) below, the difference between the Processing Capacity and the total of Acceptable Waste being delivered by the Contracting Communities.

(b) Shortfalls in Delivery. If the Company procures waste from third parties to mitigate a shortfall in the Contracting Communities meeting their scheduled Billing Period Tonnage and/or Guaranteed Tonnage deliveries (a "*Waste Delivery Shortfall*"), then the Company shall be entitled to, and the Contracting Communities shall owe, a procurement commission of 15% (the "*Procurement Commission*") of the tipping fee paid by third parties (the "*Third Party Tipping Fee*") for the procurement of such waste. In addition, if the Third Party Tipping Fee is less than the Guaranteed Tonnage Tipping Fee, then, in addition to the Procurement Commission, (a) the Contracting Communities shall pay to the Company the difference between the Third Party Tipping Fee and the then current Guaranteed Tonnage Tipping Fee ("*Shortfall Payment*"), but (b) the Contracting Communities shall have the right, upon forty-eight (48) hours notice to the Company, to terminate any such Company waste supply arrangement which results in net payments by the Contracting Communities and direct the Company to accept Acceptable Waste from alternative sources procured by the Contracting Communities in order to reduce the Waste Delivery Shortfall. If the Third Party Tipping Fee is greater than the then current Guaranteed Tonnage Tipping Fee, the "*Excess Tipping Fee Revenues*" derived therefrom shall be separately accounted for and used as a credit against past, present and/or future Shortfall Payments. For the purposes of this calculation, it is assumed that the Procurement Commission in such cases will be paid separately by the Contracting Communities to the Company, and the Contracting Communities may permit such Excess Tipping Fee Revenues to be applied toward such purpose. Any such Excess Tipping Fee Revenues remaining at the expiration or termination of this Agreement shall be entirely for the Company's account.

(c) Fees from Excess Waste and Special Waste. If the Company is procuring Excess Waste (other than Special Waste) from third parties, (i) the Company shall retain for its own account the portion of the Third Party Tipping Fee for such Excess Waste up to the then applicable Excess Waste Tipping Fee, and (ii) the portion of such Third Party Tipping Fee in excess of the then applicable Excess Waste Tipping Fee shall be split 60% to the Company and 40% to Contracting Communities. The Company shall retain for its own account the entire Third Party Tipping Fee for Special Waste. The Company agrees that the Contracting Communities may dispose at the Facility, free of charge, Special Waste arising out of governmental activities occurring within Stanislaus County, such as illegal drugs confiscated by law enforcement agencies.

(d) Waste Delivery Priorities. Acceptable Waste delivered by the Contracting Communities pursuant to this Agreement shall have Processing priority over any waste arranged by the Company, except that Excess Waste delivered by the Contracting Communities shall be subordinate as follows:

(i) From July 1, 2012 until January 1, 2016, up to 7,300 Tons per Contract Year of Special Waste arranged by the Company, shall have priority over Contracting Communities Excess Waste; and

(ii) From January 2, 2016 until July 1, 2027, up to 12,200 Tons per Contract Year of Special Waste arranged by the Company shall have priority over Contracting Communities Excess Waste.

Special Waste deliveries to the Facility arranged by the Company shall in no event exceed the amounts set forth in Section 4.03(d)(i) and (ii) above for the periods set forth therein.

4.04 Operation of the Facility.

(a) The Company shall operate and maintain the Facility in such manner as to ensure that the Facility is able on a continuous basis, subject to the requirements of sound operating practice, to receive and Process Acceptable Waste as required by this Agreement.

(b) (1) By the Service Commencement Date, the County and the City shall each designate in writing a person to act as the service coordinator with respect to matters which may arise during the performance of this Agreement, and such person shall have authority to transmit instructions, receive information and confer with the Company's service coordinator.

(2) By the Service Commencement Date, the Company shall designate in writing a person to act as the Company's service coordinator with respect to matters which may arise during the performance of this Agreement, and such person shall have authority to transmit instructions and receive information and confer with the County and the City service coordinators.

(3) At any time after the initial designation by either party of its service coordinator, such party may designate a successor service coordinator by notice to the other party.

4.05 Facility Maintenance.

(a) Safety of Persons and Property. The Company represents that it shall on and after the Service Commencement Date at its cost and expense: (i) take all reasonable precautions for the safety of, and provide all reasonable protection to prevent damage, injury, or loss by reason of or related to the operation of the Facility to, (A) all employees working in the Facility and all other persons who may be involved with the operation or maintenance of the Facility, (B) all materials and equipment under the care, custody, or control of the Company, and (C) other property on the Facility Site, including trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities; (ii) establish and maintain the safety procedures of the Facility at a level consistent with Applicable Law and normal boiler and electrical generating plant practice; (iii) establish and enforce all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards and promulgation of safety regulations; (iv) give all notices and comply with all Applicable Laws, rules, and lawful orders of any public authority relating to the safety of persons or property or their protection from damage, injury, or loss; and (v) designate a qualified, responsible member of its organization at the Facility whose

duty shall be plant safety, the prevention of fires and accidents, and the coordination of related activities, as necessary with federal, State, County and City officials.

(b) Repair and Maintenance. The Company shall, on and after the Service Commencement Date and at its cost and expense, maintain the Facility and Facility Site at all times in good, clean, orderly condition, including implementing necessary repairs, purchasing necessary replacement equipment or parts for the Facility and clean-up consistent with industry standards relating to Acceptable Waste handling. The Company may at its own cost and without changing the rights and obligations of the parties hereunder incur any Capital Cost at the Facility at any time without the approval of the Contracting Communities. The Company shall, however, provide 30 days prior notice to the Contracting Communities of, and consider in good faith the comments received from the Contracting Communities during such 30-day period relating to, any proposed Capital Cost at the Facility in excess of \$500,000.

(c) Staffing. The Company shall at its cost and expense staff the Facility during the entire Service Term with the appropriate number of hourly and salaried employees consistent with good management practice. The Company will make reasonable efforts to staff the Facility with residents of the County.

(d) Facility Equipment Services. The Company shall on and after the Service Commencement Date: (i) at its cost and expense, keep the Facility in good operating condition and repair, ordinary wear and tear excepted, and replace the same if necessary to enable performance consistent with this Agreement.; (ii) not permit anyone other than those adequately trained to use, repair, or overhaul the Facility; (iii) operate, at its cost and expense, the Facility in compliance with all applicable federal, State, County and City laws, rules, and regulations, including those pertaining to the environment and the federal Occupational Safety and Health Act, as amended, and the equivalent California requirements; and (iv) notify the Contracting Communities promptly if the Facility should be seriously damaged, irrespective of cause.

4.06 Contracting Communities' Visits and Inspections; Record Keeping and Reporting; Testing.

(a) The Contracting Communities and their representatives shall have (i) at any reasonable time during the term of this Agreement and upon prior reasonable notice to the Company, the right to visit and inspect, and (ii) upon reasonable notice from the Contracting Communities and the consent of the Company, which shall not be unreasonably withheld, to take visitors through the Facility, in order to observe and to permit others to observe the various services which the Company performs; provided that such visits shall be conducted in a manner so as to minimize interference with the Company's performance under this Agreement.

(b) In connection with such inspections or visits, the Contracting Communities shall, on their behalf, and on behalf of their agents and representatives, comply, and cause their agents and representatives to comply with all reasonable rules and regulations adopted by the Company, including a requirement that each person inspecting or visiting the Facility sign a statement agreeing (1) to assume the risk of being in the Facility, but not the risk of injury due to the intentional or grossly negligent acts of the Company and (2) not to disclose or use, consistent with Applicable Law, any confidential information of the Company other than for the purpose

for which it was furnished. The Company shall maintain and calibrate all Facility instrumentation at its cost and expense, except as otherwise provided in Section 4.09(b). If, upon inspection, the Contracting Communities shall discover any deficiencies in the cleanliness, repair, replacement or appearance of the Facility, the Contracting Communities may, but shall not be required to, give the Company written notification thereof.

(c) (1) The Company shall establish and maintain an information system to provide storage and ready retrieval of Facility operating data, including all information necessary to verify calculations made pursuant to this Article IV and pursuant to Article VI.

(2) The Company shall prepare and maintain proper, accurate, and complete books and records and accounts of all transactions related to the Facility.

(3) The Company shall provide the Contracting Communities with monthly operations reports no later than five (5) working days after the close of the previous calendar month, including, but not limited to the following operating data: (A) the amount of Tons of Acceptable Waste and Excess Waste delivered by or on behalf of the Contracting Communities by truck with appropriate identification, indicating date and time of arrival; (B) the amount of Acceptable Waste delivered by third parties and not on behalf of the Contracting Communities, if any; (C) the total quantity of Process Rejects and Process Residue leaving the Facility; (D) the Tons of Contracting Communities By-Pass Waste; (E) the amount of Special Waste delivered (i) that was arranged by the Company or delivered by third parties, or (ii) by the Contract Communities; and (F) a statement of the amount of Excess Electric Revenue (defined below) and Excess Tipping Fee Revenue (defined above) received. These reports shall present the data in a form reasonably acceptable to the Contracting Communities and the Consulting Engineer.

(4) The Company shall provide the Contracting Communities, its auditors, and the Consulting Engineer with reasonable access, including compatible computer data communication links, to the scale house and Facility meters and those records necessary to substantiate the Service Fee including records relating to quantities of Acceptable Waste delivered to the Facility, Excess Electric Revenues, Excess Tipping Fee Revenues, Contracting Communities By-Pass Waste and Process Residue leaving the Facility.

(d) The Contracting Communities shall have the right to cause an independent third party to audit the books and records of the Company relating to the accounting of all revenues, costs, liabilities or expenditures that affect the rights, obligations or liabilities of the Contracting Communities under this Agreement, by providing to the Company written notice of exercise of such audit right within three years after the closing of the books for any period to be audited. The independent third party shall enter into a confidentiality agreement reasonably acceptable to the Company and the Contracting Communities before accessing such books and records of the Company. Following execution of such confidentiality agreement, the Company shall cooperate in all reasonable respects with the audit. The parties shall reconcile any discrepancy revealed by the audit within 60 days after the conclusion thereof. The Company shall maintain and calibrate all Facility instrumentation at its cost and expense.

4.07 Rejection Rights.

(a) Rejection of Deliveries. The Company may reject Acceptable Waste (i) delivered at hours other than the Receiving Times, or (ii) in excess, in any applicable period, of the number of Tons set forth on Schedule 1 applicable thereto, but subject to the Contracting Communities rights hereunder to deliver Excess Waste pursuant to Section 4.01(b) and to the Company's rights under Section 4.03. The Company may not reject any Acceptable Waste (including Excess Waste) brought by or on behalf of the Contracting Communities while it is accepting Waste from any other sources, except as otherwise provided in Section 4.03. Acceptable Waste which the Company so rejects shall not be included in the computation of the Guaranteed Tonnage or other calculations herein.

(b) Composition of Acceptable Waste. Nothing in this Agreement shall be construed to mean that the Contracting Communities guarantee the composition of any Acceptable Waste as it pertains to the proportion of any material contained therein or the energy value thereof; provided that this Section 4.07(b) shall not limit any right the Company may have to seek an equitable adjustment of the Service Fee or the Guaranteed Tonnage or the Billing Period Tonnages pursuant to Section 6.03 to reflect extensive change in the energy content of Acceptable Waste.

4.08 Receiving and Operating Hours.

(a) On and after the Service Commencement Date, the Company shall keep the Facility, and alternate facilities under the control of the Company, if any, as Alternate Disposal Methods, open for the receiving of Acceptable Waste during the Receiving Times.

(b) If the Company requests and the Contracting Communities agree, the Contracting Communities shall deliver and the Company shall accept Acceptable Waste at times other than the Receiving Times at no additional cost to the Contracting Communities.

(c) Upon the Contracting Communities' request and if permitted under Applicable Law and permit conditions, the Company shall accept deliveries of Acceptable Waste at times other than the Receiving Times upon seven (7) days' prior written notice (or such shorter notice as may be practicable in the event of the occurrence of a natural disaster or other emergency condition). If the Company accepts waste pursuant to this Section 4.08(c), or otherwise agrees to accept such waste other than pursuant to Section 4.08(b), at hours other than the Receiving Times, the Contracting Communities shall pay all additional costs, if any, incurred by the Company as a result of extending the hours of Receiving Times, upon submission of Cost Substantiation.

4.09 Weighing of Waste Deliveries, Etc. The Company shall cooperate to minimize unloading delays at the Facility during the Receiving Times.

(a) The County, on and after the Service Commencement Date, shall operate weighing facilities at the Fink Road Landfill for the purpose of determining the total Tons of Acceptable Waste delivered to the Facility and the respective Tons of all categories of materials leaving the Facility. The County shall be responsible for providing qualified County employees (the "*Scale Operators*") for the operation of the weighing facilities from 8:00 a.m. to 4:00 p.m.

Monday through Saturday, but not on Sundays or Legal Holidays. The County shall operate the scalehouse at all Receiving Times (which may be done without staff) and whenever the Contracting Communities request, pursuant to Section 4.08(c), that the Company accept deliveries of Acceptable Waste at times other than the Receiving Times. Such operation of the scalehouse shall be at the expense of the County. Upon the Company's request, the County shall operate the scalehouse at times other than the Receiving Times upon thirty (30) days prior written notice, unless a shorter time period is necessary or reasonable under the circumstances and agreed to by the County. If the County operates the scalehouse at hours other than the Receiving Times at the Company's request, the Company shall pay all additional costs, if any, incurred by the County as a result of extending the hours of Receiving Times, within thirty (30) days after submission of Cost Substantiation.

(b) The County shall be solely responsible for the compensation of the Scale Operators. The Scale Operators shall at all times be under the supervision, direction and control of the County. The County shall be responsible for and bear the cost of supplies and materials incidental to operation of the scalehouse computer system (including hardware and software), and for labor and materials required for purposes of housekeeping in the scalehouse. The Company shall be responsible for and bear the cost of the installation, maintenance and repair (other than repairs required due to the negligence or other wrongful conduct of County personnel), of such weighing facilities, including the scales and the scalehouse itself (excluding the computer and its hardware and software systems). The Company shall retain ownership of the scale, the scalehouse, the scalehouse computer system and the customary office equipment provided by the Company related thereto. The computer equipment and software shall be the sole responsibility of the County, acting in its sole discretion. Software or computer equipment changes may be proposed at any time by the Company. All determinations of whether to utilize any new equipment or software shall be made by the County and the cost thereof shall be an expense of the Contracting Communities.

(c) If at any time testing of the weighing facilities indicates that the scales do not meet the accuracy requirements of the Stanislaus County Agricultural Commission and Sealer of Weights and Measures, any adjustments of scale records actually recorded during the preceding thirty (30) days shall be negotiated by the Contracting Communities and the Company. If all weighing facilities are incapacitated or are being tested, the County, in consultation with the Company, shall estimate the quantity of Acceptable Waste delivered on the basis of truck volumes and estimated data obtained through historical information pertinent to the Company. These estimates shall be the basis for records during the scale outage and shall take the place of actual weighing records during the scale outage.

(d) The County shall provide daily computer printouts or copies of all weight tickets or electronic delivery of the data to the City, the Company, and the applicable Hauler. Copies of all daily records and weight tickets shall be maintained by the County for a period of at least two (2) years.

(e) The Company hereby reserves the right to have its representatives present at the Facility's scalehouse during the Receiving Times, or other hours that the Facility is open to receive Acceptable Waste pursuant to Section 4.08, to monitor the County's compliance with the provisions of this Section 4.09. If the Company, during the term of this Agreement or any

extension hereof, reasonably believes the County has failed to provide satisfactory operation of the scalehouse, computer or software system, the Company shall give the County written notice of the alleged lack of satisfactory performance. The Company shall specify the nature of the alleged unsatisfactory performance and the County shall have thirty (30) days in which to cure the alleged unsatisfactory performance. If the Company substantially prevails in an action alleging such unsatisfactory performance by the County, the Company may, at its option, take over operation of the scalehouse and operate it pursuant to the provisions of this Section 4.09.

(f) In addition to the indemnification and liability provisions otherwise contained herein, the County will be responsible for and shall indemnify the Company and the City against any property damage caused by the Scale Operators while in the scalehouse or on the Facility Site or the scalehouse grounds, except to the extent such damage is due to the negligent acts or negligent omissions of the Company. This includes amounts required to repair such damage that are not covered by the insurance to be maintained by the Company in accordance with Schedule 5 hereto, including but not limited to the self-insurance and deductible portions thereof.

4.10 Storage.

After delivery to the Facility and acceptance by the Company, no waste may be stored outside the Facility structure, except during an emergency or an Unforeseen Circumstance and then only if applicable environmental and safety requirements are met.

4.11 Regulation of Haulers.

(a) On and after the Service Commencement Date, the Contracting Communities shall require that each Hauler: (i) meet the requirements of Schedule 6 for the issuance of a franchise authorizing collection and/or transportation, or (ii) apply for such franchise from the Contracting Communities in accordance with such Schedule 6 requirements and otherwise take such actions as may be necessary to comply with the requirements of Schedule 6 in respect of the issuance of such franchise; and (iii) obtain and maintain such franchise.

(b) Notwithstanding the foregoing and any provisions set forth in Schedule 6 that may specify other requirements, the Contracting Communities shall require, as a condition of the issuance and maintenance of a franchise to any Hauler that such Hauler obtain and maintain commercial general liability insurance in form sufficient to insure against damage to and loss or destruction of property and injury to persons, in an amount at least equal to \$2,000,000 for each occurrence. Each policy of such insurance shall (i) name the Contracting Communities and the Company as additional insureds and (ii) provide that such policy shall not be cancelled, terminated, amended, or permitted to lapse upon less than ten (10) days' prior written notice to the Contracting Communities and to the Company.

(c) The Contracting Communities shall (i) use all reasonable efforts to enforce the requirements referred to in Section 4.11(a) above and Schedule 6, and (ii) cause the Haulers to comply with all reasonable traffic and safety rules, issued in writing by the Company, for the Facility.

4.12 Assistance with Water and Utilities.

The Contracting Communities shall, upon the reasonable request of the Company, provide assistance in obtaining access to suitable water and utilities for the operation of the Facility, including the use of existing Contracting Communities' roads, easements, and rights-of-way, but the primary responsibility shall remain with the Company.

**ARTICLE V – DISPOSAL OF PROCESS
RESIDUE AND PROCESS REJECTS**

5.01 Disposal.

(a) The Company shall be responsible for removing from the Facility, and transporting and disposing of, all Process Residue and By-Pass Waste. Such removal, transport and disposal shall be performed in accordance with all Applicable Laws regulating such material, its transportation and disposal.

(b) The Company shall remove ferrous metals from the Process Residue and shall sell or dispose of such ferrous metal at a location other than the Landfill.

(c) The Company shall have the sole and absolute right, at the Company's option, and pursuant to such terms and conditions as the Company determines in its sole and absolute discretion, to sell, trade, donate or otherwise alienate any and all Recovered Resources, solely for the account of the Company (except as provided in Section 6.05(c)).

5.02 Inadvertent Deliveries of Process Rejects.

(a) The Contracting Communities shall use all reasonable efforts to cause only Acceptable Waste to be delivered to the Facility and in connection with the use of Alternate Disposal Methods. However, the parties agree that any inadvertent deliveries by the Contracting Communities of Process Rejects to the Facility or, as applicable, in using Alternate Disposal Methods shall not constitute a breach of the Contracting Communities' obligations hereunder. The Company shall remove from the Facility or, as applicable, any alternate facility being used by the Company as Alternate Disposal Methods, all Unacceptable Waste delivered by the Contracting Communities and transport and dispose of such, at a site or sites as directed by the Contracting Communities, at the cost and expense of the Contracting Communities based on the Company's direct costs. The removal, transport, and disposal of Unacceptable Waste shall be performed in accordance with Applicable Laws. The Company shall provide Cost Substantiation for all direct costs incurred under this Section 5.02.

(b) The Company in its sole discretion shall have the right to inspect on the Facility Site the contents of any vehicle, including the right to require the Hauler operating such vehicle to unload the contents in the receiving area for purposes of inspection, to determine the possible presence of Process Rejects. If any such vehicle is found to contain Process Rejects, the Company may reject delivery of a portion or all of the contents of such vehicle and (i) if such vehicle contains Unacceptable Waste, disposal of such Unacceptable Waste shall be the sole responsibility of the Hauler operating such vehicle or (ii) if such vehicle contains Hazardous Waste, the Company shall follow the procedures and have the obligations set forth in

paragraph (c) of this Section 5.02. The Company shall promptly notify the Contracting Communities by telephone (followed by written notification) of any Hauler delivering, or suspected of delivering, significant amounts of Unacceptable Waste or Hazardous Waste to the Facility and provide to the Contracting Communities any data collected or records prepared related to such delivery.

(c) The Contracting Communities shall be solely responsible for the storage, identification, testing, protection, containment and prompt removal from the Facility Site of Hazardous Waste delivered by or on behalf of the Contracting Communities. This includes any Haulers delivering waste pursuant to contracts or franchise arrangements with the Contracting Communities and any third party delivering waste as part of the Guaranteed Tonnage of the Contracting Communities. With regard to Hazardous Waste delivered by or on behalf of the Contracting Communities, the Company's sole obligations are as follows, at the cost and expense of the Contracting Communities:

(i) Upon discovery of Hazardous Waste delivered by or on behalf of the Contracting Communities on the Facility Site, whether such discovery is made by way of an inspection pursuant to Section 5.02(b) or otherwise, the Company shall notify the Contracting Communities of such discovery;

(ii) The Company shall follow the reasonable directions of the Contracting Communities regarding removal of such Hazardous Waste delivered by or on behalf of the Contracting Communities from the pit, tipping floor or any other location on the Facility Site and placement of such Hazardous Waste at a safe location, if any, on the Facility Site; provided that the Company shall use any reasonable methods immediately available to it to prevent Hazardous Waste from causing dangerous conditions to life or property or from violating any Applicable Laws related to Hazardous Waste prior to its removal from the Facility Site;

(iii) The Company shall cooperate with the Contracting Community with regard to the Contracting Community's obligations to store, identify, test, protect, contain and promptly transport from the Facility Site such Hazardous Waste; and

(iv) The Company shall use reasonable care with regard to Hazardous Waste when such Hazardous Waste is on the Facility Site.

(d) If Unacceptable Waste or Hazardous Waste is delivered to the Facility by or on behalf of third parties that were not engaged by the Contracting Communities, the Contracting Communities' share of the cost incurred to remedy such delivery shall be in accordance with the benefit to the Contracting Communities of the tipping fee revenue from the delivery of such waste to the Facility had it been Acceptable Waste pursuant to Section 4.03.

(e) The Company shall be excused from failure or delay in performance of its obligations under this Agreement to the extent such failure or delay is caused by the delivery of Hazardous Waste by or on behalf of the Contracting Communities but not delivery of Hazardous Waste by any third parties on behalf of the Company.

5.03 Provision of Disposal Site.

Commencing on the Service Commencement Date and continuing through the Service Term, the Contracting Communities shall provide disposal capacity at the Fink Road Landfill (the "*Landfill*") for the Company's disposal of all Process Residue, Unacceptable Waste and By-Pass Waste from the Facility. The Company may dispose of all Process Residue, Unacceptable Waste and By-Pass Waste from the Facility at the Landfill and shall pay to the Contracting Communities (collectively, the "*Landfill Tipping Fee*"): (i) a tipping fee of \$26 for each Ton of Process Residue, and (ii) the then-posted gate rate at the Landfill for By-Pass Waste delivered to the Landfill. The portion of the Landfill Tipping Fee for Process Residue shall escalate annually at the same time and by the same percentage as the Guaranteed Tonnage Tipping Fee for Acceptable Waste escalates, after giving effect to the limiting parameters in the definition of such term set forth in Section 6.01 below. The Company may dispose of Unacceptable Waste delivered to the Facility by or on behalf of the Contracting Communities at the Landfill free of charge. The Contracting Communities shall not be obligated to pay to the Company any tipping fee for Unacceptable Waste delivered to the Facility by or on behalf of the Contracting Communities but shall only pay to the Company substantiated incremental handling, removal and transport costs for removing such Unacceptable Waste from the Facility, provided that the Contracting Communities make the Landfill available to the Company for disposal of such Unacceptable Waste free of charge. The Contracting Communities shall keep the Landfill open between the hours of 8:00 a.m. and 4:00 p.m., Monday through Saturday, and exclusive of Sundays and Legal Holidays. If because of an Unforeseen Circumstance, the Contracting Communities are unable to make or to continue to make the Landfill available to the Company, the Contracting Communities shall nevertheless make available to the Company other properly permitted sanitary landfills or suitable emergency disposal sites sufficient to satisfy the provisions of this Section.

ARTICLE VI – SERVICE FEE AND OTHER PAYMENTS

6.01 Service Fee.

Commencing with the first Billing Period and for each Billing Period thereafter, the Company shall be paid a Service Fee by the Contracting Communities for accepting, Processing, and/or disposing of Acceptable Waste that the Contracting Communities deliver to the Facility during each such Billing Period, but subject to Section 4.03(b) above, the aggregate Service Fee for each Billing Period shall not be less than what the aggregate Service Fee for such Billing Period would have been if the Contracting Communities had delivered the Billing Period Tonnage to the Facility during such Billing Period. Subject to the foregoing, the "*Service Fee*" shall be calculated in accordance with the following formula:

$$SF = GTTF + EWTF - LTF \pm OA$$

WHERE:

SF = Service Fee
GTTF = Guaranteed Tonnage Tipping Fee
EWTF = Excess Waste Tipping Fee
LTF = Landfill Tipping Fee
OA = Other Amounts

WHERE:

“Guaranteed Tonnage Tipping Fee” means \$32 per Ton of Acceptable Waste in the first Contract Year; the then-current Guaranteed Tonnage Tipping Fee shall be escalated annually effective on July 1st of each Contract Year, beginning July 1, 2013, by the percentage increase, as of the immediately preceding January 1st compared to the next preceding January 1st, in the Consumer Price Index, “Urban Wage Earners and Clerical Workers, All items, West – Size B/C (1996 = 100, not seasonally adjusted)” or if no longer published, a replacement index substituted by agreement of the parties each acting in good faith. At the time of each annual escalation, the as-escalated tip fee shall be (a) no greater than 120% of the average of the posted gate rates per Ton for the landfills (whether or not owned by the County) within a geometric radius of 50 miles from the Facility; and (b) no less than \$32 per Ton; and if 120% of such average is less than \$32 per Ton, then the Guaranteed Tonnage Tipping Fee for such Contract Year shall nevertheless be \$32 per Ton;

“Excess Waste Tipping Fee” means for the first 10,000 Tons per Contract Year of Excess Waste, \$2.00 per Ton less than the then applicable Guaranteed Tonnage Tipping Fee, and for all further Excess Waste in such Contract Year, \$4.00 per Ton less than the then applicable Guaranteed Tonnage Tipping Fee;

“Landfill Tipping Fee” has the meaning given it in Section 5.03 above; and

“Other Amounts” has the meaning given it in Section 6.04(a)(ii) below.

6.02 Costs and Benefits of Facility.

(a) Except as expressly otherwise provided herein, or in the Facility Site Lease, Covanta shall solely bear all costs and risks, and have all benefits of ownership, operation and maintenance of the Facility, including casualties, liability and Unforeseen Circumstances (except as provided in Section 6.05 with respect to Unforeseen Circumstances).

(b) Notwithstanding Section 6.02(a), the Contracting Communities shall reimburse Covanta for any taxes, assessments or fees imposed by the County, the City, or any special taxing district or authority under the control of the County or City, that are imposed on Covanta, the Facility, its operation or the solid waste industry and that are not generally applicable throughout the entire County (collectively, **“Discriminatory Taxes”**). Except for Discriminatory Taxes, Covanta will be responsible for the payment of any ad valorem taxes, personal or business taxes, and possessory interest lease or property taxes.

6.03 BTU Values.

If, in the Company's reasonable judgment, the energy content of waste delivered to the Facility shall, on a weekly average basis over any period of twelve (12) consecutive weeks or more, either be more than 5200 BTU, (HHV) per pound, or less than 3800 BTU higher heating value (HHV) per pound, the Company may propose in writing to the Contracting Communities adjustments in the Service Fee or the Billing Period Tonnages and the Guaranteed Tonnage to reflect such a change in the energy content of the waste. In its proposal, the Company shall set forth in reasonable detail the results of measurements made and tests conducted during the period in question which tests and results shall be reasonably acceptable to, and confirmed by, the Consulting Engineer, demonstrating that waste with an energy content outside the above limits was Processed through the Facility during such period. As soon as practicable after the Contracting Communities receive the Company's proposal, the Contracting Communities and the Company shall undertake discussions of such proposal in good faith.

6.04 Billing and Payments.

(a) (i) The Company shall render a statement to the Contracting Communities after the last day of each Billing Period which shall set forth in reasonable detail the calculation of the Service Fee for the Billing Period, including, without limitation, the Guaranteed Tonnage Tipping Fee, Excess Waste Tipping Fee, and the credit for any Landfill Tipping Fee.

(ii) Each such statement shall also include for such Billing Period:

(A) all other amounts payable by the Contracting Communities to the Company hereunder;

(B) all amounts payable by the Company to the Contracting Communities hereunder; and

(C) and with respect to items (ii)(A) and (ii)(B) above, the balance due to, or from, the Contracting Communities (the "**Other Amounts**"). Other Amounts also includes:

- (1) Any amount due from the Contracting Communities for any damages paid, or credits provided, to the Contracting Communities by the Company during such Contract Year for failure to Process any Billing Period Tonnage, or portion thereof, if at the end of such Contract Year the Company has Processed the Guaranteed Tonnage, and
- (2) Unforeseen Circumstance Costs, and
- (3) Any other amounts payable under this Agreement by one party to the other for such Billing Period including amounts payable under Section 8.03(c).

(b) The Contracting Communities shall pay to Covanta the Service Fee (if positive) within twenty (20) days of their receipt of such statement. If the Service Fee is negative, Covanta shall pay the difference to the Contracting Communities within twenty (20) days of the date of the statement.

(c) To the extent that the actual value of any item in any Billing Period statement cannot be accurately determined at the Billing Period statement date, such item shall be billed on an estimated basis and an adjustment shall be made to reflect the difference between such estimated amount and the actual amount of such item on the Billing Period statement next following the date on which the Company learns the exact amount of such item.

(d) Thirty days (30) prior to the end of each Contract Year, the Company shall provide to the Contracting Communities a written statement setting forth its reasonable estimate of the aggregate Service Fee for the next Contract Year, which statement shall not be binding on the Company.

(e) Within forty-five (45) days after the end of each Contract Year the Company shall deliver to the Contracting Communities an annual statement, which shall show the computation of the Service Fee and the Other Amounts for such Contract Year, including corrections to all estimated amounts, and other adjustments due to the Company or the Contracting Communities.

(f) If the annual statement reflects (i) any balance due to the Contracting Communities, then the Company shall, within thirty (30) days of delivery of the annual statement, pay such balance due to the Contracting Communities or (ii) any balance due to the Company, then the Contracting Communities shall, within thirty (30) days of receipt of the annual statement, pay to the Company such balance due.

6.05 Unforeseen Circumstances.

(a) General. The obligations of the Company and of the Contracting Communities, respectively, to perform under this Agreement (other than an obligation to pay money due and owing) shall be excused due to the occurrence of one or more Unforeseen Circumstances, and the Service Fee shall be subject to potential increase for Unforeseen Circumstance Costs (to be included in the Other Amounts component of the Service Fee), as provided in this Section 6.05.

(b) Excuse of Performance. Neither the Contracting Communities nor the Company shall be liable to the other for any failure or delay in performance of any obligation under this Agreement (other than an obligation to pay money due and owing) if such failure or delay in performance is a result of the occurrence of an Unforeseen Circumstance. The party whose performance under this Agreement has been, or is imminently expected to be, affected by an Unforeseen Circumstance shall provide prompt notice (the "*First UCC Notice*") to the other party of (i) the Unforeseen Circumstance; and (ii) in the case of the Company, a preliminary, non-binding estimate of the Unforeseen Circumstance Costs (hereinafter defined) and the ways and manner that Unforeseen Circumstance Costs might be mitigated or reduced. The Consulting Engineer shall review and ascertain for the Contracting Communities the validity of the Company's written notice that an Unforeseen Circumstance has occurred. Whenever an Unforeseen Circumstance shall occur, the party claiming to be adversely affected thereby shall,

as quickly as reasonably possible, mitigate the cause thereof, undertake alternative performance if commercially reasonable under the circumstances, and shall to the extent commercially reasonable under the circumstances, reduce costs. The affected party shall, without limitation, also pursue applicable insurance proceeds and shall resume performance under this Agreement, as quickly as reasonably possible. The parties shall limit costs incurred in anticipation of an Unforeseen Circumstance to those reasonably calculated to prevent or diminish the loss or damage. Any insurance proceeds shall be applied to offset incurred Unforeseen Circumstance Costs.

(c) Cost Recovery.

(1) Cost of Unforeseen Circumstances. Within 180 days after the occurrence of an Unforeseen Circumstance affecting the Facility, (i) the Company shall determine whether, and to what extent, the Unforeseen Circumstance is reasonably expected to permanently reduce the ability of the Facility to accept or Process Acceptable Waste, the estimated net cost of any necessary repairs or reconstruction, and the estimated net increase in any operation or maintenance costs caused by the Unforeseen Circumstance, and (ii) the Company shall provide written notice thereof to the Contracting Communities (the "*Second UCC Notice*"). Subject to the provisions of Sections 6.05(c), (d) and (e) below or termination under Section 10.01(h) of Facility Site Lease Agreement, the Company shall diligently perform the necessary repairs or reconstruction of the Facility.

(2) From July 1, 2012 until January 1, 2016:

(i) the Company shall bear 75% of Unforeseen Circumstance Costs (including Cap and Trade Costs as defined below) and the Contracting Communities shall bear 25% of such Unforeseen Circumstance Costs, subject to Cost Substantiation.

(ii) the Company shall separately account for the portion of Electric Revenues in excess of \$82.50/MWH (the "*Excess Electric Revenues*"). Excess Electric Revenues shall be deemed to reduce the costs of complying with legislation or regulations imposing a cap and trade program on greenhouse gas emissions ("*Cap & Trade Costs*"), including without limitation, regulations promulgated pursuant to the Global Warming Solutions Act of 2006, if any, before the allocation between the parties described in Section 6.05(c)(2)(i) above is applied, and the Contracting Communities shall have no responsibility for Cap & Trade Costs in excess of 25% of the net amount remaining after such deemed reduction. In addition, any Cap & Trade Costs resulting from an increase in the Processing Capacity of the Facility beyond 310,000 Tons per Contract Year shall be solely the Company's responsibility, unless otherwise agreed to by the Contracting Communities. If on January 2, 2016, this Agreement remains in effect and there are any Excess Electric Revenues which have not been applied as contemplated by this Section 6.05(c)(2)(ii), then any such balance of Excess Electric Revenues shall be added to the amounts provided under Section 6.05(c)(3)(ii) below and applied as provided therein. However, if there is a termination of this Agreement before January 2, 2016, and there is any balance of Excess Electric Revenues remaining, then such balance shall be for the account of the Company.

(3) From January 2, 2016 until the termination of this Agreement:

(i) the Company shall bear 75% of Unforeseen Circumstance Costs and the Contracting Communities shall bear 25% of Unforeseen Circumstance Costs, subject to Cost Substantiation.

(ii) the Company shall separately account for Excess Electric Revenues from Electric Revenues in excess of \$92.50/MWH. Such Excess Electric Revenues, together with any balance transferred in accordance with Section 6.05(c)(2)(ii) above, shall be deemed to reduce any and all Unforeseen Circumstance Costs before the allocation between the parties described in Section 6.05(c)(3)(i) above is applied, and the Contracting Communities shall have no responsibility for Unforeseen Circumstance Costs in excess of 25% of the net amount remaining after such deemed reduction. If upon expiration or termination of this Agreement on or after January 2, 2016 there is any balance of such Excess Electric Revenues remaining, then such balance shall be for the account of the Company.

(4) Unforeseen Circumstance Costs. “*Unforeseen Circumstance Costs*” means

(i) the actual net increase in operation and maintenance costs of the Facility required by the Unforeseen Circumstance, and (ii) the Amortized Portion (defined below) of Capital Costs (defined below). The Contracting Communities share of Unforeseen Circumstance Costs, consistent with the foregoing provisions of this Section 6.05(c), shall be included in the amount billed for the Service Fee, commencing with the first Billing Period after the Billing Period in which any such cost increases are incurred by the Company and continuing when and for so long as such cost increases are incurred by the Company. The Company shall invoice accordingly, and the Contracting Communities shall pay such invoices as provided in Section 6.04 above. The “*Amortized Portion*” shall be the monthly debt service associated with the actual, or hypothetical (as described below), financing of the Capital Cost (defined below) of any asset or project required as a result of an Unforeseen Circumstance that has a useful life greater than one year. The “*Capital Cost*” of any such asset or project, includes without limitation or duplication, (A) the purchase price and delivery costs, and out-of-pocket (including any internal staff costs directly related to the required work but excluding overhead expenses of the Company) and installation and construction costs, (B) transaction costs of any financing thereof, and (C) capitalized interest associated with the Unforeseen Circumstance financing, less, without limitation or duplication, (X) interest earnings during construction on any funds advanced on the Unforeseen Circumstance financing, (Y) insurance proceeds actually received by the Company on account of such Unforeseen Circumstance and (Z) amounts corresponding to insurance proceeds that would have been received for any insurable Unforeseen Circumstance, to the extent of the coverage required under this Agreement but not secured by the Company. As a first step, the parties shall determine the total Capital Cost of any asset or project resulting from an Unforeseen Circumstance and its expected useful life and then apply one of the following four methods, as appropriate. For each of the four methods below, the parties agree that any financing, or hypothetical financing, shall result in approximately equal monthly debt service payments over the term of the financing. If the actual financing includes a construction loan followed by a permanent financing, then the Amortized Portion during the construction period shall be the actual interest payments on such construction loan. The parties shall utilize reasonable efforts to minimize the Capital Cost and financing costs of the Unforeseen

Circumstance, including, without limitation, the use of tax-exempt or private activity or other tax exempt bonds:

(i) If the entire Capital Cost of the asset or project is financed over a term equal to the expected useful life of the asset or project, then the Amortized Portion shall be the actual debt service associated with such financing;

(ii) If the entire Capital Cost of the asset or project is financed over a term that is less than the useful life of the asset, then the Amortized Portion shall be determined by calculating a hypothetical monthly debt service assuming the entire capital cost is financed using the actual monthly interest rate (or annual interest rate divided by 12) associated with such financing, but repaid assuming a level monthly mortgage style repayment schedule over the useful life of the asset or project;

(iii) If the Company internally funds the entire Capital Cost of the asset or project, then the Amortized Portion shall be determined by calculating a hypothetical monthly debt service which would be payable on a loan having a principal amount equal to the Capital Cost of such capital asset or project. The hypothetical loan shall assume (i) an interest rate equal to the Overdue Rate for the number of years equal to the useful life of the asset or project, and (ii) a level monthly mortgage style repayment schedule over the useful life of the asset or project; or

(iv) If a portion of the Capital Cost of the asset or project is financed and the balance is internally funded by the Company, then the Amortized Portion shall be the sum of (i) or (ii) above for the financed portion, whichever applies, and (iii) above for the Company funded portion.

The “**useful life**” of any asset shall be consistent with generally accepted accounting principles (“**GAAP**”), but if GAAP provides a range of values for the useful life of an asset, each party reserves the right to claim, as applicable, a value from such range, and the parties shall endeavor in good faith to agree on the appropriate value for the asset’s useful life. In the event there is a dispute such dispute shall be resolved pursuant to Section 9.20 of this Agreement.

(d) Unforeseen Circumstance Cost Limit. If the cumulative total Unforeseen Circumstance Costs incurred from the Service Commencement Date collectively by the Company and by the Contracting Communities exceeds \$15,000,000, excluding Excess Electric Revenues applied pursuant to Section 6.05(c)(2)(ii) or Section 6.05(c)(3)(ii) above (such net amount being the “**Initial UCC Termination Threshold**”), then each of the Company, on the one hand, and the Contracting Communities, acting jointly on the other hand, shall have the right to terminate this Agreement without payment of the Termination Payment (defined below) or any other termination fee (a “**UCC Termination**”) by providing written notice thereof to the other within 90 days after receiving written notice that such Initial UCC Termination Threshold has been reached. The party to whom such notice of termination is given shall have the right to avoid the UCC Termination by paying to the party giving the notice, within 30 days after receipt of the notice, the amount incurred in excess of \$3.75 million in the case of the Contracting Communities, and the amount incurred in excess of \$11.25 million in the case of the Company (each a “**Termination Avoidance Amount**”). If neither party timely exercises an applicable UCC

Termination or if a party avoids the UCC Termination pursuant to the immediately preceding sentence, this Agreement shall continue uninterrupted and in full force and effect, unless and until additional Unforeseen Circumstance Costs, in excess of the Initial UCC Termination Threshold, incurred collectively by the Company and by the Contracting Communities exceed a cumulative total of \$1,500,000 (a "***Subsequent UCC Termination Threshold***"), at which time a UCC Termination right shall arise for each party again in accordance with the foregoing provisions of this Section 6.05(d), based on a Subsequent UCC Termination Threshold amount of \$1,500,000 (rather than \$15,000,000) and including the termination avoidance provisions with Termination Avoidance Amounts of \$375,000 for the Contracting Communities and \$1,125,000 for the Company. If neither party timely exercises the UCC Termination when the Subsequent UCC Termination Threshold is reached, or if a party avoids the UCC Termination pursuant to the immediately preceding sentence, then this same process shall apply each time a new Subsequent UCC Termination Threshold is reached during the Service Term.

(e) Constructive Total Loss. In the event the Second UCC Notice states that the Unforeseen Circumstance is expected to result in aggregate Capital Costs together with net increases in operation and maintenance costs of the Facility, over the remainder of the Service Term in each case ("***Restoration Costs***") in excess of \$22 million (the "***Loss Termination Threshold***"), the Company shall include clear and convincing evidence of such Restoration Costs in the Second UCC Notice. The Contracting Communities will state in their response notice, to be delivered within twenty (20) days of receipt of the Second UCC Notice, whether they agree or disagree that the Restoration Costs will exceed the Loss Termination Threshold. If the Contracting Communities do not so agree, then such disagreement will be subject to dispute resolution pursuant to Section 9.20. If the Contracting Communities state in their response notice that they agree that the Restoration Costs will be greater than the Loss Termination Threshold, or the decision delivered in the arbitration so determines, as applicable (either being a "***Restoration Cost Substantiation***"), then each of the Company and the Contracting Communities shall have the right to terminate this Agreement by providing to the other no less than 180 days and no more than 240 days written notice of termination (a "***Termination Notice***"). Such Termination Notice shall be delivered within thirty (30) days after Restoration Cost Substantiation. On or before the termination date set forth in the Termination Notice, the Contracting Communities shall pay to the Company a termination payment equal to 25% of the Capital Costs of prior Unforeseen Circumstances occurring on or after the Contract Date that were not included in any prior Amortized Portions paid by the Contracting Communities, less unapplied Excess Electric Revenues (the "***Termination Payment***"). If the calculation pursuant to the immediately preceding sentence yields a negative number, the Termination Payment shall be zero. Upon payment of the Termination Payment, the Facility Site Lease Agreement shall terminate, Section 7.04 of the Facility Site Lease Agreement will apply and neither the Contracting Communities nor the Company shall have any further rights or obligations under this Agreement, except for any rights or obligations which expressly survive termination of this Agreement.

(f) Site Lease Termination. This Agreement shall automatically terminate if the Facility Site Lease Agreement terminates in accordance with its terms, contemporaneously with such termination.

6.06 No Offset or Waiver.

The obligation of the Contracting Communities to pay the Service Fee shall not be subject to (i) any set-off, counterclaim, warranty claim, recoupment, defense or any other right which the Contracting Communities may have against the Company for any reason whatsoever whether in connection with the transactions contemplated hereby or in unrelated transactions, or (ii) the Contracting Communities at any time having immunity from suit on the grounds of sovereignty or otherwise. The payment by the Contracting Communities of the Service Fee shall neither constitute a waiver or an estoppel of any right or remedy of the Contracting Communities hereunder, nor shall it preclude the Contracting Communities from asserting any such right or remedy against the Company in a separate action.

6.07 Contracting Communities' Permit Obligations.

To the extent that any permit or license which the Company is obligated to obtain contains conditions or requirements which are capable of being satisfied only by the Contracting Communities, the Contracting Communities shall use all reasonable efforts to satisfy such conditions or requirements; provided that the cost to the Contracting Communities shall be reasonable. The Contracting Communities agree that they will not, either individually or collectively, exercise any condemnation or like power available to them to take the Facility or the Facility Site, or any portion thereof, which in the Company's reasonable judgment shall interfere with its ability to perform its obligations under this Agreement and that any such taking shall be deemed an Event of Default pursuant to Section 8.02(b) of this Agreement; provided, however, that any such taking which is required by Applicable Law or for the protection of public health and safety shall not be deemed an Event of Default but shall be an Unforeseen Circumstance.

ARTICLE VII – FURTHER AGREEMENTS

7.01 Licenses, Approvals and Permits.

The Contracting Communities shall provide all such cooperation as may reasonably be requested by the Company in connection with obtaining in a timely manner and maintaining the permits, licenses, and approvals required to be obtained and maintained by the Company in connection with the ownership, operation and maintenance of the Facility. The Company shall use all reasonable efforts to obtain and/or maintain all permits, licenses, and approvals required to be obtained and/or maintained by the Company in connection with the ownership, operation and maintenance of the Facility.

7.02 Nondiscrimination.

The Company shall not discriminate or permit discrimination against any person because of race, color, religion, national origin, or sex. This provision prohibiting discrimination is a material term of this Agreement.

7.03 Insurance.

The Company shall maintain the insurance coverages set forth in Schedule 5 subject to each party's right to request an adjustment to existing coverage, so that the insurance coverage hereunder is consistent with that of similar facilities, provided that the adjusted coverage is available on commercially reasonable terms. The Contracting Communities shall be made additional insureds under all such property and liability insurance policies of the Company and the Contracting Communities shall be insured thereunder for any State diversion credit losses that occur as a result of a necessary diversion of waste from the Facility following a casualty insured by the required business interruption and extra expense coverages as set forth in Schedule 5. The Company shall be liable for any monetary loss caused by Unforeseen Circumstances, to the extent that any such Unforeseen Circumstance was required to be covered by insurance to be maintained by the Company pursuant to this provision, but was not, and, subject to any rights to terminate this Agreement pursuant to the terms hereof, shall be obligated to restore the Facility whether or not there are sufficient insurance proceeds therefor.

7.04 Joint and Several Obligations.

The obligations of the County and the City hereunder shall be joint and several.

ARTICLE VIII – DEFAULT AND TERMINATION

8.01 Events of Default by the Company.

The following shall constitute "*Events of Default*" on the part of the Company:

- (a) Failure of the Company to accept Acceptable Waste from the Contracting Communities as required hereunder;
- (b) Violation by the Company of the Processing priority provisions of Section 4.03(d);
- (c) Failure of the Company to make any payment that is owed to the Contracting Communities and past due hereunder within ten business (10) days following receipt of the Contracting Communities' notice of non-payment to the Company;
- (d) Persistent and repeated failure of the Company to timely perform any material obligation under this Agreement, other than as set forth in Sections 8.01(a), (b) or (c) above, such as, but not limited to, operation of the Facility in violation of the environmental standards or permits, failure to properly maintain the Facility, and disregard for laws, ordinances, rules, regulations or orders of any public authority having jurisdiction over the Facility, the Facility Site, the Company or the Company's obligations under this Agreement; or
- (e) (i) the Company's or the Parent's being or becoming insolvent or bankrupt or ceasing to pay its debts as they mature, or making an arrangement with or for the benefit of its creditors or consenting to or acquiescing in the appointment of a receiver, trustee, or liquidator for the Facility or for any substantial part of its property, or (ii) a bankruptcy, winding up, reorganization, insolvency arrangement, or similar proceeding instituted by or against the

Company or the Parent under the laws of any jurisdiction, which proceeding has not been stayed or dismissed within thirty (30) days, or (iii) any action or answer by the Company or the Parent approving of, consenting to, or acquiescing in any such proceeding, or (iv) the levy of any distress, execution, or attachment upon the property of the Company or the Parent which shall substantially interfere with its performance hereunder.

8.02 Events of Default by Contracting Communities.

The following shall constitute “*Events of Default*” on the part of the Contracting Communities:

(a) failure of the Contracting Communities to make any payment that is owed to the Company and past due hereunder within ten (10) business days following receipt of the Company’s notice of non-payment to the Contracting Communities;

(b) the commencement by one or both of the Contracting Communities of a proceeding for taking or condemning the Facility or the Facility Site, or any portion thereof which in the reasonable judgment of the Company shall interfere with its ability to perform its obligations under this Agreement; provided that any such taking which is required by Applicable Law or for the protection of public health and safety shall not be an Event of Default;

(c) Persistent and repeated failure of the Contracting Communities to timely perform any material obligation under this Agreement, other than the obligations described in Sections 8.02(a) and (b) above; or

(d) (i) The Contracting Communities being or becoming insolvent or bankrupt or ceasing to pay its debts as they mature or making an arrangement with or for the benefit of its creditors or consenting to or acquiescing in the appointment of a receiver, trustee, or liquidator for a substantial part of its property, or (ii) a bankruptcy, winding up, reorganization, insolvency arrangement, or similar proceeding instituted by or against the Contracting Communities under the laws of any jurisdiction, which proceeding has not been stayed or dismissed within thirty (30) days, or (iii) any action or answer by the Contracting Communities approving of, consenting to, or acquiescing in, any such proceeding, or (iv) the levy of any distress, execution, or attachment upon the property of the Contracting Communities which shall substantially interfere with its performance hereunder.

8.03 Event of Default Remedies.

(a) Company Opportunity to Cure. If a Company Event of Default described in Section 8.01(a), (b) and/or (d) has occurred, the Company shall have an opportunity to cure such Event of Default by commencing to cure within thirty (30) days after the Contracting Communities have given the Company notice of such Event of Default in reasonable detail and continuing to pursue the cure with due diligence thereafter. An Event of Default described in Section 8.01(c) shall require notice and provide an opportunity to cure only as provided therein. An Event of Default described in Section 8.01(e) shall not require any notice by the Contracting Communities and shall provide an opportunity to cure only as provided in (ii) therein.

(b) Contracting Communities Opportunity to Cure. If a Contracting Communities Event of Default described in Section 8.02(b) and/or (d) has occurred, the Contracting Communities shall have an opportunity to cure such Event of Default by commencing to cure within thirty (30) days after the Company has given the Contracting Communities notice of such Event of Default in reasonable detail and continuing to pursue the cure with due diligence thereafter. An Event of Default described in Section 8.02(a) shall require notice and provide an opportunity to cure only as provided therein. An Event of Default described in Section 8.02(d) shall not require any notice by the Company and shall provide an opportunity to cure only as provided therein.

(c) Direct Damages & Termination. Events of Default shall give the non-defaulting party the right to pursue the defaulting party for direct, actual damages, subject to Section 8.04 below, and/or the right, subject to Sections 8.03(a) and (b) above, to terminate this Agreement by providing at least sixty (60) days written notice of termination.

(d) Additional Remedies/Damages in Special Circumstances.

(i) If the Company Event of Default is under Section 8.01(b), then the Contracting Communities shall have as an additional remedy the right to seek a decree of specific performance to enforce its right of Processing priority and to preliminary and permanent injunctive relief in connection therewith and/or similar remedies in equity.

(ii) If the Contracting Communities Event of Default is a failing to meet their obligations to deliver Acceptable Waste to the Facility while delivering Acceptable Waste to locations other than the Facility, then the Company shall have as an additional remedy the right to seek a decree of specific performance to enforce such delivery obligations and to preliminary and permanent injunctive relief in connection therewith and/or similar remedies in equity.

(e) The remedies described in this Section 8.03 shall be the sole and exclusive remedies of the parties for Events of Default.

8.04 Limit of Liability.

(a) Notwithstanding any other provision of this Agreement, in no event shall the Company, on the one hand, or the Contracting Communities, on the other hand, be obligated to pay damages to the other for any and all breaches and/or Events of Default under this Agreement, from and after the Contract Date, as determined by a court or an arbitration decision or agreed upon between the parties or actually paid by one party to the other, in a cumulative amount in excess of \$25 million (the "*Limit of Liability*"). For purposes of determining if the Limit of Liability of a party has been reached at any time, the following amounts previously paid or then payable by such party shall not be included: (i) Unforeseen Circumstance Costs and (ii) the Guaranteed Tonnage Tipping Fee and Excess Waste Tipping Fee or the Landfill Tipping Fee, as applicable, and for disposal services rendered in each case. Also excluded from such Limit of Liability are tort claims for injury to persons or damage to property, even if pursued under a provision of contractual indemnity. For the purposes of determining if the Limit of Liability of a party has been reached at any time, any amounts received by that party from the other party as damages for any and all such breaches and/or Events of Default shall be ignored.

(b) If either party reaches the Limit of Liability, it shall give written notice thereof to the other party, and the other party shall have the right to terminate this Agreement by providing written notice thereof within sixty (60) days after receipt of the notice of reaching the Limit of Liability and such termination will be effective sixty (60) days from the date thereof. A party's obligation to pay damages arising on or before the date of or as a result of termination, up to the Limit of Liability, shall survive termination of this Agreement.

8.05 Special Termination Right.

The Company shall have a one-time right to terminate this Agreement, for its convenience and without payment of any fee or damages, effective December 31, 2016. The Company may exercise such right of termination only by providing to the Contracting Communities written notice thereof by December 31, 2014. If the Company exercises such right of termination, then the Facility Site Lease Agreement shall also terminate effective December 31, 2016 and the provisions of Section 7.04 thereof shall be applicable.

ARTICLE IX – MISCELLANEOUS

9.01 Assignment.

(a) This Agreement may not be assigned by any party without the prior written consent of the other parties, except that the Company may, without such consent, assign its interest hereunder to an Affiliate that shall assume all the obligations under this Agreement; provided that the Company shall remain principally obligated for the full performance of the Company's obligations under this Agreement, and the Parent shall acknowledge in writing the continuing effectiveness and enforceability of the Parent Guaranty.

(b) This Agreement shall be binding upon and inure to the benefit of the permitted successors and assigns of the parties hereto pursuant to this Section 9.01. Any attempted assignment made contrary to this Section 9.01 shall be void.

(c) Notwithstanding the above, the Company may collaterally assign this Agreement as security for financings secured by the Facility in accordance with Articles 12 and 13 of the Facility Site Lease Agreement.

9.02 Indemnification.

(a) Company Indemnity. The Company agrees that it shall protect, indemnify and hold harmless the Contracting Communities and their officials, officers, members, employees, and agents (the "*Contracting Communities Indemnified Parties*") from and against all liabilities, actions, damages, claims, demands, judgments, losses, costs, expenses, suits and attorneys' fees, and shall defend the Contracting Communities Indemnified Parties in any suit, including appeals, for personal injury or death, or loss of, or damage to, property arising out of (i) the negligent acts, negligent omissions or intentional wrongful conduct of the Company or any of its officials, agents, or employees in connection with its obligations or rights under this Agreement, or (ii) the nonperformance of the Company's obligations under this Agreement. The Company is not required, however, to reimburse or indemnify any Contracting Communities Indemnified Party for loss or claim due to the negligent acts, negligent omissions or intentional

wrongful conduct of any Contracting Communities Indemnified Party, and the Contracting Communities shall reimburse the Company for the costs of defending any related suit.

(b) Contracting Communities Indemnity. The Contracting Communities agree that they shall protect, indemnify and hold harmless the Company, the Parent, their subcontractors of any tier, and their respective officers, members, employees, and agents (the “*Company Indemnified Parties*”) from and against all liabilities, actions, damages, claims, demands, judgments, losses, costs, expenses, suits, or actions and attorneys’ fees, and shall defend the Company Indemnified Parties in any suit, including appeals, for personal injury or death, or loss of or damage to property of persons not parties to this Agreement arising out of (i) the negligent acts, negligent omissions or intentional wrongful conduct of the Contracting Communities or any of its officials, agents, or employees, contractors, or subcontractors in connection with the obligations or rights under this Agreement, or (ii) the nonperformance of the Contracting Communities obligations under this Agreement. The Contracting Communities are not required, however, to reimburse or indemnify any Company Indemnified Party for loss or claim due to the negligent act, negligent omission or intentional wrongful conduct of any Company Indemnified Party, and the Company shall reimburse the Contracting Communities for the costs of defending any related suit.

(c) Waiver of Subrogation. The Company and the Contracting Communities hereby waive any and every claim for recovery from the other for any and all loss or damage to each other resulting from the performance of this Agreement, to the extent such loss or damage is recovered under the applicable party’s own insurance policies.

9.03 Effect of Termination.

Upon the expiration or earlier termination of this Agreement, pursuant to the terms of this Agreement, the obligations of the Company and the Contracting Communities for the payment of money or indemnification, arising from the conduct of the parties pursuant to this Agreement prior to such expiration or earlier termination of this Agreement, shall survive such expiration or earlier termination.

9.04 Overdue Obligations to Bear Interest.

All amounts due hereunder, whether as damages, credits, revenue, or reimbursements, that are not paid when due shall bear interest at the Overdue Rate on the amount outstanding from time to time, on the basis of a 360-day year, counting the actual number of days elapsed, and all such interest accrued at any time shall, to the extent permitted by Applicable Law, be deemed added to the amount due, as accrued.

9.05 Exclusion of Liability.

(a) IN NO EVENT, WHETHER BECAUSE OF A BREACH, EVENT OF DEFAULT OR ANY OTHER CAUSE, WHETHER BASED IN CONTRACT, TORT, WARRANTY, OR OTHERWISE, ARISING OUT OF THE PERFORMANCE OR NONPERFORMANCE OF THIS AGREEMENT, SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR, OR BE OBLIGATED IN ANY MANNER TO PAY, SPECIAL,

INCIDENTAL, CONSEQUENTIAL OR INDIRECT DAMAGES, EXCEPT AS EXPRESSLY PROVIDED OTHERWISE IN THIS AGREEMENT.

(b) THE REMEDIES PROVIDED TO EACH PARTY IN THIS AGREEMENT SHALL BE EXCLUSIVE OF ANY OTHER REMEDIES AVAILABLE AT LAW OR IN EQUITY; PROVIDED THAT THE PARTIES HERETO MAY ENFORCE THEIR REMEDIES PROVIDED HEREIN BY APPROPRIATE PROCEEDINGS IN COURTS OF LAW OR IN EQUITY HAVING JURISDICTION.

9.06 Intellectual Property Rights.

The Company shall pay all royalties and license fees relating to the Facility. The Company hereby warrants that the Facility and the contemplated operation of the Facility or the use of any component unit thereof, or the use of any patent, trademark or copyright, data, patented article, machine, or process, or a combination of any or all of the aforesaid, as contemplated by this Agreement shall not infringe any patent, trademark, or copyright or constitute the unauthorized use of a third person's trade secrets. The Company shall: (i) defend any claim or lawsuit brought against the Contracting Communities or any of their officials, agents, employees, or representatives for infringement of any such patent, trademark, or copyright, or for the unauthorized use of trade secrets by reason of the design, construction, or operation of the Facility, or (ii) at the Company's option, and at its sole cost, may acquire the rights of use under infringed patents, or modify or replace infringing equipment with equipment equivalent in quality, performance, useful life, and technical characteristics and development so that such equipment does not infringe, and the Company shall indemnify the Contracting Communities and their officials, agents, employees, and representatives against all liability, judgments, decrees, damages, interest, costs, and expenses (including reasonable attorneys' fees) recovered against the Contracting Communities, or any of its officials, agents, employees, or representatives sustained by any or all of the foregoing by reason of any actual or alleged infringement or unauthorized use. The Company is not, however, required to reimburse or indemnify any person for loss or claim due to the negligence or intentional wrongful conduct of such person.

9.07 Relationship of the Parties.

Except as otherwise expressly provided herein, no party to this Agreement shall have any responsibility whatsoever with respect to services provided or contractual obligations assumed by any other party. Nothing in this Agreement shall be deemed to constitute any party a partner, franchisee, franchisor, agent, or legal representative of any other party or to create any fiduciary relationship between or among the parties. The Contracting Communities shall not have, through this Agreement or otherwise, except as provided by any applicable provision of the Facility Site Lease Agreement, (a) any title to or ownership interest in the Facility or (b) physical possession of or control over the Facility, during the term of this Agreement.

9.08 Notices.

Any notices or communication required or permitted hereunder other than notices under Article VIII hereof shall be in writing and shall be sufficiently given if (i) delivered in person,

(ii) sent by overnight courier and evidence of delivery is obtained, (iii) sent by e-mail with evidence of receipt of such email, or (iv) sent by certified or registered mail, return receipt requested, postage prepaid, in each case properly addressed as provided below. Notices under Article VIII hereof shall be in writing and shall be sufficiently given only if given as provided in clause (i), (ii) or (iv) of the immediately preceding sentence. Notice addresses for the parties are as follows:

If to the Company:

445 South Street
Morristown, NJ 07960
Attention: Sr. Vice President, Business Management
E-Mail: pstauder@covantaenergy.com

With a copy to:

Covanta Energy Corporation
445 South Street
Morristown, NJ 07960
Attention: Vice President & Deputy General Counsel
E-Mail: kbily@covantaenergy.com

If to the Contracting Communities:

Chairman, Stanislaus County Board of Supervisors
1010 Tenth Street
Modesto, California 95354
E-Mail: Ferroc@stancounty.com

With a copy to:

Responsible person/department for County designated in Section 4.04.

and to:

Mayor, City of Modesto
1010 Tenth Street
Modesto, California 95354
E-Mail: kespinozal@modestogov.com

With a copy to:

Responsible person/department for City designated in Section 4.04.

Changes in the respective addresses to which such notices may be directed may be made from time to time by any party by written notice to the other party.

9.09 No Waiver.

The waiver by any party of an Event of Default or a breach of any provision of this Agreement by any other party shall not operate or be construed to operate as a waiver of any other provision or any subsequent Event of Default or breach. The making of, or the acceptance of a payment by any party with knowledge of the existence of an Event of Default or breach shall not operate or be construed to operate as a waiver of any subsequent Event of Default or breach.

9.10 Entire Agreement; Modifications.

The provisions of this Agreement, including the Schedules hereto, shall (a) constitute the entire agreement among the parties on the subject matter hereof, superseding all prior agreements and negotiations, and (b) be modified only by written agreement duly executed by the parties.

9.11 Headings.

Captions, headings, titles, the table of contents and the list of schedules in this Agreement are for ease of reference only, and do not constitute a part of this Agreement.

9.12 Governing Law.

This Agreement and any question concerning its validity, construction, or performance shall be governed by the laws of the State of California.

9.13 Counterparts.

This Agreement may be executed in more than one counterpart, each of which shall be deemed to be an original, but all of which taken together shall be deemed a single instrument.

9.14 Severability.

In the event that any provision of this Agreement shall for any reason be determined to be invalid, illegal, or unenforceable in any respect, the parties hereto shall negotiate in good faith and agree to such amendments, modifications, or supplements of or to this Agreement or such other appropriate actions as shall, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the parties as reflected herein, and the other provisions of this Agreement shall, as so amended, modified, or supplemented, or otherwise affected by such action, remain in full force and effect.

9.15 Right of First Refusal.

During the Service Term, the Contracting Communities shall have a right of first refusal to purchase the Facility, on the same terms and conditions and for the same price, as set forth in an offer to purchase from a third party that the Company is willing to accept. The Company shall provide notice and a copy of such offer to the Contracting Communities, and the Contracting Communities shall have a period of sixty (60) days following such notice during which to exercise their right of first refusal by irrevocably and unconditionally accepting in writing the price, terms and conditions set forth in the offer. If the Contracting Communities do

not so exercise their right of first refusal within such sixty (60) day period, then the right of first refusal shall lapse at the end of such period. The right of first refusal will not be triggered by one or more sales of equity interests in the Company or its direct or indirect parent companies.

9.16 Fair Market Value Purchase Option.

(a) At the expiration of the Service Term of this Agreement or any extension hereof, the Contracting Communities may, at their option, purchase the Facility, on an “as is” basis, at its “**Fair Market Value**,” and such term is defined in subsection (b) below. The Contracting Communities shall provide notice of such purchase to the Company at least nine (9) months prior to the expiration of the Service Term. If the Contracting Communities do not timely provide notice of such purchase, then the option to purchase shall lapse.

(b) Determination of Fair Market Value.

(1) The “**Fair Market Value**” of the Facility shall be the value which would be obtained for the Facility in an arm’s length transaction between an informed and willing buyer under no compulsion to buy, and an informed and willing seller, under no compulsion to sell, based upon the highest and best use of the Facility utilizing generally recognized professional criteria for the appraisal of industrial real estate, as the same shall be specified by mutual agreement of the Company and the Contracting Communities, taking into account the cost to remove and/or remediate all contamination on the Facility Site, if any, and assuming a rental for the Facility Site in accordance with Section 4.01(c) of the Facility Site Lease Agreement. If the Company and the Contracting Communities cannot agree as to the Fair Market Value of the Facility within thirty (30) days after notice of such purchase, then said value shall be mutually determined in an appraisal prepared and delivered by two (2) disinterested, Master Appraisal Institute certified and licensed industrial real estate appraisers, one of which shall be appointed by the Company, and the other of which shall be appointed by the Contracting Communities, each of which appointments shall be made within sixty (60) days after notice of such purchase. If the appraisers thus appointed cannot mutually agree upon the Fair Market Value of the Facility within seventy-five (75) days of the appointment of the second appraiser, each such appraiser shall within fifteen (15) days thereafter (i) simultaneously submit in writing to the other appraiser and to the parties his or her final appraisal of the Fair Market Value of the Facility, and (ii) appoint a third disinterested, Master Appraisal Institute certified and licensed industrial real estate appraiser who shall, within sixty (60) days of his or her appointment, select one of the final appraisals so provided by the first two appraisers, which shall then become the Fair Market Value of the Facility upon such selection.

(2) If either party fails to appoint an appraiser within the time period herein provided, the other party may request the appointment of such appraiser by application to the Appraisal Institute, Chicago, Illinois or if it no longer exists, a similar institute providing qualified, disinterested real estate appraisers that is mutually acceptable to the parties.

(3) If the two appraisers fail to agree upon the appointment of a third appraiser within the time period herein provided, either party may request the appointment of such appraiser by application to the Appraisal Institute, Chicago, Illinois or if it no longer exists,

a similar institute providing qualified, disinterested real estate appraisers that is mutually acceptable to the parties.

(4) The appraiser, or appraisers as the case may be, shall give written notice to the parties stating the determination of Fair Market Value in accordance with this Section and shall furnish to each party a signed copy of such determination. In the event of the failure, refusal, or inability of any appraiser or appraisers to act, a new appraiser or appraisers shall be appointed, which appointment(s) shall be made in the same manner as hereinabove provided for the appointment of the appraiser or appraisers who failed, refused, or were unable to act. The expenses of the appraisal conducted in accordance with the provisions of this Section 9.17 shall be borne equally by the Company and the Contracting Communities.

9.17 Cooperation Regarding Claims.

If either party hereto shall receive notice or have knowledge of any claim, demand, action, suit, or proceeding that may result in either (i) a claim for indemnification by such party against the other party pursuant to Section 9.02, or (ii) an Unforeseen Circumstance as to such party, such party shall, as promptly as possible, give the other party notice of such claim, demand, action, suit, or proceeding, including a reasonably detailed description of the facts and circumstances relating to such claim, demand, action, suit, or proceeding, and a complete copy of all notices, pleadings, and other papers related thereto, and, in the case of a claim for indemnification pursuant to Section 9.02 such claim and the basis therefore in reasonable detail; provided that failure promptly to give such notice or to provide such information and documents shall not relieve the other party of any obligation of indemnification it may have under Section 9.02 except to the extent such failure shall materially diminish the ability of such other party to respond to, or to defend the party failing to give such notice against such claim, demand, action, suit, or proceeding. The parties hereto shall consult with each other and cooperate in respect of the response to and the defense of any such claim, demand, action, suit, or proceeding and, in the case of a claim for indemnification pursuant to Section 9.02, the party against whom indemnification is claimed shall, upon its acknowledgement in writing of its obligation to indemnify the party seeking indemnification, be entitled to assume the defense or to represent the interests of the party seeking indemnification in respect of such claim, demand, action, suit, or proceeding, which shall include the right to select and direct legal counsel and other consultants, appear in proceedings on behalf of such party and to propose, accept, or reject offers of settlement if the sole adverse effect of any such offer of settlement is an obligation to pay damages that is being fully indemnified against hereunder.

9.18 Venue.

The Contracting Communities and the Company hereby agree that any action, suit, or proceeding arising out of this Agreement or any transaction contemplated hereby shall be brought solely in the Superior Court of California for the County of Stanislaus, and that neither the Contracting Communities nor the Company shall object to the institution or maintenance of any such action, suit, or proceeding in such court based on improper venue, forum non-conveniens or any other ground relating to the appropriate forum for such action, suit, or proceeding.

9.19 Further Assurances.

The Company and the Contracting Communities further covenant to cooperate with one another in all respects reasonably necessary to insure the successful consummation of the transactions contemplated by this Agreement, and each will take all actions within its authority to insure reasonable cooperation of its officials, officers, agents, and other third parties including, in the case of the Contracting Communities, enforcement of the terms of the franchises of the Haulers.

9.20 Arbitration.

(a) Agreement to Arbitrate. In the event any dispute arises between the Company and the Contracting Communities under this Agreement then, in such case, either party may serve written notice of such dispute on the other party and each party shall undertake in good faith to resolve the dispute. Except as may be otherwise agreed to by the parties hereto, if the parties do not resolve the dispute within fifteen (15) days after such written notice, either party may, by further written notice (an "*Arbitration Notice*") to the other party, commence an arbitration proceeding, under, and in accordance with, the provisions of Article 19 of the Facility Site Lease Agreement, except that in an arbitration under this Agreement, the City and County shall act jointly as one party and notwithstanding such provisions of Article 19, either party may at any time initiate an action in court in respect of any equitable remedy to which such party is expressly entitled pursuant to this Agreement.

IN WITNESS WHEREOF, the parties hereto have signed this Amended and Restated Service Agreement, as of the day and year first above written.

COVANTA STANISLAUS, INC.

By: _____

Name: _____

Title: _____

COUNTY OF STANISLAUS

By: _____

Name: _____

Title: _____

CITY OF MODESTO

By: _____

Name: _____

Title: _____

SCHEDULE 1
WASTE DELIVERY SCHEDULE

The Guaranteed Tonnage of 243,300 Tons of Acceptable Waste for each Contract Year shall be appropriately prorated for any Contract Year of less than 12 calendar months. The Billing Period Tonnage for each Billing Period in any Contract Year shall be determined at least 60 days prior to the beginning of each Contract Year by the mutual consent of the Company and the Contracting Communities in the form of an annual appendix (Appendix) to this Schedule 1. In the absence of such mutual consent, the Appendix applicable for the immediately preceding Contract Year shall apply again. The sum of the Billing Period Tonnages for the Billing Periods in any Contract Year shall equal the Guaranteed Tonnage for such Contract Year.

In any event, delivery of Contracting Communities Tons shall not exceed One Thousand Seven Hundred (1,700) Tons in any one day or Five Thousand Six Hundred 5,600 Tons in any one week. The Company and the Contracting Communities may revise the Appendix for the current Contract Year at any time by mutual consent.

**SCHEDULE 1 - APPENDIX
DELIVERY SCHEDULE
FOR CONTRACT YEAR
BEGINNING JULY 1 , 2012**

<u>BILLING PERIODS</u>	<u>BILLING PERIOD TONNAGE</u>
JULY	22,573
AUGUST	22,573
SEPTEMBER	21,845
OCTOBER	18,392
NOVEMBER	21,845
DECEMBER	18,331
JANUARY	18,664
FEBRUARY	18,664
MARCH	18,331
APRIL	17,664
MAY	22,573
JUNE	21,845
TOTAL	243,300

In any event, delivery of Contracting Communities tons shall not exceed 1,700 tons in any one day or 5,600 tons in any one week. The Company and the Contracting Communities may revise the Appendix for the current Contract Year at any time by mutual consent.

SCHEDULE 2

FACILITY SITE DESCRIPTION

Is as set forth in Schedule 1 in the Facility Site Lease Agreement

SCHEDULE 3
AMENDED AND RESTATED FACILITY SITE LEASE AGREEMENT
[TO BE INSERTED]

SCHEDULE 4 – PARENT GUARANTY

GUARANTY AGREEMENT

THIS GUARANTY AGREEMENT (this “**Guaranty**”) is entered into as of the 1st day of July, 2012, by Covanta Holding Corporation, a Delaware corporation, as guarantor (the “**Guarantor**”), for the benefit of the County of Stanislaus, a political subdivision of the State of California, acting by and through its Board of Supervisors (the “**County**”), and the City of Modesto, a municipal corporation, acting by and through its City Council (the “**City**”). The County and City are collectively referred to herein as the “**Contracting Communities**.”

WITNESSETH:

WHEREAS, Covanta Stanislaus, Inc. (the “**Company**”) and the Contracting Communities are entering into, contemporaneously herewith, that certain AMENDED AND RESTATED SERVICE AGREEMENT FOR THE SUPPLY AND ACCEPTANCE OF SOLID WASTE (the “**Service Agreement**”), which provides for the Contracting Communities to deliver or cause to be delivered Acceptable Waste to the Facility and the Company to accept, process and/or dispose of Acceptable Waste at the Facility; Capitalized terms used but not defined in this Guaranty shall have the meanings ascribed to such terms in the Service Agreement; and

WHEREAS, the Company and the County are entering into, contemporaneously herewith, that certain AMENDED & RESTATED FACILITY SITE LEASE AGREEMENT (the “**Lease**”), which provides for the leasing of the Facility Site from the County to the Company; and

WHEREAS, as a condition of, and in accordance with, the Service Agreement and the Lease, the Company is required to cause this Guaranty to be executed and delivered to the Contracting Communities; and

WHEREAS, the Company is a wholly-owned, indirect subsidiary of the Guarantor, and the Guarantor will receive a benefit from the Company and the Contracting Communities as a result of their entering into the Service Agreement and the Company and the County entering into the Lease; and

WHEREAS, the Guarantor, as an inducement to the Contracting Communities to enter into the Service Agreement and as an inducement to the County to enter into the Lease, is entering into this Guaranty; and

WHEREAS, the term “parties,” as used herein, shall mean the Guarantor and the two beneficiaries of this Guaranty, the County and the City.

NOW, THEREFORE, for the purposes described in the foregoing recitals and intending to be legally bound, the Guarantor hereby agrees as follows:

ARTICLE I –
Representations and Warranties of the Guarantor

- 1.01 **Representations and Warranties.** The Guarantor represents and warrants that:
- (a) The Guarantor is a Delaware corporation in good standing;
 - (b) The Guarantor possesses all requisite power and authority under applicable laws to enter into and to perform all of the covenants and agreements set forth in this Guaranty;
 - (c) The Guarantor has duly authorized all necessary action on its part to enter into this Guaranty in accordance with applicable laws; and
 - (d) Guarantor has duly executed and delivered this Guaranty.

ARTICLE II –
Covenants and Agreements of the Guarantor

2.01 **Unconditional Guaranty.** The Guarantor hereby guarantees, absolutely, unconditionally and irrevocably, for the benefit of the Contracting Communities, the full and prompt performance of all obligations of the Company to the Contracting Communities under the Service Agreement and, for the benefit of the County, the full and prompt performance of the obligations of the Company under Section 7.04 of the Lease, each in accordance with their respective provisions, including without limitation, the obligation to pay money or damages owed by the Company for its failure to so perform such obligations (collectively, the “**Guaranteed Obligations**”). If any Guaranteed Obligation is not duly and timely performed by the Company in accordance with the Service Agreement or the Lease, as applicable, then the Guarantor shall immediately perform the same, or cause the performance thereof, itself, as if it were a party to the Service Agreement or to the Lease, as applicable.

2.02 **Manner of Payment.** All payments required to be made by the Guarantor under this Guaranty shall be made in lawful money of the United States of America.

2.03 **Obligations of Guarantor Absolute.** The obligations of the Guarantor under this Guaranty shall be absolute, irrevocable and unconditional, and, except as expressly set forth in the Service Agreement or in the Lease, as applicable, as an underlying right of the Company, shall not be subject to any set-off, counterclaim, reduction or diminution on account of any claim of Guarantor or the Company against the Contracting Communities or their assigns, or any other person, or because of any event or condition affecting the ability of the Company to perform the obligations of the Company in accordance with the Service Agreement or Lease (other than events or conditions for which, under the specific provisions of the Service Agreement or Lease, there is a discharge, release, or such performance is otherwise excused), or to any requirement in any case that the Contracting Communities (or any such assignee) first enforce any remedies that they or it may have against the Company or any other person, or seek to compel the Company to perform under the Service Agreement or Lease before proceeding against Guarantor hereunder; provided, that no such set-off, counterclaim, reduction or diminution is hereby waived or released, and any of the same may be asserted by Guarantor in a separate proceeding against the Contracting Communities or County as applicable, or any such assignee, and shall remain in full

force and effect until the Guaranteed Obligations shall have been fully performed, and the Guaranteed Obligations shall not be affected, modified, diminished or impaired upon the happening, from time to time, of any of the following events, each of which is hereby expressly waived as a defense to its liability hereunder:

(a) The failure of the Guarantor to receive notice of the occurrence of a default under the Service Agreement or under the Lease;

(b) The neglect or failure of the Company to enforce, to assert, or to exercise or preserve, any right, or rights of action, or power or remedy, against any party, person or property;

(c) The compromise, settlement, release, alteration, indulgence, waiver or any other change or modification of any obligation or liability of the Company under the Service Agreement or the Lease, except to the extent to which such obligation or liability shall have been expressly compromised, settled, released, altered, indulged, waived, changed or modified in writing by the Contracting Communities or by the County, as applicable;

(d) Any neglect or failure, omission or delay on the part of the Contracting Communities to enforce, to assert, or to exercise or preserve any right, right of action, power or remedy conferred upon or vested in the Contracting Communities hereunder or under the Service Agreement, or any neglect or failure, omission or delay on the part of the County to enforce, to assert, or to exercise or preserve any right, right of action, power or remedy conferred upon or vested in the County hereunder or under the Lease;

(e) The voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all the assets, marshalling of assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition with creditors or readjustments or other similar proceedings relating to the Company, or either of the Contract Communities, or any of their respective assets;

(f) The release of the Guarantor from performance or observance of any obligation, covenant or agreement contained in this Guaranty, except to the extent such may be expressly released in writing by the Contracting Communities or by the County, as applicable;

(g) The default or failure of the Guarantor fully to perform any of its obligations set forth in this Guaranty; or

(h) Guarantor's assignment or delegation by operation of law or otherwise of this Guaranty or its obligations hereunder, except as provided in Section 2.05 below.

(i) Any allegation or contest of the validity of this Guaranty in any proceeding;

(j) The invalidity, irregularity, illegality, or unenforceability of, or any defect in, the Service Agreement or the Lease;

(k) Any present or future law or order of any government or of any agency thereof, purporting to reduce, amend or otherwise affect the Service Agreement or the Lease or to vary any terms of payment or performance under the Service Agreement or the Lease;

(l) The transfer, assignment or encumbrance, or the purported or attempted transfer, assignment or encumbrance, by the Company of all or any part of its interest in the Facility or its rights under the Service Agreement or the Lease, or any failure of or defect in title with respect to the interest of the Company in the Facility or the Company's rights under the Lease, or of the interest of the County in the Facility Site;

(m) Any default or failure of Guarantor fully to perform any of its obligations under this Guaranty.

2.04 Obligations of Guarantor Not Affected by Bankruptcy. The obligations of the Guarantor hereunder shall not be affected by any bankruptcy, arrangement of creditors, reorganization or other similar proceedings of the Company; and the Guarantor specifically waives any right or benefit which could accrue to it by reason of any such proceeding and agrees that the same shall not affect the liability of the Guarantor hereunder, regardless of the effect that such proceedings may have with respect to the obligations of the Company.

2.05 Change of Guarantor. The Guarantor may assign this Guaranty and delegate its obligations hereunder (a "**Transfer**") only (i) to a transferee who (a) assumes in writing all of Guarantor's obligations under this Guaranty, and (b) posts an irrevocable and unconditional letter of credit, securing the Guaranteed Obligations in both the Service Agreement and Lease, in a form reasonably satisfactory to the Contracting Communities and in an amount equal to the Limit of Liability (as such term is defined in the Service Agreement), and (ii) if the Guarantor provides to the Contracting Communities (a) at least ten business days advance written notice of the Transfer, and (b) a fully-executed original of the written assumption described in clause (i)(a) above and the letter of credit required by clause (i)(b). Upon satisfaction of all clause (i) and (ii) requirements, the Guarantor shall automatically be released of all liability under this Guaranty. In the alternative, the transferee and the agreements effectuating the transfer may all be consented to in writing by the Contracting Communities, which consent shall not be unreasonably withheld.

ARTICLE III – Miscellaneous

3.01 Time When Guaranty Effective. As the Service Agreement has been fully executed and delivered by the Company and the Contracting Communities and the Lease has been fully executed and delivered by the Company and the County, as of the date hereof, the obligations of the Guarantor hereunder shall be effective as of the date hereof.

3.02 Remedies of Contracting Communities. In the event of default by the Guarantor in the punctual discharge of its obligations hereunder the Contracting Communities with respect to the Service Agreement, or the County with respect to the Lease, shall be entitled to enforce this Guaranty to the fullest extent provided by applicable law.

3.03 **Pursuit; Waiver.** No remedy conferred upon or reserved to the Contracting Communities or County hereunder is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Guaranty or now or hereafter existing at law or in equity or by statute. The Contracting Communities or the County, as the case may be, shall have no obligation to pursue their remedies against the Company before pursuing the Guarantor under this Guaranty. If the Company has breached or defaulted on any obligations that are Guaranteed Obligations hereunder, Guarantor shall be obligated hereunder upon receipt of notice thereof given as provided in Section 3.06. In order to entitle the Contracting Communities or the County, as the case may be, to exercise any remedy reserved in this Guaranty, it shall not be necessary to give any notice, other than such notice. No delay or omission to exercise any right or power accruing upon any default, omission or failure of performance hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised, from time to time, and as often as may be deemed expedient. In the event any provision contained in this Guaranty should be breached by any party and thereafter duly waived by the other party so empowered to act, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. No waiver, amendment, release or modification hereof shall be established by conduct, custom or course of dealing, but shall be established solely by an instrument, in writing, duly executed by the appropriate parties.

3.04 **Entire Agreement.** This Guaranty constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof.

3.05 **Expenses.** Guarantor shall pay to the Contracting Communities or the County, as the case may be, all reasonable costs and expenses (including the fees and disbursements of counsel) incurred in the enforcement of their rights against Guarantor hereunder.

3.06 **Notices.** All notices or demands and other communications to Guarantor under this Guaranty shall be in writing and shall be sufficiently given if (i) delivered in person, (ii) sent by overnight courier and evidence of delivery is obtained, (iii) sent by e-mail with evidence of receipt of such email, or (iv) sent by certified or registered mail, return receipt requested, postage prepaid, and (where applicable) addressed as provided below:

To Guarantor: 445 South Street
Morristown, NJ 07960
Attention: Chief Operating Officer
Email: smyones@covantaenergy.com

With a copy to: 445 South Street
Morristown, NJ 07960
Attention: Chief Legal Officer
Email: tsimpson@covantaenergy.com

3.07 **Severability.** The provisions of this Guaranty shall be severable; and in the event of the invalidity or unenforceability of any one or more phrases, sentences, clauses, Articles,

Sections or parts contained in this Guaranty, such invalidity or unenforceability shall not affect the validity or enforceability of any remaining portions thereof.

3.08 **Choice of Law.** This Guaranty shall be construed in accordance with and shall be governed by the laws of the State of California, without regard to conflict of laws principles.

3.09 **Term.** This Guaranty shall remain in full force and effect until the Guaranteed Obligations shall have been fully performed.

3.10 **Amendment.** This Guaranty may be amended and/or supplemented, from time to time, only by a written document duly executed by all the parties hereto.

IN WITNESS WHEREOF, the Guarantor, intending to be legally bound and pursuant to proper authorization of its governing body, does hereby cause this Guaranty to be executed by its duly authorized officer, all as of the day and year first above written.

COVANTA HOLDING CORPORATION

By: _____

Name: _____

Title: _____

SCHEDULE 5

REQUIRED INSURANCE

1. Required Insurance. Company shall obtain, pay for and maintain the following insurance with respect to the operation and maintenance of the Facility:
 - (a)
 - (i) Workers' Compensation Insurance Coverage in compliance with the Workers' Compensation Law of the State extended by the Broad Form All States Endorsement, the United States Longshore and Harborworker's Coverage Endorsement and the Voluntary Compensation Coverage Endorsement.
 - (ii) Employers' Liability Insurance Coverage subject to the minimum Limit of Primary Bodily Injury Liability Insurance required to support the purchase of the Umbrella Liability Insurance set forth in subparagraph 1 (d) of this Schedule 5.
 - (b) Commercial General Liability Insurance. Commercial General Liability Form covering all premises and operations including independent contractors, products, and operations, to be extended by the following endorsements:
 - (i) The applicable limit of liability shall be the minimum Combined Single Limit of Primary Insurance required to support the purchase of the Umbrella Liability Insurance set forth in subparagraph 1 (d) of this Schedule 5.
 - (c) Comprehensive Automobile Liability Insurance Coverage applicable to all owned, hired and non-owned vehicles subject to the minimum Combined Single Limit of Primary Insurance required to support the purchase of the Umbrella Liability Insurance set forth in subparagraph 1 (d) of this Schedule 5.
 - (d) Umbrella Liability Insurance. The total Limit of Liability shall be \$25 million per occurrence and, as applicable, in the aggregate.
 - (e) All Risk Property Insurance.
 - (i) Coverage on All Risks Basis in an amount not less than 100% of the replacement cost of the Facility to protect against loss of, damage to or destruction of the Facility.
 - (f) Business Interruption and Extra Expense Insurance. Business Interruption and Extra Expense Insurance on the Facility to protect the Company and the Contracting Communities as their interests may appear covering the loss of revenues attributable to the Facility (and extra expense incurred), including the loss of any Contracting

Communities' State Diversion Credit, by reason of the total or partial suspension of, or interruption in, the operation of the Facility caused by a loss or damage to or destruction of any part of the Facility or Facility Site as a result of the perils insured against pursuant to subparagraph 1 (e) of this Schedule 5 covering a period of suspension or interruption of no less than one year and sufficient to facilitate reinstatement of the facility to its pre-loss condition and in an amount equal to the Facility's gross revenues less discontinuing expenses during any such period. All policies obtained pursuant to subparagraph 1 (e) of this Schedule 5 may be subject to normal exclusions relating to nuclear risks, war risks and such other perils as are general imposed by Insurers on similar properties and contain deductibles and sublimits that are commercially reasonable.

- (g) Boilers and machinery insurance in the aggregate amount of full replacement value of the boilers and machinery.
2. Additional Insureds. The Company shall name the Contracting Communities (including their respective officers, members, employees and agents) as additional insureds (the "Additional Insureds") on all insurance policies required pursuant to this Schedule 5 (other than subparagraph 1 (a) (i) hereof) as their respective interests may appear in accordance with the contracts and agreements (related to the Facility and Facility Site) to which they are a party.
3. Special Insurance Provisions.
- (a) Such coverages shall not be cancelled without giving the Contracting Communities at least sixty (60) days prior written notification thereof.
 - (b) The Insurers shall have no recourse against the Additional Insureds for payment of any insurance premium.
 - (c) If at any time the insurance set forth in this Schedule 5 shall fail to comply with the insurance requirements specified, the Company shall, upon notice to that effect, promptly apply for a new policy and when obtained, file a certificate thereof with the Contracting Communities. Failure of the Company to take out and/or maintain any required insurance shall not relieve the Company from any liability hereunder.
 - (d) The Company and any subcontractors shall evidence compliance with the Worker's Compensation law by supplying following attested documentation:
 - (i) A Workers' Compensation certificate, prescribed for proof of compliance with the Compliance law;
 - (ii) If the Company shall claim that it is not required to carry a Workers' Compensation Policy, a temporary permit shall be obtained by the Company,

which shall complete all requisite documentation and send one copy of the same to the Contracting Communities. The Company shall transmit the other copy of the completed documentation to the State's Workers' Compensation Board for the investigation and a report; and

(iii) If the Company shall be self-insured for Workers Compensation, it shall present a certificate from the State Workers' Compensation Board evidencing that fact to the Contracting Communities.

(e) Such liability insurance as is afforded by the insurance set forth in subparagraphs 1 (a) (ii), (b), (c) and (d) of this Schedule 5 shall be primary without the right of contribution from any other policies of insurance that are carried (or self-insured) by an Additional Insured with respect to their interests in the Facility or the Facility Site and, further, such liability insurances shall expressly provide that all of the provisions thereof, except the limits of liability, shall operate in the same manner as if there were a separate policy covering each Insured.

(f) The Company shall arrange for appropriate certificates of insurance to be issued to Additional Insured for coverage required by this Schedule 5.

(g) To the extent reasonably available, the company shall maintain the insurance set forth in this Schedule 5 with Insurers that carry an A.M. Best's "A-" or equivalent rating and a financial category size of VII or better. Further, the Company shall maintain such insurance only with companies that are authorized to do business in the State.

4. Waiver of Subrogation. The Company and the Contracting Communities hereby waive any and every claim for recovery from the other for any and all loss or damage to each other resulting from the performance of this Agreement, which loss or damage is covered by valid and collectible insurance policies to the extent that such loss or damage is recovered under said insurance policies. Inasmuch as this mutual waiver will preclude the assignment of any such claim to the extent of such recovery, by subrogation (or otherwise) to an insurance company (or any other person), the Company and each Contracting Community agree to give to each insurance company which has issued, or may issue in the future policies of insurance, written notice of the terms of this mutual waiver, and to have said insurance policies properly endorsed; if necessary, to prevent the invalidation of said insurance coverage by reason of said waiver.

SCHEDULE 6
HAULER REQUIREMENTS

Pursuant to the Stanislaus County Ordinance Code and the Modesto Municipal Code, the County and City may designate the disposal site for solid waste collected, removed or transported within the City and unincorporated areas of the County by solid waste collection companies. These haulers operate under franchise agreements (in the case of the County) to collect residential, industrial and commercial solid waste within the unincorporated areas of the County, and collection agreements (in the case of the City) to collect residential, industrial and commercial solid waste within the City.

Private operators of transfer stations located in Stanislaus County receive solid waste from City collectors and certain County franchisees and transport such solid waste to approved disposal sites (the remaining County franchisees deliver their solid waste directly to such approved disposal sites). Transfer Stations must receive and adhere to solid waste facilities permits issued by the California Department of Resources Recycling and Recovery (formerly known as the California Integrated Waste Management Board). Pursuant to existing authorities of the Stanislaus County Ordinance Code and the Modesto Municipal Code, franchise agreements and collection agreements with the haulers, and the provisions of the new Service Agreement relating to the delivery and processing of wastes at the Facility, the County and City will designate the Facility as the disposal site to be used for the disposal of acceptable waste by all County franchisees and City collectors.

**MODESTO CITY COUNCIL
RESOLUTION NO 2012-264**

**A RESOLUTION APPROVING THE AMENDED AND RESTATED FACILITY
SITE LEASE AGREEMENT COVANTA STANISLAUS, INC.**

WHEREAS, on December 17, 1985, the City of Modesto and County of Stanislaus (Contracting Communities) entered into an agreement for administration of the City/County Service Agreement with the Stanislaus Waste Energy Company (now Covanta Stanislaus) for supply and acceptance of solid waste, and

WHEREAS, since that time, the City has been partners with Stanislaus County and Covanta Stanislaus in the Stanislaus Resource Recovery Facility (the "Waste-to-Energy" or "WTE" Facility), and

WHEREAS, the City and County operate the project as a Joint Powers Agency under a Joint Powers Agreement, with the County acting as the Treasurer, and

WHEREAS, under the current Service Agreement, the Contracting Communities pay Covanta a service fee to operate the facility and are also responsible for all pass through costs associated with the facility such as taxes, insurance, air permit fees, ash disposal, etc., and

WHEREAS, the Contracting Communities are also responsible for any costs associated with unforeseen circumstances such as changes in law, major upgrades or any acts, events or conditions that have a material adverse effect on the operation of the facility, and

WHEREAS, the Contracting Communities are responsible for delivering wastes to the facility under a minimum tonnage guarantee of 243,300 tons, and Covanta uses this

waste to generate electricity, which it sells to PG&E under a Power Purchase Agreement (PPA), and

WHEREAS, the Contracting Communities currently retain 90% of the electric revenue generated by the facility, all of the disposal fees, 50% of metal recycling revenue and 30% of supplemental waste revenue, which revenues are used to offset costs, and

WHEREAS, the existing Service Agreement was set to expire on December 31, 2009, and in 2007, staff from the County Department of Environmental Resources and the City of Modesto Solid Waste Division began negotiations on a new contract with Covanta, and

WHEREAS, those negotiations proved unsuccessful with Covanta asking for more concessions that staff were willing to agree to, so in May 2009, the County and the City of Modesto exercised an option given in the original contract to extend the contract under the same terms an additional six years through December 31, 2015, and

WHEREAS, when the Power Purchase Agreement (PPA) with PG&E expired in January, 2010, Covanta elected to extend its contract with PG&E under extension provisions pursuant to California Public Utilities Commission (CPUC) Decision No. 07-09-040, and

WHEREAS, those provisions caused the price paid for power to revert to the Short Run Avoided Cost, or "SRAC", which was about \$55 per MW at the time and has since dropped even further, and

WHEREAS, this pricing also did not include a premium for renewable energy, and the capacity payment was reduced, and as a result, revenues from electricity generation declined sharply resulting in a significant operating deficit, and

WHEREAS, both the Contracting Communities and Covanta recognized that it would be in our joint interests to return to the negotiating table and secure a long term commitment that would motivate Covanta to negotiate a new PPA at much more favorable rates than current SRAC rates, and

WHEREAS, a new negotiating team was formed and reopened negotiations with Covanta, with the objectives of preserving the current RRA balance, a stable and predictable tipping fee, a commitment to no increased importation of waste, meeting diversion requirements and preserving landfill capacity, and reducing City/County risk exposure from change-in-law, public perception, and change in science/technology, and

WHEREAS, the Contracting Communities negotiating team has met on a regular basis over the past year and has provided periodic updates on the status of negotiations to the Solid Waste-to-Energy Executive Committee and the City-County Liaison Committee, and

WHEREAS, major deal points from the negotiations were agreed upon by the team and Covanta and were outlined in a Term Sheet approved by the Council and Board of Supervisors, and

WHEREAS, the negotiating team and Legal Counsel to the Executive Committee, Sidley Austin LLP, have negotiated a new Service Agreement and Facility Site Lease Agreement with Covanta, to become effective on July 1, 2012, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the new Facility Site Lease Agreement with Covanta Stanislaus, Inc., a copy of which is **attached** hereto as Attachment "A" and incorporated herein by reference.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STERHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

COUNTY OF STANISLAUS, CALIFORNIA

AND

COVANTA STANISLAUS, INC.

AMENDED AND RESTATED

FACILITY SITE LEASE AGREEMENT

Dated as of July 1, 2012

TABLE OF CONTENTS

	PAGE
Recitals.....	1
ARTICLE 1. DEFINITIONS, SCHEDULES INCORPORATED BY REFERENCE AND INTERPRETATION.....	3
Section 1.01. Definitions.....	3
Section 1.02. Schedules Incorporated by Reference.....	3
Section 1.03. Interpretation.....	3
ARTICLE 2. REPRESENTATIONS.....	3
Section 2.01. Representations.....	3
ARTICLE 3. LEASED LAND AND TERM	5
Section 3.01. Leased Land.....	5
Section 3.02. Initial Term	5
Section 3.03. Lessee’s Right to Renew Lease	5
ARTICLE 4. RENT	6
Section 4.01. Amount and Payment of Rent.....	6
ARTICLE 5. TAXES.....	6
Section 5.01. Taxes.....	6
ARTICLE 6. USE	7
Section 6.01. Description of Use	7
ARTICLE 7. IMPROVEMENTS AND EQUIPMENT	8
Section 7.01. Improvements	8
Section 7.02. Utilities.....	8
Section 7.03. Lessor’s Cooperation	8
Section 7.04. Rights and Obligations upon Termination.....	8
Section 7.05. Ingress and Egress During Lease Term	10
Section 7.06. Improvements and Maintenance of Routes For Ingress and Egress	10
Section 7.07. No Lessor Improvements.....	10
Section 7.08. Quiet Enjoyment	11

ARTICLE 8. REPAIRS	11
Section 8.01. Lessee’s Duty to Maintain Premises.....	11
ARTICLE 9. MECHANIC’S LIENS	11
Section 9.01. Prohibition Against Mechanic’s Liens — Indemnification of Lessor	11
Section 9.02. Contest by Lessee–Surety Bond	11
Section 9.03. Lessor’s Right to Remove Lien	11
Section 9.04. Notices of Nonresponsibility	11
ARTICLE 10. CONDEMNATION/DAMAGE TO FACILITY.....	12
Section 10.01. Loss Events	12
Section 10.02. Rent Abatement	14
Section 10.03. Allocation of Taking Award during Facility Operation	14
Section 10.04. Effect of Termination.....	14
ARTICLE 11. INSURANCE.....	14
Section 11.01. Lessee’s Worker’s Compensation Insurance	14
Section 11.02. Lessee’s Liability Insurance	14
ARTICLE 12. ASSIGNMENTS AND SUBLETTING	15
Section 12.01. Lessor’s Approval Required	15
Section 12.02. Termination.....	16
Section 12.03. Effect of Lessor’s Consent.....	16
Section 12.04. Written Assumption Agreement	17
ARTICLE 13. RIGHTS OF FACILITY LENDERS.....	17
Section 13.01.....	17
Section 13.02.....	17
Section 13.03. Notice to Facility Lenders.....	17
Section 13.04. Right of Facility Lender to Cure Lessee Defaults	18
Section 13.05. Extension of Time in the Event of Bankruptcy, Etc.	18
Section 13.06. Consequences of Cure.....	18
Section 13.07. No Personal Liability	18
Section 13.08. Survival.....	18
Section 13.09. Amendments	18
Section 13.10. Lessee Not Relieved of Obligations	19
Section 13.11. No Encumbrance on Facility Site	19
ARTICLE 14. DEFAULT AND REMEDIES.....	19
Section 14.01. Termination for Lessee’s Defaults.....	19

Section 14.02. Other Remedies.....	19
Section 14.03. Limitation of Default	20
ARTICLE 15. SURRENDER AND REMOVAL	20
Section 15.01.....	20
ARTICLE 16. BANKRUPTCY AND INSOLVENCY	20
ARTICLE 17. LESSOR’S GENERAL PROTECTION PROVISIONS	20
Section 17.01. Lessor’s Right of Entry and Inspection	20
Section 17.02. Joint and Several Liability	21
ARTICLE 18. GENERAL PROVISIONS	21
Section 18.01. Conditions and Covenants	21
Section 18.02. No Waiver of Breach	21
Section 18.03. Time of Essence.....	21
Section 18.04. Computation of Time.....	21
Section 18.05. Unavoidable Delay–Force Majeure	21
Section 18.06. Successors in Interest.....	22
Section 18.07. Governing Law	22
Section 18.08. Entire Agreement.....	22
Section 18.09. Amendments or Modifications	22
Section 18.10. Partial Invalidity.....	22
Section 18.11. Conflict with Provisions of Service Agreement	22
Section 18.12. Relationship of Parties	22
Section 18.13. No Merger.....	22
Section 18.14. Attorney Fees	22
Section 18.15. Delivery of Rent and Notices–Method and Time	23
Section 18.16. Payment of Rent.....	23
Section 18.17. Estoppel Certificates	23
Section 18.18. Notice to Lessor	23
Section 18.19. Notice to Lessee.....	24
Section 18.20. Recording.....	24
ARTICLE 19. DISPUTE RESOLUTION	24
Section 19.01. Agreement to Arbitrate	24
Section 19.02. Contents of Arbitration Notice.....	24
Section 19.03. Selection of Arbitrator	25
Section 19.04. Discovery	25
Section 19.05. Continuance of Performance.....	25
Section 19.06. Costs of Arbitration.....	26
Section 19.07. Site of Arbitration	26
Section 19.08. Equitable Relief Not Precluded	26

Section 19.09. Limited Court Challenge..... 26

ARTICLE 20. PARENT GUARANTY..... 26

Section 20.01..... 26

LIST OF SCHEDULES

SCHEDULE 1

Description of Facility Site and Drawing

AMENDED & RESTATED
FACILITY SITE LEASE AGREEMENT

Recitals

THIS AMENDED & RESTATED FACILITY SITE LEASE AGREEMENT (this “Lease” or this “Agreement”), made and entered into as of July 1, 2012, by and between the County of Stanislaus, having its main office at 1010 Tenth Street, Modesto, California 95354 (the “County” or “Lessor”), and Covanta Stanislaus, Inc. (hereinafter the “Company” or “Lessee”), having an office at 445 South Street, Morristown, New Jersey 07960.

WHEREAS, pursuant to an Amended and Restated Service Agreement dated as of September 27, 1988, as amended prior to the date hereof (the “Original Service Agreement”) among the City of Modesto, California, a municipal corporation, (the “City”), the County (collectively the “Contracting Communities”), and Stanislaus Waste Energy Company (the “Original Company”), the Original Company agreed to design, construct, startup, test, own and operate a solid waste/resource recovery facility (the “Facility”) to be located in the County for the purpose of processing Acceptable Waste (as defined in the Original Service Agreement) and producing saleable electric energy, all in accordance with the terms of the Service Agreement; and

WHEREAS, pursuant to a new Amended and Restated Service Agreement, dated the date hereof, between the Contracting Communities and the Company (the “Service Agreement”), the Company agrees to accept, process and/or dispose of Acceptable Waste and the Contracting Communities agree to deliver, or cause Acceptable Waste to be delivered, to the Facility; and

WHEREAS, pursuant to the Facility Site Lease Agreement, dated as of June 1986 (the “Lease Effective Date”), the County entered into a site lease for the Facility with the Original Company (the “Original Facility Site Lease”); and

WHEREAS, the Facility site is described more particularly in Schedule 1 attached hereto (which site, together with all easements, rights of way and consents granted herein or pursuant to or in connection with this Lease, is referred to in this Lease as the “Facility Site”); and

WHEREAS, the Contracting Communities and the Company now wish to amend and restate in its entirety the Original Facility Site Lease as provided herein, effective as of July 1, 2012 (the “Amended & Restated Lease Effective Date”); and

WHEREAS, the County is empowered to enter into the transactions contemplated by this Lease and carry out its obligations hereunder and, by proper action of the members of the Board of Supervisors of the County, the County has duly authorized the execution, delivery and performance of this Agreement.

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00), and the entering into of the New Service Agreement between the parties hereto, and other good and valuable consideration, each to the other in hand paid, and the mutual covenants contained herein, and the promises and the respective representations and agreements hereinafter contained, the receipt and adequacy of which is hereby acknowledged, and intending to be legally bound hereby, the parties hereby amend and restate in its entirety the Original Facility Site Lease as follows:

ARTICLE 1. DEFINITIONS, SCHEDULES
INCORPORATED BY REFERENCE AND INTERPRETATION

Section 1.01. Definitions. All capitalized terms used in this Agreement, unless otherwise expressly defined herein, shall have the meanings given to such terms in the Service Agreement as in effect on the date hereof whether or not the Service Agreement shall be in effect or amended (such meanings to apply equally to all forms of such terms).

Section 1.02. Schedules Incorporated by Reference. The following Schedule is hereby incorporated by reference and expressly made a part hereof:

Schedule 1 - Description of Facility Site and Drawing

Section 1.03. Interpretation.

(1) In this Agreement, any headings preceding the texts of the several Articles and Sections of this Agreement, and any table of contents, shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

(2) Whenever the Lessor or Lessee is named or referred to, it shall be deemed to include its successors and assigns whether so expressed or not; provided that nothing in this Section 1.03 shall be deemed to constitute a consent to either party to the assignment of this Lease contrary to the provisions hereof. All of the covenants, stipulations, obligations and agreements by or on behalf of, and other provisions for the benefit of, the Lessor or Lessee contained in this Agreement shall bind and inure to the benefit of such successors and assigns and shall bind and inure to the benefit of any officer, board, commission, authority, agency or instrumentality to whom or to which there shall be transferred by or in accordance with law any right, power or duty of the Lessor or Lessee, or of their successors or assigns, the possession of which is necessary or appropriate in order to comply with any such covenants, stipulations, obligations, agreements or other provisions hereof.

(3) Nothing in this Agreement is intended or shall be construed to confer upon, or to give to, any Person, other than the parties hereto, any right, remedy or claim under or by reason of this Agreement or any covenant, condition or stipulation thereof.

(4) The representations and warranties contained herein shall survive the execution and delivery of this Agreement.

ARTICLE 2. REPRESENTATIONS

Section 2.01. Representations.

(a) Lessor hereby represents, warrants, and covenants as follows:

(1) Lessor holds title to the Facility Site, free and clear of liens created by the Lessor other than “**Permitted Liens**”, being those described in the title report obtained by the Lessor pursuant to Section 2.04(o) of the Original Service Agreement (the “**Title Report**”). Lessor has the full right, power and authority to grant and convey to Lessee or its assignee the rights with respect thereto as are provided for in this Agreement.

(2) The Lessor is a political subdivision of the State and has the full power, authority and legal right to own or hold under lease real property and has the power, authority, and legal right to enter into this Lease, and the execution, delivery, and performance of this Agreement (i) has been duly authorized, (ii) will not violate any judgment, order, law, or regulation applicable to the Lessor, and (iii) do not (A) conflict with, (B) constitute a default under, (C) result in the creation of any lien, charge, encumbrance or security interest (other than Permitted Liens) upon the Facility Site, under any agreement or instrument to which the Lessor is a party or by which the Lessor or its assets may be bound or affected other than those contemplated hereby and by the Indenture.

(3) This Agreement constitutes a legal, valid and binding obligation of the Lessor, enforceable in accordance with its terms.

(4) Lessor has not given to any corporation, partnership, venture, person or other entity other than Lessee, any option to purchase or right of first refusal, entered or granted an option to enter into any lease, or entered into any other agreement (whether fixed or optional) granting any license, easement, other right of acquisition, use, or consideration with respect to the Facility Site, inconsistent with or which could diminish or otherwise negatively impact the rights conveyed to Lessee pursuant to this Lease, except as appears on the Title Report.

(5) The Lessor has the full right, power, and authority to grant the ingress and egress rights provided for in Section 7.05 below and shall not undertake any activities inconsistent therewith. Lessor reserves the non-exclusive right to utilize said access route on a non-exclusive basis and in a manner consistent with the foregoing rights of the Lessee.

(6) Lessor has no actual knowledge of any pending or threatened government or private proceedings against it with respect to the ownership, condition or maintenance of the Facility Site which could prohibit, restrict or otherwise negatively impact Lessor’s ability to grant and convey to Lessee the rights with respect to the Facility Site as are provided for in this Lease, or the ability of the Lessee to utilize the Facility Site for the uses permitted herein.

(b) The Lessee hereby represents, warrants, and covenants as follows:

(1) The Lessee is a corporation duly organized and existing in good standing under the laws of the State of California and has the full legal and corporate right, power and authority to own or hold under lease real property and to enter into and perform its obligations under this Lease.

(2) The Lessee has the power, authority and legal right to enter into and perform each other agreement or instrument entered into or to be entered into by the Lessee in connection with the operation of the Facility on the Facility Site, and the execution, delivery and performance of this Agreement and those instruments (i) has been duly authorized, (ii) will not violate any judgment, order, law or regulation applicable to the Lessee or any provisions of the Lessee's articles of incorporation or by-laws, and (iii) do not (A) conflict with, (B) constitute a default under, or (C) result in the creation of any lien, charge, encumbrance or security interest (other than Permitted Liens) upon any assets of the Lessee, under any agreement or instrument to which the Lessee is a party or by which the Lessee or its assets may be bound or affected other than those contemplated hereby and by the Indenture.

(3) This Agreement constitutes a legal, valid and binding obligation of the Lessee, enforceable in accordance with its terms.

(4) There are no pending or, to the knowledge of the Lessee, threatened actions or proceedings before any court or administrative agency which would have a material adverse affect on the ability of the Lessee to perform its obligations under this Agreement.

ARTICLE 3. LEASED LAND AND TERM

Section 3.01. Leased Land. Lessor leases to Lessee, and Lessee hires from Lessor, the Facility Site, located in the County, consisting of 16.55 acres more or less and all access easements, together with any and all appurtenances, rights, privileges and easements benefiting, belonging or pertaining thereto, in front of or adjoining the Facility Site, and together with any strips and gores relating to the Facility Site, described more particularly in Schedule 1, which is attached to and made a part of this Lease.

Section 3.02. Initial Term. This Lease becomes effective on the Lease Effective Date and shall expire on the day preceding the fifteenth (15th) anniversary of the Amended & Restated Lease Effective Date (the "**Initial Term**"), subject to the right of renewal in Section 3.03.

Section 3.03. Lessee's Right to Renew Lease.

If it is the desire of Lessee to renew this Lease on the expiration of the Initial Term, Lessee shall have an option to renew for an additional period of up to fifteen (15) years from the expiration of the Initial Term (the "**Renewal Period**") on the same terms, covenants,

and conditions herein contained, except as expressly provided otherwise herein, by giving notice of the extension and the time period thereof (in full months) no less than six (6) months prior to the expiration of the Initial Term and provided Lessee is not in default beyond any applicable grace period under this Lease at the time of giving notice (the "**Renewal Option**"). (The "**Initial Term**" together with the "**Renewal Term**" shall constitute the "**Term**" of this Lease.)

ARTICLE 4. RENT

Section 4.01. Amount and Payment of Rent.

(a) For the Initial Term and provided the Service Agreement is in effect, Lessee agrees to pay to Lessor for the use of the Facility Site, in lawful money of the United States, an annual base rent ("**Annual Base Rent**") in the sum of ONE HUNDRED NINETY EIGHT THOUSAND AND NO/100THS DOLLARS, (\$198,000.00), payable without notice or demand in one annual payment, in advance on or before the first day of each June during the term hereof; provided that the Rent for any No Service Agreement Period shall be determined pursuant to Section 4.01(c). As hereinafter used the term "**Rent**" shall be deemed to include Annual Base Rent and any other amounts payable by the Lessee under this Agreement ("**Additional Rent**").

(b) Except as may be expressly provided otherwise in this Lease, payment of the Rent required to be made under this Article 4, or payments to be made under any other Article of this Lease, shall be made without any set-off or counter-claim or defense, and shall be made payable to and sent to Lessor at such place as Lessor may from time to time designate by notice to Lessee; provided that during the term of the Service Agreement, the Lessee shall have a right of offset against Rent to the extent that the Contracting Communities have defaulted on their obligation to reimburse the Lessee for Unforeseen Circumstance Costs and/or Discriminatory Taxes as required by the Service Agreement. In the event of a dispute relating to whether such Rent is payable, the dispute shall be resolved pursuant to Article 19.

(c) During the Renewal Period, and at any time during the Initial Term hereof that the Service Agreement is not in effect (a "**No Service Agreement Period**"), Lessee shall pay fixed rent at a fair market rate fixed by mutual agreement of the parties or if the parties are unable to mutually agree on the fair market rate, with an appropriate adjustment mechanism to account for inflation, the fair market rate for rent, based upon the highest and best use (without consideration of the Facility, any related improvements or the Service Agreement), shall be established through the procedure set forth in Section 10.01(g), (the "**Appraisal Procedure**"), through which appraisers will determine the fair market rental therein. Such fair market rental shall then be the Annual Base Rent.

ARTICLE 5. TAXES

Section 5.01. Taxes. (a) Pursuant to California Revenue and Taxation Code Section 107.6, Lessee acknowledges that the property interest created by this Lease may be subject to property taxation, and that the Lessee will be obligated to make payment of property taxes levied on such interest during the Term of this Agreement. The Lessee shall pay punctually as Additional Rent (in the same manner as Annual Base Rent) all taxes, payments in

lieu of taxes, special and general assessments, charges, and other governmental impositions and charges of every kind and nature whatsoever (collectively referred to as “Taxes”), and each and every installment thereof, which become due and payable, with respect to the Facility Site or any part thereof in the manner and to the place that property taxes to the County are then being paid. The obligation of the Lessee to pay such Additional Rents shall, so long as the Service Agreement is in effect, be reduced to the extent that any “Discriminatory Taxes” are levied against the Facility Site and Lessee has paid such Discriminatory Taxes, and has not been reimbursed pursuant to Section 6.02(b) of the Service Agreement. As used here “Discriminatory Taxes” shall mean any taxes, assessments or fees imposed by the County, the City, or any special taxing district or authority under the control of the County or City, that are imposed on the Company, the Facility, its operation or the solid waste industry and that are not generally applicable throughout the entire County.

(b) The Lessee shall be deemed to have complied with the covenants of Section 5.01(a) if payment of such Taxes (other than Discriminatory Taxes) shall have been made either within any period allowed by law or by the governmental authority imposing the same during which payment is permitted without penalty or interest or before the same shall become a lien upon the Facility Site, and the Lessee shall produce and exhibit to the County satisfactory evidence of such payment, if the County shall demand the same in writing.

(c) The Lessee agrees that if there shall be any refunds or rebates on account of Discriminatory Taxes paid by the Lessee which have been reimbursed to the Lessee under the Service Agreement, such refund or rebate shall be paid to the County.

(d) Lessee shall have the right, subject to applicable law, to contest, in good faith and with due diligence, the amount or validity of any Taxes by appropriate legal proceedings, provided that if the contested Tax is not paid before the start of legal proceedings, then before instituting any proceedings, Lessee shall furnish to Lessor a surety bond, cash deposit, or other security reasonably satisfactory to Lessor, in an amount sufficient to pay the Tax, together with all interest and penalties and all charges that may be assessed against the Premises in the legal proceedings, as security for the payment of the Tax. In the event of any default by Lessee to pay Taxes such will constitute a default hereunder and Lessor is authorized to use the security deposited under this Section to pay the Tax. The balance, if any, shall be paid to Lessee. Lessee shall at all times keep the Facility Site free from Tax liens by bond, payment under protest or other arrangement.

ARTICLE 6. USE

Section 6.01. Description of Use.

(a) During the Term, Lessee may use and occupy the Facility Site for operating, maintaining, modifying and improving the Facility for the purpose of accepting, storing and processing Acceptable Waste and storing Solid Waste (as such terms are defined in the Service Agreement) and for purposes necessary or incidental in connection with the foregoing, which for purposes of this Agreement shall include use of the site for a waste recovery facility and, while the Service Agreement is in effect, will use the Facility Site for no

other purpose. In connection with Lessee's permitted use, Lessee may install and construct structures, buildings, furnaces, steam turbine/generators and incidental facilities necessary to operate the Facility. Subject to the terms and provisions of the Service Agreement, all improvements to the Facility Site shall be at Lessee's sole cost and expense, and Lessee shall indemnify and hold Lessor free and harmless from any and all damages, costs, expenses, liabilities, losses, fines, penalties, claims and demands, including reasonable counsel fees, that may in any manner relate thereto (except to the extent resulting from the negligent acts, negligent omissions or intentional wrongful conduct of Lessor).

(b) All waste materials stored or kept on the Facility Site during the Term by Lessee shall be maintained in a manner so as not to cause a nuisance or violate any law, ordinance, use permit, or government regulation and shall be removed at the expiration or sooner termination of this Lease at Lessee's sole cost and expense.

(c) Lessee shall, at its own cost and expense, promptly observe and comply with all present and future federal, State, county, and city laws, ordinances, requirements, orders, directives, rules, and regulations affecting the Facility Site or improvements or structures thereon or appurtenances thereto or any part thereof, and the Lessee shall pay all costs, expenses, liabilities, losses, County damages, fines, penalties, claims and demands, including reasonable counsel fees, that may in any manner arise out of or be imposed upon the County or the Lessee because of the failure of the Lessee to comply with the covenants of this Section 6.01 except to the extent resulting from the negligent acts, negligent omissions or intentional wrongful conduct of Lessor.

ARTICLE 7. IMPROVEMENTS AND EQUIPMENT

Section 7.01. Improvements. Lessee may improve the Facility Site at its sole cost and expense, subject to the terms and conditions of the Service Agreement when in effect, and for those permitted uses which are set forth in Section 6.01 of this Agreement.

Section 7.02. Utilities. Lessee shall determine the availability of, and is hereby authorized to cause to be installed in, on and about the Facility Site, such other facilities for its use as it may determine appropriate for supply of water, sewage, gas, electricity, telephone and other like services which may be required in Lessee's operations, all in accordance with the terms of the Service Agreement.

Section 7.03. Lessor's Cooperation. Subject to applicable law, Lessor agrees that it shall cooperate and assist Lessee in obtaining any required consents, approvals, licenses, and/or nonexclusive easements on terms which do not interfere with Lessee's rights or obligations under the Service Agreement and which are reasonably required for Lessee's proposed development and use of the Facility upon the Facility Site.

Section 7.04. Rights and Obligations upon Termination.

(a) Upon any expiration or earlier termination of this Lease in accordance with its terms, including without limitation, pursuant to Section 6.05(e) or Section 8.05 of the Service Agreement, the Lessor shall have the right, exercisable only by providing written notice

of exercise to the Lessee at least one hundred twenty (120) days prior to expiration of this Lease and no more than sixty (60) days following any earlier termination, to either (i) accept from the Lessee title to the Facility in its then "as is" condition (free and clear of all mortgages or liens securing debt arising by, through or under Lessee) without payment of consideration of any kind therefor and otherwise in accordance with the provisions of Section 7.04(b) below (the "**As-is Option**"), or (ii) instruct the Lessee to decommission the Facility in accordance with Section 7.04(c) below (the "**Decommission Option**"). The Lessee shall permit the Lessor and its representatives to inspect the Facility during such one hundred twenty (120) day period, subject to the provisions of Section 17.01 hereof. If the Lessor does not timely exercise either such right, then it shall be deemed to have exercised the As-is Option.

(b) If the Lessor has exercised (or is deemed to have exercised) the As-is Option, then the Lessee shall deliver a quit claim bill of sale for the Facility and all improvements on the Facility Site and physical possession of the Facility to the Lessor within ten (10) business days of such exercise (or deemed exercise). The Lessee may remove personal property only if it is not incorporated into the Facility and not used in its operation.

(c) If the Lessor has exercised the Decommission Option, then Lessee shall within one (1) year from such exercise date, remove any and all equipment, machinery, materials, and any other property erected or maintained by Lessee on the Facility Site (excluding the storage pit and pilings), and shall fully de-commission, demolish and remove the Facility , and shall fully restore the Facility Site to the condition it was in upon commencement of the Original Facility Site Lease, except that, subject to Section 7.04(d), the storage pit and cement bottom thereof and pilings may be left in place if filled and covered to grade level with clean soil, in compliance with applicable law. Lessor shall grant Lessee reasonable rights of access to the Facility Site for the purpose of effecting such removals during such one (1) year period. Any of Lessee's property thereafter remaining on the Facility Site after the one-year period shall become the property of Lessor without the payment of any consideration therefor. Lessee shall have any and all right of salvage for its own account (except computer equipment and scales in the scalehouse, notwithstanding that such scales may not be on the Facility Site) if Lessor has exercised the Decommission Option.

(d) Regardless of which Section 7.04(a) option Lessor has exercised (or has been deemed to have exercised), Lessee shall remove or fully remediate any contamination on or in the Facility Site resulting from any acts or omissions of Lessee, including any contamination in or below the storage pit or the pilings, and indemnify and defend Lessor from and against any claims, costs, expenses, liabilities, losses, damages, fines, penalties, claims and demands, including reasonable counsel fees, relating thereto. Either party may engage, at its own cost and with notice to the other party, an independent environmental engineer to investigate the level of contamination, the proposed form and method of removal and/or remediation, and to provide confirmation that the Facility Site is either clean or has been fully remediated and in compliance with all applicable laws and regulations.

(e) Upon expiration or other termination of the Lease, Lessee shall provide a signed statement, in recordable form, that this Facility Site Lease Agreement has terminated. Lessee shall, however, continue to have access to the Site as reasonably required to complete its

obligations under this Section, subsequent to a termination of the Lease, if the Decommission Option has been selected. If either party so requests, the parties will in good faith and acting reasonably, enter into an access agreement to allow completion of the required work hereunder. Upon the earlier of completion of all required work under Section 7.04(c) or the end of the one year period set forth therein, Lessee agrees to execute, acknowledge, and deliver to Lessor a proper instrument in writing releasing and quitclaiming to Lessor all right, title and interest of Lessee in and to all equipment, machinery, materials and other property, or improvements on the Facility Site free of all mortgages or liens securing debt arising by, through or under Lessee.

(f) The obligations set forth in this Section 7.04 shall survive expiration or earlier termination of this Lease, and shall be included as obligations of the Parent Company in the Parent Guaranty to be provided in accordance with Section 20.01 hereof.

Section 7.05. Ingress and Egress During Lease Term.

(a) Lessor understands and acknowledges that Lessee requires ingress and egress to and from the Facility Site over other property owned or controlled by Lessor. The Lessor hereby grants to Lessee a forty (40) foot wide non-exclusive easement for right of ingress and egress to and from the Facility Site over the County's adjacent real properties and generally following the existing roads as shown upon the routes indicated on Schedule 1 attached hereto. In the event said access route becomes impassible, the Lessor shall provide an alternate route. The Lessor agrees that this covenant shall run with its land.

(b) The Lessor also will, at the request of the Lessee, grant to other persons such rights of way or easements over, across or under, the Facility Site, or other adjacent property owned or controlled by Lessor, or grant permits or licenses with respect to the use thereof, as shall be necessary or convenient for the operation or use of the Facility Site, including but not limited to leases, easements or rights of way for utility, roadway, railroad or similar purposes in connection with the Facility Site, as well as access to such facilities or installations, or for the utilization of any real property adjacent to the Facility Site which is owned by the Lessor or leased to the Lessor. The Lessor agrees, at the cost and expense of the Lessee, to execute and deliver any and all instruments necessary or appropriate to confirm and grant any such right of way or easement or any such permit or license.

(c) No conveyance effected under the provisions of this section shall entitle the Lessee to any abatement or diminution of the rent payable hereunder or the other payments required to be made by the Lessee under this Agreement.

Section 7.06. Improvements and Maintenance of Routes For Ingress and Egress. The cost and responsibility of creating, improving, maintaining or repairing any route(s) for ingress and egress to and from the Facility Site as provided for in Section 7.05(a) shall be at the sole cost and sole responsibility of Lessor unless otherwise mutually agreed in writing between the parties.

Section 7.07. No Lessor Improvements. Except as may otherwise be provided in the Service Agreement, or such other agreement as may be in effect between the parties hereto,

the Lessor shall not be required to furnish any services or facilities or to make any improvements, repairs, or alterations in or to the Facility Site during the Term of this Agreement.

Section 7.08. Quiet Enjoyment. The Lessee upon paying the Rent and all other sums and charges to be paid by it as herein provided, and observing and keeping all covenants, warranties, agreements and conditions of this Lease on its part to be kept, shall have a right of quiet enjoyment of the Facility Site during the Term without hindrance or molestation by, through or under the County.

ARTICLE 8. REPAIRS

Section 8.01. Lessee's Duty to Maintain Premises. At all times during the Term of this Lease, Lessee shall keep and maintain the Facility Site and all improvements thereon in accordance with the maintenance standards set forth herein and in the Service Agreement. As long as Lessee continues to operate the Facility, whether or not under the Service Agreement, the maintenance standards as set forth in the Service Agreement then in effect (or if no Service Agreement is then in effect, the maintenance standards that were in effect at the termination of the Service Agreement) shall be followed and adhered to until there is another agreement relating to maintenance standards between Lessor and Lessee.

ARTICLE 9. MECHANIC'S LIENS

Section 9.01. Prohibition Against Mechanic's Liens — Indemnification of Lessor. Except for Permitted Liens, Lessee shall not suffer or permit to be enforced against the Facility Site, or any part thereof, any mechanic's, materialman's, contractor's, or subcontractor's liens arising from, or any claim for damage growing out of the work of, any construction, repair, restoration, replacement, or improvement, and Lessee shall (subject to Section 9.02 hereof) pay or cause to be paid all such liens, claims, or demands before any action is brought to enforce the same against the Facility Site; and Lessee agrees to indemnify and hold Lessor and the Facility Site free and harmless from all liability for any and all such liens, claims, and demands together with reasonable attorney fees and all costs and expenses in connection therewith.

Section 9.02. Contest by Lessee—Surety Bond. If Lessee shall in good faith contest the validity of any such liens or claim, then Lessee shall, at its expense, defend itself and Lessor against the same and shall pay and satisfy any adverse judgment that may be rendered thereon before the enforcement thereof against Lessor or the Facility Site.

Section 9.03. Lessor's Right to Remove Lien. If Lessee fails to discharge such lien or to furnish a bond against the foreclosure thereof as required by the law of the State, Lessor may, but is not obligated to, discharge such lien or take such other action as is reasonably necessary to prevent a judgment of foreclosure upon said lien from being executed against the property, and all costs and expenses, including reasonable attorney fees incurred by Lessor, shall be repaid by Lessee upon demand, and if unpaid may be treated as Additional Rent.

Section 9.04. Notices of Nonresponsibility. Nothing in this Lease shall be deemed or construed in any way as constituting the request or assumption of responsibility by Lessor, expressed or implied, by inference or otherwise, for any contractor, subcontractor,

laborer, or materialman for the performance of any labor or the furnishing of any materials for any specific improvement, alteration, or repair of or to the Facility Site, any buildings or improvements thereof, or any part thereof. Lessor shall have the right at all reasonable times to post and keep posted on the Facility Site such notices relating to the nonresponsibility/liability of Lessor as Lessor may reasonably deem necessary for the protection of Lessor and the fee of the Facility Site from mechanic's and materialman's liens.

ARTICLE 10. CONDEMNATION/DAMAGE TO FACILITY

Section 10.01. Loss Events.

(a) If at any time during the Term hereof the whole or a part of the Facility or the Facility Site shall be damaged or destroyed, or there shall be a taking by any governmental authority under the power of condemnation (either of which shall be called a "**Loss Event**"), then the Lessee will promptly give written notice of such Loss Event to the Lessor, generally describing the nature thereof.

(b) Upon the occurrence of any Loss Event consisting of damage to, or destruction of the Facility, Lessee shall be entitled to receive and keep all "net proceeds" that consist of insurance proceeds payable under policies it maintains pursuant to the Service Agreement or otherwise. For the purposes of this Article 10, "**net proceeds**" shall mean the total proceeds of insurance or condemnation less the costs and expenses incurred in connection with negotiating and collecting such proceeds including, without limitation, legal fees.

(c) The Lessor shall have no obligation to rebuild, replace, repair or restore the Facility at any time during the term. However, subject to Section 10.01(h) below and to Sections 6.05(c), (d) or (e) of the Service Agreement, Lessee shall restore the Facility following any Loss Event occurring while the Service Agreement is in effect whether or not Lessee receives adequate insurance or condemnation proceeds for such restoration.

(d) If a Loss Event consisting of a taking by any governmental authority under the power of condemnation shall occur, the net proceeds of such taking shall be divided between Lessor and Lessee in proportion to the fair market sales value (determined in accordance with the "**Appraisal Procedure**" in Section 10.01(g) below) of their respective interests in the Facility and/or the Facility Site so condemned or taken and in a manner consistent with the provisions of this Article 10.

(e) Any awards for a taking for a temporary period of all or part of the Facility or the Facility Site by any governmental authority under the power of condemnation or agreement in lieu thereof, so long as such taking period does not extend beyond the expiration or termination of this Lease, shall be payable solely to Lessee, and Lessee will be obligated to continue to pay the Annual Base Rent during such period.

(f) [Intentionally Omitted].

(g) As used in this Article, "**Appraisal Procedure**" shall mean the procedure specified in the succeeding sentences for determining the fair market rate for rent as provided in

Section 4.01(c), or the fair market sales value described in Section 10.01(d) or any other Section hereof that refers to this Section 10.01(g). In determining the Lessee's interest in the Facility Site under Section 10.01(d), the appraisers hereunder shall assume that the term of this Agreement includes both the Initial Term and the Renewal Period except if the period to extend such renewal has lapsed and such renewal has not been exercised. If either the Lessor or the Lessee shall give written notice to the other requesting a determination of value by appraisal in accordance with this Section 10.01(g), the Lessor and the Lessee shall consult for the purpose of appointing a mutually acceptable qualified independent appraiser. If such parties shall be unable to agree on a single appraiser within 20 days of the giving of notice, such value shall be determined by independent appraisers. One such appraiser shall be selected by the Lessee and another shall be selected by the Lessor; provided, that if either the Lessee or the Lessor shall fail to select an appraiser within 30 days after the giving of such notice, such appraiser upon application of the other party, shall be selected by the American Institute of Real Estate Appraisers (or its successor). The appraiser or appraisers appointed pursuant to the foregoing procedure shall be instructed to determine such amount or value in writing within 45 days after such appointment and such determination shall be final and binding upon the parties. If the two appraisers selected as aforesaid, after making their own written appraisal, shall fail to agree upon the required valuation within such 45 day period, the two appraisers shall select a third appraiser, and if they shall be unable to agree on a third appraiser within 10 days after each of such two appraisers shall have been selected, such third appraiser shall be selected by the American Institute of Real Estate Appraisers (or its successor) upon application of either party. The third appraiser shall select one of the other two appraisals as the final determination of the appraisers. The fees and expenses of the appraiser appointed or deemed appointed by the Lessee shall be paid by the Lessee, the fees and expenses of the appraiser appointed or deemed appointed by the Lessor shall be paid by the Lessor and the fees and expenses of the third appraiser, or of a single appraiser if only one is appointed, shall be divided equally between the Lessee and the Lessor.

(h) This Lease shall terminate upon the occurrence of the following Loss Events: (i) a taking or condemnation of the entire Facility Site or of so substantial a part thereof as to render the Facility Site incapable of being used for the purposes set forth in this Agreement, (ii) while the Service Agreement is in effect, pursuant to Section 6.05(e) of the Service Agreement, or (iii) while the Service Agreement is in effect but within one year of its stated expiration date or during a No Service Agreement Period, upon Lessee providing to Lessor at least sixty (60) days written notice of termination following such Loss Event.

(i) Unless otherwise agreed, in the event of condemnation or the threat of condemnation, settlement negotiations shall be conducted by the Lessee if the proposed taking involves the Facility, and by the Lessor and the Lessee if the proposed taking involves only the Facility Site (and no portion of the Facility) and no settlement shall be concluded in such latter case without the prior written consent of the other party. In the event the condemnation proceeding in such latter case will be going to trial in a court, both the Lessor and the Lessee shall be entitled to be represented by counsel. In the event in such latter case either the Lessor or the Lessee desires to appeal from a judgment, or the condemnor appeals, the parties agree to prosecute or defend such appeal jointly.

(j) The Lessee shall be entitled to any condemnation award attributable to ownership of the Facility (not including components owned by the Contracting Communities) and the machinery, equipment, spare parts or other property (other than computer equipment and software owned by Lessor) installed in and constituting part of the Facility or used in connection therewith.

(k) The Lessee shall not be entitled to share in any award or awards made in condemnation proceedings for the taking of any property outside of the boundaries of the Facility Site, or any rights in, under or above the streets adjoining the Facility Site, or any rights and benefits of light or air or any rights and benefits of space, below the surface of, or above the Facility Site except to the extent that such award or awards upon any such taking may represent compensation for physical damage to the Facility Site and/or the cost of repairing or restoring the Facility Site by reason of a change in grade of any adjoining public street and then only in accordance with Section 10.01 of this Agreement.

Section 10.02. Rent Abatement. If such taking shall not result in termination of this Lease pursuant to Section 10.01(h), then this Lease shall continue in full force and effect as to the remainder of the Facility Site, and the fixed rental payable by Lessee for the balance of the Term shall be reduced proportionally according to the ratio of the value of the portion of the land taken to the value of the full Facility Site. In case of an inability to agree on the appropriate reduction in fixed rent, the Appraisal Procedures in Section 10.01(g) may be invoked by either party.

Section 10.03. Allocation of Taking Award during Facility Operation. All compensation and damages awarded for the taking of the Facility Site or any portion thereof which does not include a taking of any part of the Facility shall belong to and be the sole property of Lessor. Lessee shall be entitled to any award that may be made for the taking of, or the diminished commercial utility of the Facility, or injury to the Facility or on account of any loss Lessee may sustain in the removal of Lessee's fixtures or equipment or as a result of any alterations or modifications which may be reasonably required by Lessee in order to place the remaining portion of the Facility Site not so condemned in a suitable condition for the continuance of Lessee's operation of the Facility.

Section 10.04. Effect of Termination. If this Lease is terminated, in whole or in part, pursuant to any of the provisions of this Article 10, all rentals and other charges theretofore paid hereunder by Lessee to Lessor prior to condemnor taking actual physical possession shall be retained by Lessor. All future rental payments shall be reduced as provided in Section 10.02.

ARTICLE 11. INSURANCE

Section 11.01. Lessee's Worker's Compensation Insurance. Lessee, at its expense, shall at all times during this Lease, carry full and adequate insurance against any risk or loss under the Workers Compensation Act of the State of California.

Section 11.02. Lessee's Insurance. The Lessee, at all times during the Term of this Agreement, at its expense, will procure, maintain and keep in force, (i) during the term of the

Service Agreement, the insurance described in Section 7.03 of the Service Agreement, and (ii) thereafter, (a) commercial general liability insurance for claims for personal injury, death, or property damage, occurring in or about the Facility Site, with limits equal to the limits in effect as of the date of termination of the Service Agreement, but subject to each party's right to request an adjustment to existing coverage, so that the insurance coverage hereunder is consistent with that of similar facilities, provided such adjusted coverage is available on commercially reasonable terms, and (b) property insurance for loss or damage to the Facility (in an amount equal to the cost of the Decommissioning Option under Section 7.04. The Lessee will cause to have the Lessor named as an additional insured on all such insurance policies.

Certificates of insurance for such policies will be delivered to the Lessor. The policy or policies of insurance will be issued by a company or companies licensed in the State of California and will provide that such policy or policies will not be cancelled, terminated, suspended or modified without the insurance company first giving the Lessor written notice thereof, at least thirty (30) days before any such cancellation, termination, suspension or modification shall become effective.

ARTICLE 12. ASSIGNMENTS AND SUBLETTING

Section 12.01. Lessor's Approval Required.

(a) Except with respect to (i) any collateral assignment or granting of a security interest by Lessee in connection with the financing for the Facility in accordance with Article 13, (ii) any assignment or sublease by Lessee under any management or operating agreement entered into by Lessee in connection with the Facility, and/or (iii) any assignment by Lessee in lieu of foreclosure in connection with the enforcement of the collateral assignment or security interest granted pursuant to the immediately preceding clause (i), as to which assignments or subleases Lessor hereby consents, Lessee shall not encumber, assign, or otherwise transfer this Lease, or any right or interest hereunder, and Lessee shall not assign or sublet any or all of its interests in the Facility Site in whole or in part without the prior written consent and approval of Lessor (which consent shall not be unreasonably withheld).

(b) Other than as provided in Section 12.01(a), the Lessee may not at any time assign or transfer this Agreement, or sublet the whole of the Facility Site without the prior written consent of the Lessor (which consent shall not be unreasonably withheld); provided that in the event of a permitted assignment, transfer or sublease, (i) the Lessee shall nevertheless remain liable to the extent herein provided to the Lessor for the payment of all Rent and for the full performance of all of the terms, covenants and conditions of this Agreement and of any other security document related to the Facility or Facility Site to which it shall be a party and its Parent Company (as defined in Section 20.01) shall acknowledge in writing the continuing effectiveness and enforceability of the Parent Guaranty (as defined in Section 20.01), (ii) any assignee, transferee or sublessee of the Lessee shall have assumed in writing and have agreed to keep and perform all of the terms of this Agreement on the part of the Lessee to be kept and performed, shall be jointly and severally liable with the Lessee for the performance thereof, shall be subject to service of process in the State, and, if a corporation, shall be qualified to do business in the State, (iii) in the opinion of counsel, such assignment, transfer or sublease shall not legally

impair in any material respect the obligations of the Lessee for the payment of Rent nor for the full performance of any and all of the terms, covenants and conditions of this Agreement, and (iv) if during the term of the Service Agreement, such sublessee, or the Facility Operator meets the standards set forth in the Service Agreement. The Lessee shall furnish or cause to be furnished to the Lessor, a copy of any such assignment, transfer or sublease in substantially final form at least thirty (30) days prior to the date of execution thereof.

(c) The Lessee may not at any time sublet any portion of the Facility without the prior written consent of the Lessor (which consent shall not be unreasonably withheld); provided that in the event of such permitted subletting (i) such sublease shall not violate any provision of this Agreement; and (ii) in the opinion of counsel such sublease shall not legally impair or limit in any respect the obligations of the Lessee for the payment of Rent nor for the full performance of all of the terms, covenants and conditions of this Agreement or of any other security document related to the Facility or the Facility Site to which the Lessee shall be a party. The Lessee shall furnish or cause to be furnished to the Lessor a copy of any such proposed sublease in substantially final form at least thirty (30) days prior to the date of execution thereof. Any consent by the Lessor, to any act of assignment shall be held to apply only to the specific transaction thereby authorized. Such consent shall not be construed as a waiver of the duty of the Lessee, or the successors or assigns of the Lessee, to obtain from the Lessor, consent to any other or subsequent assignment, transfer or sublease, or as modifying or limiting the rights of the Lessor.

(d) If this Agreement shall be assigned, the Lessor may and is hereby empowered to collect Rent from the assignee. If the Facility Site or any part thereof be sublet or occupied by any Person other than the Lessee, the Lessor, in the event of the default of the Lessee in the payment of Rent may, and is hereby empowered to, collect rent from the subtenant or occupant during the continuance of any such default. In either of such events, the Lessor may apply the net collection to the Rent reserved in this Agreement but no such assignment, subletting, occupancy or collection of rent shall be deemed a waiver of the covenant herein against assignment, transfer or sublease of this Agreement, or constitute the acceptance of the subtenant or occupant as tenant, or a release of the Lessee from the further performance of the covenants herein contained on the part of the Lessor.

Section 12.02. Termination. Except as provided in subparagraph 12.01(a) above, should Lessee suffer to be made any such assignment, transfer, or subletting without Lessor's consent, thereupon Lessor may, at its option, terminate this Lease forthwith by written notice, and upon such termination this Lease shall cease, and end and be of no further force or effect, except as hereinafter otherwise provided.

Section 12.03. Effect of Lessor's Consent. Should Lessor consent to any such encumbrance, assignment, transfer, or subletting for which Lessor's consent is required, none of the restrictions of this Section shall be thereby waived except as to the subject of such consent, but the same shall apply to each successive assignment, transfer, or subletting hereunder, if any, and shall be severally binding upon each and every encumbrance, assignee, transferee, subtenant, and other successor in interest of Lessee.

Section 12.04. Written Assumption Agreement. In the event of any transfer or assignment as provided for herein (except as security to a Facility Lender in conjunction with financing or refinancing the Facility, in accordance with Article 13), then before such transfer or assignment becomes effective for any purpose, the transferees and assignees must, in writing, assume all the obligations of this Lease and agree to be bound by all terms of this Lease.

ARTICLE 13. RIGHTS OF FACILITY LENDERS

As used herein:

“Facility Lender” means any Acceptable Lender that holds a Leasehold Mortgage.

“Acceptable Lender” shall mean any of the following:

1. A bank, savings and loan association, investment bank, insurance company, trust company, commercial credit corporation, real estate investment trust, pension or retirement fund, or pension advisory firm or mutual fund, or

2. An investment company, money management firm or “qualified institutional buyer” within the meaning of Rule 144A under the Securities Act of 1933, as amended, which is regularly engaged in the business of making or owning commercial mortgage loans of a similar type.

“Leasehold Mortgage” means any mortgage, deed of trust, collateral assignment or other security agreement that creates or constitutes a lien on Lessee’s interest in this Lease and the leasehold estate created hereby.

To be the beneficiary of the rights provided for in this Article and be recognized as a “Secured Facility Lender”, a Facility Lender shall deliver to Lessor a true or photostatic copy of its Leasehold Mortgage which Leasehold Mortgage shall comply with the provisions of this Lease (as well as with copies of all related loan documents), together with a certification by Lessee and the Facility Lender confirming that said copies include a true copy of the Leasehold Mortgage and all related documents, and the name and address of the Facility Lender and its counsel and contact information therefor in writing.

Section 13.03. Notice to Facility Lenders. Lessor shall send to each Secured Facility Lender, a copy of each notice of default given hereunder from Lessor to Lessee at the same time as such notice is sent to Lessee, addressed to such Facility lender at its address for notices last furnished to Lessor hereunder. No notice of default to Lessee hereunder shall be validly given hereunder unless and until a copy thereof shall have been so sent to each Secured Facility Lender as provided in the preceding sentence *provided, however* that in no event will Lessor be required to deliver notices to more than two Secured Facility Lenders.

Section 13.04. Right of Facility Lender to Cure Lessee Defaults. Subject to the provisions of this Article 13, Secured Facility Lenders shall have the same rights to cure defaults hereunder as are available to Lessee.

Section 13.05. Extension of Time in the Event of Bankruptcy, Etc. If Lessee shall be subject to any bankruptcy or insolvency proceedings at the time a notice of default is given under Section 13.03 hereof, or during the period within which a Secured Facility Lender or foreclosure sale purchaser shall be entitled to cure a default, or if it shall be necessary to obtain the appointment of a receiver for Lessee, or if the exercise of remedies by a Secured Facility Lender is otherwise delayed or hindered, the times for giving notices and effecting a cure of such default shall be extended by (i) the period required in order to obtain a permission of the court having jurisdiction over such proceedings necessary in order to permit the actions called for by this Article 13, or (ii) such period required for such Secured Facility Lender or foreclosure sale purchaser to obtain possession of the Facility.

Section 13.06. Consequences of Cure. If all defaults (other than a default under Article 16) shall be cured by a Secured Facility Lender or any purchaser at a foreclosure sale, any notice by Lessor advising of the existence of such default or any action of Lessor to terminate this Lease or to interfere with the occupancy, use or enjoyment of the Facility Site by reason of such default shall be deemed to be terminated, except with respect to Lessee, and this Lease shall continue in full force and effect with respect to such Secured Facility Lender or foreclosure sale purchaser. Lessee irrevocably requests Lessor to accept, and Lessor hereby agrees to accept, performance of and compliance with any of the terms hereof by a Secured Facility Lender or purchaser at a foreclosure sale if such performance is rendered in compliance with this Article 13, with the same force and effect as though kept, observed or performed by Lessee.

Section 13.07. No Personal Liability. Except as otherwise expressly agreed by the parties, no Secured Facility Lender or foreclosure sale purchaser shall become personally liable for the performance or observance of any covenants or conditions to be performed or observed by Lessee hereunder unless and until such Secured Facility Lender or foreclosure sale purchaser shall have succeeded to Lessee's interest hereunder and then only for so long as such Person owns such interest or is the operator of the Facility.

Section 13.08. Survival. The provisions of this Article 13 with respect to Secured Facility Lenders shall survive termination of this Lease and shall continue in full force and effect thereafter to the same extent as if this Article were a separate and independent contract among Lessor, Lessee and such Secured Facility Lenders.

Section 13.09. Amendments. Lessor and Lessee shall cooperate in including in this Lease, by a suitable amendment at the time of the closing of the financing with a prospective Secured Facility Lender, or a refinancing, such provisions which may reasonably be required by such prospective Secured Facility Lender for the purpose of facilitating the implementation of the protection provisions herein; *provided, however*, that no such amendment shall in any way affect the Rent or the Term of this Lease, or affect adversely in any material respect any rights or

interests of Lessor hereunder or increase in any material respect any obligations of Lessor hereunder.

Section 13.10. Lessee Not Relieved of Obligations. Nothing contained in this Article 13, or in any security agreement relating to any Leasehold Mortgage, shall be deemed or construed to relieve Lessee from the full and faithful observance and performance of its covenants, conditions and agreements contained in this Lease, or from liability for the non-observance or non-performance thereof, or to require or provide for the subordination to the lien of any security agreement of any estate, right, title or interest of Lessor in or to the Facility Site or this Lease.

Section 13.11. No Encumbrance on Facility Site. No Leasehold Mortgage or other security agreement or instrument shall create or be a lien or encumbrance on the fee simple interest of Lessor in the Facility Site or any part thereof.

ARTICLE 14. DEFAULT AND REMEDIES

Section 14.01. Termination for Lessee's Defaults. Should Lessee (i) default in the payment of any installment of Rent, or (ii) default in the performance of or materially breach any other term, covenant, condition, or restriction of this Lease herein provided to be kept or performed by Lessee, and if any such default or breach described in clause (i) shall continue for a period of ten business (10) days from and after service upon Lessee of written notice by Lessor and in the case of clause (ii) shall continue for a period of thirty (30) days thereafter and if in the case of clause (ii), the Lessor's notice is of a default of such a nature that it cannot be cured within such thirty (30) day period, but which the Lessee can establish is curable with the exercise of due diligence, then such default shall not be deemed to continue so long as the Lessee, after receiving such notice, proceeds to diligently cure the default in good faith as soon as reasonably possible, then Lessor may, at its option but subject to the rights of mortgagees provided in Article 13 hereof, terminate this Lease by giving Lessee written notice of termination. Upon the giving of such notice to Lessee, the rights of Lessee in and to the Facility Site shall cease and end, and Lessor may, without further notice or demand or legal process, re-enter and take possession of the Facility Site and all improvements thereon and oust Lessee and all persons claiming under Lessee therefrom and Lessee and all such persons shall quit and surrender possession of the Facility Site and all improvements thereon to Lessor. In the event of a termination of this Agreement, Lessee shall be entitled to rights of access to the Facility Site in accordance with the terms of Section 7.04.

Section 14.02. Other Remedies. Any termination of this Lease as herein provided shall not relieve Lessee from the payment of any sum or sums that shall then be due and payable to Lessor hereunder or any claim for damages then and theretofore accrued against Lessee hereunder, and any such termination shall not prevent Lessor from enforcing the payment of any such sum or sums or claim for damages from Lessee for any default hereunder. All rights, options, and remedies of Lessor contained in this Lease shall be construed and held to be cumulative, and no one of them shall be exclusive of the other, and Lessor shall have the right to pursue any one or all of such remedies or any other remedy or relief which may be provided by law, whether or not stated in this Lease. No waiver by Lessor of a breach of any of the

covenants, conditions, or restrictions of this Lease shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other covenant, condition or restriction herein contained.

Section 14.03. Limitation of Default. Notwithstanding anything to the contrary in this Article 14, there shall be no default of Lessee under this Agreement if any such default is caused by (i) any failure of the Contracting Communities to perform under the Service Agreement, or (ii) any default of the Contracting Communities under the Service Agreement, or (iii) any failure of the Lessor to meet its obligations under this Agreement, including its covenant to grant the Lessee quiet enjoyment herein, or (iv) by a condemnation or taking by the Lessor.

ARTICLE 15. SURRENDER AND REMOVAL

Subject to Section 7.04 hereof, upon the expiration or sooner termination of this Agreement, the Lessee shall quit and peacefully surrender the Facility Site. In the event Lessee remains in possession after expiration or termination hereof, other than as provided in Section 7.04, Lessee shall be deemed to be occupying the Facility Site as a month to month tenant at a fixed rent equal to one and half times the Annual Base Rent.

ARTICLE 16. BANKRUPTCY AND INSOLVENCY

If, after the Lease Effective Date (a) the Lessee then having the title to the leasehold estate created hereunder shall while having such title be adjudicated a bankrupt or adjudged to be insolvent; (b) a receiver or trustee shall be appointed for the property and affairs of the Lessee; (c) the Lessee shall make an assignment for the benefit of creditors or shall file a petition in bankruptcy or insolvency or for reorganization or shall make application for the appointment of a receiver; or (d) any execution or attachment shall be issued against the Lessee or any of the property of the Lessee, whereby the Facility Site or any building or buildings or any improvements thereon shall be taken or occupied or attempted to be taken or occupied by someone other than the Lessee, except as may herein be permitted, and such adjudication, appointment, assignment, petition, execution or attachment shall not be set aside, vacated, discharged, or bonded within three months after the issuance of the same, then a default hereunder shall be deemed to have occurred so that the provisions of Article 14 hereof shall become effective and the Lessor shall have the rights and remedies provided for therein; provided that any such event under clause (a), (b), (c) or (d) above shall not be an event of default as long as the Lessee continues to pay Rent and to otherwise meet or cause to be met its obligations under this Agreement.

ARTICLE 17. LESSOR'S GENERAL PROTECTION PROVISIONS

Section 17.01. Lessor's Right of Entry and Inspection. Lessee shall permit, upon reasonable notice to Lessee, Lessor or Lessor's agents, representatives, or employees to enter upon the Facility Site during normal business hours for the purpose of inspection or to determine whether agreements in this Lease are being complied with, so long as such entrances upon the Facility Site do not unreasonably interfere with Lessee's use of such Facility Site and Lessee's

performance of its obligations under the Service Agreement. Lessor shall likewise have the right to cross over or upon the Facility Site at reasonable times in conjunction with Lessor's use of other properties owned or leased by Lessor provided the same shall not unreasonably interfere with Lessee's use of the Facility Site.

In connection with such visits, the Lessor shall, on behalf of itself and its representative, comply, and cause its agents and representatives to comply, with all reasonable operating rules and regulations adopted by the Lessee, including a requirement that each person visiting the Facility Site sign a statement agreeing (i) to assume the risk of the visit but not the risk of injury due to the intentional or negligent acts of the Lessee and (ii) not to disclose or use, consistent with applicable law, any confidential information of the Lessee other than for the purpose for which it was furnished.

Section 17.02. Joint and Several Liability. If more than one lessee or lessor shall exist under this Lease, the obligation of all such lessees or lessors shall be joint and several.

ARTICLE 18. GENERAL PROVISIONS

Section 18.01. Conditions and Covenants. All of the provisions of this Lease shall be deemed as running with the land, and construed to be "conditions", as well as "covenants", as though the words specifically expressing or imparting covenant and condition status to such provisions were used in each such provision.

Section 18.02. No Waiver of Breach. No failure by either Lessor or Lessee to insist upon the strict performance by the other of any covenant, agreement, term, or condition of this Lease or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such future breach or of such covenant, agreement, term, or condition. No waiver of any breach shall affect or alter this Lease, but each and every covenant, condition, agreement, and term of this Lease shall continue in full force and effect with respect to any other then existing or subsequent breach.

Section 18.03. Time of Essence. Time is of the essence of this Lease, and of each provision.

Section 18.04. Computation of Time. The time in which any act provided by this Lease is to be done is computed by excluding the first day and including the last, unless the last day is a Saturday, Sunday, or holiday, and then it is also excluded. The term "holiday" shall mean all holidays specified in Sections 6700 and 6701 of the California Government Code.

Section 18.05. Unavoidable Delay-Force Majeure. As long as the Service Agreement is in effect, either party shall be excused from its performance hereunder (except for the payment of Rent) by reason of Unforeseen Circumstances as defined in the Service Agreement, but shall be excused only to the extent provided under the Service Agreement. Thereafter, if either party shall be delayed or prevented from the performance of any acts required by this Lease by reason of acts of God, strikes, lockouts, labor troubles, inability to procure materials, restrictive governmental laws, or regulations or other cause, without fault and beyond the reasonable control of the party obligated (financial inability excepted), performance

of such act shall be excused for the period of the delay; and the nonperformance of any such act shall be excused for the period of the delay and the period of the performance of any such act shall be extended for a period equivalent to the period of such delay, *provided, however*, nothing in this section shall excuse Lessee from the prompt payment of any rental or other charge required of Lessee except as may be expressly provided elsewhere in this Lease.

Section 18.06. Successors in Interest. Each and all of the covenants, rights, conditions, and restrictions in this Lease shall inure to the benefit of and be binding upon the successors in interest of Lessor, and subject to the restrictions of Article 12, the authorized encumbrances, assignees, tenants, subtenants, licensees, and other successors in interest of Lessor and Lessee.

Section 18.07. Governing Law. This Agreement and the performance thereof, shall be governed, interpreted, construed and regulated by the laws of the State of California.

Section 18.08. Entire Agreement. This Lease contains the entire agreement of the parties with respect to the matters covered by this Lease, and no other agreement, statement, or promise made by any party, or to any employee, officer, or agent of any party, which is not contained in this Lease shall be binding or valid.

Section 18.09. Amendments or Modifications. This Agreement shall not be modified, amended, terminated or rescinded, except by written instrument executed by the parties hereto.

Section 18.10. Partial Invalidity. If any term, covenant, condition, or provision of this Lease is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

Section 18.11. Conflict with Provisions of Service Agreement. In the event any provision of this Agreement shall conflict with the provisions of the Service Agreement, the provisions of the Service Agreement shall control.

Section 18.12. Relationship of Parties. Nothing contained in this Lease shall be deemed or construed by the parties or by any third person to create the relationship of principal and agent or of partnership, joint venture, or any other association between Lessor and Lessee, and neither the method of computation of rent or any other provisions contained in this Lease nor any acts of the parties shall be deemed to create any relationship between Lessor and Lessee, other than the relationship of Lessor and Lessee.

Section 18.13. No Merger. If Lessor's and Lessee's estates in the Facility Site become vested in the same owner, this Lease shall, nevertheless, not be destroyed by application of the doctrine of merger, unless a merger is expressly agreed to in writing by Lessor and Lessee.

Section 18.14. Attorney Fees. In the event either Lessor or Lessee shall bring any action or proceeding for damages for an alleged breach of any provision of this Lease, to

recover Rent, or to endorse, protect, or establish any right or remedy of either party, the prevailing party shall be entitled to recover as a part of such action or proceedings reasonable attorney fees and court costs.

Section 18.15. Delivery of Rent and Notices—Method and Time. All rents or other sums, notices, demands, or requests from one party to another shall be personally delivered or sent by mail, certified or registered, postage prepaid, to the addresses stated in this section, and shall be deemed to have been given at the time of personal delivery or at the time of mailing.

Section 18.16. Payment of Rent. All Rent and other sums payable by Lessee to Lessor shall be in lawful money delivered in person or mailed to Lessor at the following address: Department of Environmental Resources, Accounting Division, 3800 Cornucopia Way, Suite C, Modesto, California 95358.

Section 18.17. Estoppel Certificates. Either party hereto, without charge, at any time and from time to time, within ten days after receipt of written request by the other party hereto, shall deliver a written instrument, duly executed, certifying to such requesting party, or any other person, firm or corporation specified by such requesting party:

(a) That this Lease is unmodified and in full force and effect, or if there has been any modification, that the same is in full force and effect as so modified, and identifying any such modification;

(b) Whether or not to the knowledge of such party there are then existing any offsets or defenses in favor of such party against the enforcement of any of the terms, covenants and conditions of this Lease and, if so, specifying the same, and also whether or not to the knowledge of such party the other party has observed and performed all of the terms, covenants and conditions on its part to be observed and performed, and, if not, specifying the same; and

(c) The dates to which Rent has been paid.

Any written instrument given hereunder may be relied upon by the recipient of such instrument, except to the extent the recipient has actual knowledge of facts contrary to those contained in the instrument.

The failure of either Lessor or Lessee to deliver such statement within such ten-day period shall constitute a default hereunder and shall be conclusive upon the requesting party or any other person, firm or corporation for whose benefit the statement was requested, that this Lease is in full force and effect without modification except as may be represented by the requesting party and that there are no uncured defaults on the part of the requesting party.

Section 18.18. Notice to Lessor. All notices, demands, or requests from Lessee to Lessor shall be in writing and if under Article 14, shall be delivered by registered mail, return receipt requested, by overnight carrier service with receipt of delivery, or in person to Lessor at Department of Environmental Resources, Accounting Division, 3800 Cornucopia Way, Suite C, Modesto, California 95358.

Section 18.19. Notice to Lessee. All notices, demands, or requests from Lessor to Lessee shall be in writing and if under Article 14, shall be delivered by registered or certified mail return receipt requested, by overnight carrier service with receipt of delivery, or in person to Lessee at:

445 South Street
Morristown, NJ 07960
Attention: President, Americas

with a copy to

Covanta Energy Corporation
445 South Street
Morristown, NJ 07960
Attention: Vice President & Deputy General Counsel

Other notices hereunder may be delivered by facsimile or by e-mail provided proof of receipt is obtained in each case.

Section 18.20. Recording. A memorandum of this Lease may be recorded by the Lessee in the appropriate office of the County of Stanislaus County, California.

ARTICLE 19. DISPUTE RESOLUTION

Section 19.01. Agreement to Arbitrate. In the event any dispute arises between the Lessee and the Lessor, either party may serve written notice of such dispute on the other party and each party shall undertake in good faith to resolve such dispute. Except where a dispute or issue hereunder is required to be resolved in accordance with Section 10.01(g) (Appraisal Procedure), or as may be otherwise agreed to by the parties hereto, if the parties have not resolved the dispute within fifteen (15) days after such written notice, either party may, by further written notice (an "**Arbitration Notice**") to the other party, commence an arbitration proceeding pursuant to this Article 19. Except as otherwise provided in this Article 19, the parties hereby agree to submit exclusively to arbitration any and all disputes arising under this Agreement, and the determination of the Arbitrator (hereinafter defined) shall be final and binding (the "**Award**"). The Award shall determine (i) whether each party's obligations were met and (ii) what damages or remedies are due to either the County or the Lessee under the terms of this Agreement. The agreement to arbitrate contained in this Article 19 shall be specifically enforceable under the prevailing arbitration law, and shall survive termination of this Agreement. Judgment upon the Award rendered by the arbitrator or arbitration panel may be entered in accordance with applicable law in any court having jurisdiction.

Section 19.02. Contents of Arbitration Notice. The Arbitration Notice shall be filed simultaneously with the American Arbitration Association ("AAA"), and shall contain a statement of the amount in controversy and a description of the dispute, and shall attach a copy of the arbitration provisions of this Agreement. The parties shall prepare in writing a statement of their positions, together with counterclaims, with supporting facts, data, and affidavits, if any, for the Arbitrator and the other party within ten (10) days after the Appointment Date

(hereinafter defined). The arbitration shall be conducted in accordance with the Commercial Arbitration Rules of the AAA (the “**Rules**”).

Section 19.03. Selection of Arbitrator. The arbitration shall be conducted before a single arbitrator (the “**Arbitrator**”), who shall be neutral and impartial. Neither party to this Agreement shall have the right to remove the Arbitrator except in accordance with the Rules and as provided in this Section. The parties will attempt in good faith to agree on the selection of the Arbitrator and, in the event that the initial Arbitrator resigns, is unable to serve, or is disqualified, the successor Arbitrator. If the parties have not agreed upon the Arbitrator, whether initial or successor, as the case may be, within fifteen (15) days from either the Arbitration Notice or the date that a then-current Arbitrator resigns, is unable to serve, or is disqualified, the following procedure shall be used to select the initial Arbitrator (and all subsequent successor Arbitrators): The parties shall obtain from the AAA a list of ten (10) candidates together with full AAA disclosures on each candidate. (The date of receipt of such list and of all such disclosures is the “**Nomination Date**”). Each candidate shall be approved by AAA and deemed qualified and unbiased by AAA and be willing to serve if selected and no candidate, nor any member of his or her family, or firm or company, shall have had a prior relationship, directly or indirectly with either party. Each party also hereby represents and covenants that it will not engage an Arbitrator, or any family member, for a period of at least five years following issuance of an Award by such Arbitrator. If either party fails to submit a list of ranked candidates within ten (10) days of the Nomination Date, the third name listed on the list provided by the party submitting a list shall be deemed to be the Arbitrator.

Each party shall rank the ten candidates in its order of preference and submit the ranked list to the other party within ten (10) days after the Nomination Date; the candidate with the highest combined ranking of mutual preference shall be the Arbitrator. If there is a tie, the arbitrator with smallest difference between the rankings of the two parties (e.g., if one candidate scores a 4 on each list and one scores a 1 and a 7, the candidate with two rankings of 4 shall be the one selected) shall be selected the Arbitrator and if there is still a tie, the candidate who has been an AAA arbitrator the longest shall become the Arbitrator. The parties shall promptly notify AAA of the selected Arbitrator (the “**Appointment Date**”). The Arbitrator shall serve for one arbitration unless he or she earlier resigns, is unable to serve, or is disqualified.

Section 19.04. Discovery. The parties to such arbitration shall have, for a period of ninety (90) days after the service of the Arbitration Notice, subject to extensions of such period by the Arbitrator (not to exceed sixty (60) days in the aggregate) upon a showing of good cause by either party (the “**Discovery Period**”), all rights of discovery provided in the commercial arbitration rules of the AAA, except that all responses to discovery requests shall be served within ten (10) days of such discovery request, unless such time period is extended by the parties or by the Arbitrator, provided extensions by the Arbitrator do not exceed 20 days in the aggregate.

Section 19.05. Continuance of Performance. Unless otherwise agreed in writing or as provided herein, the parties shall continue to perform their respective obligations under this Agreement during any arbitration proceedings.

Section 19.06. Costs of Arbitration. Each party shall bear its own costs for arbitration, subject to reimbursement as determined by the Arbitrator in the Award.

Section 19.07. Site of Arbitration. Arbitration shall, unless the parties otherwise agree in writing, take place in Modesto, California.

Section 19.08. Equitable Relief Not Precluded. Nothing contained in this Article 19 shall preclude, or be deemed, construed or interpreted to preclude any party from seeking interim equitable relief, except that no party shall be entitled to seek a stay of any arbitration proceeding brought hereunder.

Section 19.09. Limited Court Challenge. The Award shall not be subject to appeal to, or review by, any court or administrative body except as to (i) compliance with the requirements of this Article 19, (ii) the existence of, or a failure of the Arbitrator to have disclosed, any conflict, contacts or relationships set forth in the questions contained (as of the time the Arbitration Notice is given) in the Notice of Appointment/Disclosure Guidelines of the International Centre for Dispute Resolution (a Division of the AAA), or its successor, unless the party adversely affected shall have waived objection thereto in writing, (iii) evidence of partiality on the part of the Arbitrator, or improper contacts with the Arbitrator by a party or its representatives or witnesses between the Appointment Date and the issuance of the Award, or (iv) any of the grounds provided in Section 10.01 of the Federal Arbitration Act.

ARTICLE 20. PARENT GUARANTY

Section 20.01. Parent Guaranty. As a condition precedent to the obligations and liabilities of Lessor hereunder, Covanta Holding Corporation, its successors and assigns, (the "**Parent Company**") shall have entered into the Parent Guaranty as defined in and required by the Service Agreement for the benefit of the Contracting Communities, which Parent Guaranty shall include guaranties of Lessee's obligations under Section 7.04 of this Lease. Lessor shall receive a legal opinion from counsel for the Parent Company as to the due authorization, execution and delivery of the Parent Guaranty, and to its enforceability, in a form reasonably acceptable to counsel to the County.

IN WITNESS WHEREOF, the County of Stanislaus, California and Covanta Stanislaus, Inc. have caused this Facility Site Lease Agreement to be signed in their respective corporate names all as of the day and year first above written.

LESSOR:
COUNTY OF STANISLAUS, CALIFORNIA

By: _____
Title: _____

LESSEE:
COVANTA STANISLAUS, INC.

By: _____
Title: _____

STATE OF CALIFORNIA)
) SS.
COUNTY OF STANISLAUS)

On _____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument as the Vice President on behalf of Covanta Stanislaus, Inc., a California corporation, the corporation therein named, and acknowledged to me that said corporation executed the within instrument pursuant to its bylaws or a resolution of its board of directors.

WITNESS my hand and official stamp.

Notary Public in and for
said County and State

STATE OF CALIFORNIA)
) SS.
COUNTY OF STANISLAUS)

On _____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument on behalf of the County of Stanislaus, a political subdivision of the State of California, the political subdivision therein named, and acknowledged to me that said political subdivision executed the within instrument pursuant to its resolution or its Board of Supervisors.

WITNESS my hand and official stamp.

Notary Public in and for
said County and State

SCHEDULE 1

Facility Site

Parcel No. 1

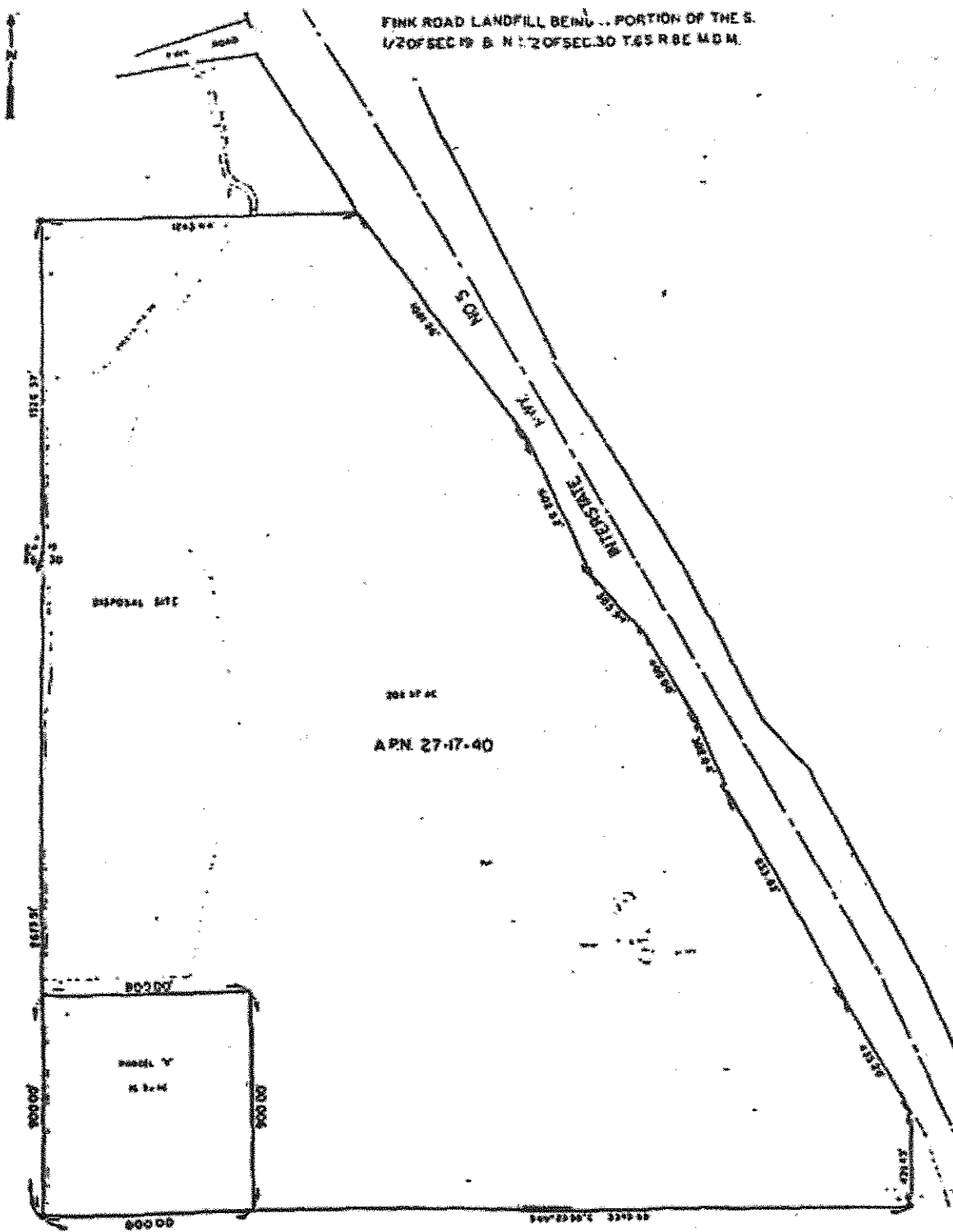
Parcel A as shown and delineated on that certain map of a portion of the Southwest Quarter of the Northwest Quarter of Section 30, Township 6 South, Range 8 East, Mount Diablo Base and Meridian, filed June 26, 1986 in Book 38 of Parcel Maps, at page 36, Stanislaus County Records.

Reserving to Edgar Allen Bacon, Winifred Edna Bacon and Myrtle Eleanor Bacon Burr, their representatives, heirs, executors, administrators, and assigns, all minerals, oil, gas and other hydrocarbon substances lying below a level plain 500 feet below the lowest point on the surface of the described property, *provided, however*, that in no event shall they or their representatives, heirs, executors, administrators, or assigns, have the right to drill or mine from the surface of such lands or any portion of said land which lies above a level plain located 500 feet below the lowest point on the surface thereof.

Parcel No. 2

A Non-Exclusive Easement for a 40 foot road and public utilities over, under, along and across that certain access easement shown and delineated on the above referred to Parcel Map 38 PM 36 wherein said easement extends from Parcel A above referred to northerly through the Northwest Quarter of Section 30 and the Southwest Quarter of Section 19, Township 6 South, Range 8 East, Mount Diablo Base and Meridian, to the existing County Road known as Fink Road.

FINK ROAD LANDFILL BEING PORTION OF THE S.
 1/2 OF SEC 19 & N 1/2 OF SEC. 30 T.65 R.8E M.D.M.



**MODESTO CITY COUNCIL
RESOLUTION NO 2012-265**

**A RESOLUTION APPROVING AMENDMENT NO. 3 TO THE AGREEMENT
BETWEEN CITY OF MODESTO AND COUNTY OF STANISLAUS RELATING
TO ADMINISTRATION OF SERVICE AGREEMENT FOR SUPPLY AND
ACCEPTANCE OF SOLID WASTE WITH THE COUNTY OF STANISLAUS
AND AUTHORIZING THE MAYOR TO EXECUTE THE AMENDMENT**

WHEREAS, on December 17, 1985, the City of Modesto and County of Stanislaus entered into an agreement for administration of the City/County Service Agreement with the Stanislaus Waste Energy Company (now Covanta Stanislaus) for supply and acceptance of solid waste, and

WHEREAS, since that time, the City has been partners with Stanislaus County and Covanta Stanislaus in the Stanislaus Resource Recovery Facility (the "Waste-to-Energy" or "WTE" Facility), and

WHEREAS, the City and County operate the project as a Joint Powers Agency under a Joint Powers Agreement, with the County acting as the Treasurer, and

WHEREAS, under the current Service Agreement, the Contracting Communities pay Covanta a service fee to operate the facility and are also responsible for all pass through costs associated with the facility such as taxes, insurance, air permit fees, ash disposal, etc., and

WHEREAS, the Contracting Communities are also responsible for any costs associated with unforeseen circumstances such as changes in law, major upgrades or any acts, events or conditions that have a material adverse effect on the operation of the facility, and

WHEREAS, the Contracting Communities are responsible for delivering wastes to the facility under a minimum tonnage guarantee of 243,300 tons, and Covanta uses this

waste to generate electricity, which it sells to PG&E under a Power Purchase Agreement (PPA), and

WHEREAS, the Contracting Communities currently retain 90% of the electric revenue generated by the facility, all of the disposal fees, 50% of metal recycling revenue and 30% of supplemental waste revenue, which revenues are used to offset costs, and

WHEREAS, the existing Service Agreement was set to expire on December 31, 2009, and in 2007, staff from the County Department of Environmental Resources and the City of Modesto Solid Waste Division began negotiations on a new contract with Covanta, and

WHEREAS, those negotiations proved unsuccessful with Covanta asking for more concessions that staff were willing to agree to, so in May 2009, the County and the City of Modesto exercised an option given in the original contract to extend the contract under the same terms an additional six years through December 31, 2015, and

WHEREAS, when the Power Purchase Agreement (PPA) with PG&E expired in January, 2010, Covanta elected to extend its contract with PG&E under extension provisions pursuant to California Public Utilities Commission (CPUC) Decision No. 07-09-040, and

WHEREAS, those provisions caused the price paid for power to revert to the Short Run Avoided Cost, or "SRAC", which was about \$55 per MW at the time and has since dropped even further, and

WHEREAS, this pricing also did not include a premium for renewable energy, and the capacity payment was reduced, and as a result, revenues from electricity generation declined sharply resulting in a significant operating deficit, and

WHEREAS, both the Contracting Communities and Covanta recognized that it would be in our joint interests to return to the negotiating table and secure a long term commitment that would motivate Covanta to negotiate a new PPA at much more favorable rates than current SRAC rates, and

WHEREAS, a new negotiating team was formed and reopened negotiations with Covanta, with the objectives of preserving the current RRA balance, a stable and predictable tipping fee, a commitment to no increased importation of waste, meeting diversion requirements and preserving landfill capacity, and reducing City/County risk exposure from change-in-law, public perception, and change in science/technology, and

WHEREAS, the Contracting Communities negotiating team has met on a regular basis over the past year and has provided periodic updates on the status of negotiations to the Solid Waste-to-Energy Executive Committee and the City-County Liaison Committee, and

WHEREAS, the negotiating team and Legal Counsel to the Executive Committee, Sidley Austin LLP, have negotiated a new Service Agreement and Lease Agreement with Covanta, to become effective on July 1, 2012, and

WHEREAS, as the Contracting Communities enter into a new contractual arrangement with Covanta, it will also be important to discuss and clarify a number of areas relative to the ongoing working relationship between the County and City, such as the disposition of the Resource Recovery Account (RRA), guaranteed tonnage obligations, gate processing, notifications, etc., through the negotiation of an Amendment to the JPA Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves Amendment No. 3 to the Agreement Between City Of Modesto And County Of Stanislaus Relating To Administration Of Service Agreement For Supply And Acceptance Of Solid Waste with the County of Stanislaus regarding the disposition of the Resource Recovery Account and other operating procedures upon commencement of a new Service Agreement, effective July 1, 2012, and authorizes the Mayor to execute the Amendment.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO 2012-266**

**A RESOLUTION AUTHORIZING AN INCREASE IN THE COST OF THE
AGREEMENT WITH SIDLEY AUSTIN LLP FOR LEGAL SERVICES
RELATED TO THE DEVELOPMENT OF A NEW SERVICE AGREEMENT
WITH COVANTA STANISLAUS IN AN AMOUNT NOT TO EXCEED \$142,000**

WHEREAS, on December 17, 1985, the City of Modesto and County of Stanislaus entered into an agreement for administration of the City/County Service Agreement with the Stanislaus Waste Energy Company (now Covanta Stanislaus) for supply and acceptance of solid waste, and

WHEREAS, since that time, the City has been partners with Stanislaus County and Covanta Stanislaus in the Stanislaus Resource Recovery Facility (the "Waste-to-Energy" or "WTE" Facility), and

WHEREAS, as the initial term of the contract was nearing its end, both the Contracting Communities and Covanta recognized that it would be in our joint interests to return to the negotiating table and secure a long term commitment to provide Waste-to-Energy services, and

WHEREAS, a new negotiating team was formed and reopened negotiations with Covanta, with the objectives of preserving the current RRA balance, a stable and predictable tipping fee, a commitment to no increased importation of waste, meeting diversion requirements and preserving landfill capacity, and reducing City/County risk exposure from change-in-law, public perception, and change in science/technology, and

WHEREAS, Sidley Austin LLP was retained by the Contracting Communities to act as Legal Counsel in negotiations with Covanta, and the amount of this contract was set at \$110,000 on January 10, 2012, and

WHEREAS, the Contracting Communities negotiating team has met on a regular basis over the past year and has provided periodic updates on the status of negotiations to the Solid Waste-to-Energy Executive Committee and the City-County Liaison Committee, and

WHEREAS, major deal points from the negotiations were agreed upon by the team and Covanta and were outlined in a Term Sheet approved by the Council and Board of Supervisors, and

WHEREAS, the negotiating team and Legal Counsel to the Executive Committee, Sidley Austin LLP, have negotiated a new Service Agreement and Lease Agreement with Covanta, to become effective on July 1, 2012, and

WHEREAS, due to the complexity of issues related to the Service Agreement and Site Lease, it is necessary to increase funding for legal services.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes an increase in the amount of the agreement with Sidley Austin LLP for legal services related to development of a new Service Agreement in an amount not to exceed \$142,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

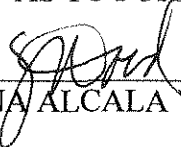
NOES: Councilmembers: None

ABSENT: Councilmembers: None

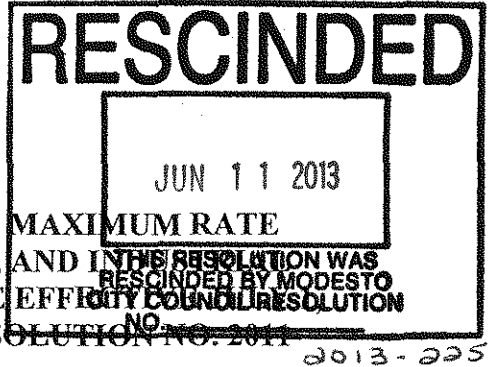
ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-267



A RESOLUTION APPROVING ADJUSTMENTS TO THE MAXIMUM RATE SCHEDULE FOR CITY RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL SOLID WASTE COLLECTION SERVICES, TO BECOME EFFECTIVE JANUARY 1, 2012, INCLUDING FUEL COST; AND RESCINDING RESOLUTION NO. 2011-446

WHEREAS, with the adoption of Ordinance No. 3068-C.S. in November of 1997, the City no longer sets rates for the collection of garbage in Modesto, and instead performs a comprehensive review of cost information submitted by the contract garbage haulers, and

WHEREAS, the City sets a maximum rate that the haulers may charge for the various types of services provided under the contracts based on cost data provided by the lowest cost hauler, and

WHEREAS, Section f (2) of the City's Service Agreements with its solid waste collectors requires that when the City makes adjustments to the collection services provided under the Agreements, any additional costs should be covered by adjustments to the maximum rates, and

WHEREAS, in addition, maximum rates for solid waste collection services are reviewed annually as requested by the City's garbage collection companies, and

WHEREAS, the City conducted an analysis using the audited financial statements provided by the garbage haulers, supplemental data provided by the garbage haulers, and fuel price information and forecast prices developed by the United States Department of Energy, and

WHEREAS, staff has adjusted the fuel component of the maximum rates and has incorporated the fuel component adjustment into the schedule of Maximum Charges for

Garbage Service **attached** hereto, marked **Exhibit "1"** and incorporated herein by reference, and

WHEREAS, on January 10, 2012, the Board of Supervisors and Council approved a Term Sheet to be used in the development of a new service agreement with Covanta Stanislaus, Inc., for the operation of the Waste-to-Energy (WTE) facility, and

WHEREAS, the term sheet approved by the Board of Supervisors and Council included an increase in the current base disposal fee at the facility from \$22 per ton to \$32 per ton with an annual escalator, and

WHEREAS, in addition to the base tip fee, there are also AB 939 (\$3 per ton) and Household Hazardous Waste (\$3 per ton) program fees, and scale house and administrative costs (\$1.00 per ton), that need to be incorporated into the disposal fee at the facility, and

WHEREAS, when those fees are added to the base disposal fee, the new disposal fee would be \$39 per ton, an \$11 per ton increase from the current disposal fee of \$28 per ton, and

WHEREAS, this \$11 per ton increase equates to an increase of \$1.20 per month on residential rates and \$0.37 cubic yard on commercial bin rates (drop box rates are not affected by this increase, since most drop box waste does not get taken to the Waste-to-Energy Facility), and

WHEREAS, on November 25, 2008, by Resolution No. 2008-650, the Council approved the assessment of an AB 939 Green Waste Diversion fee that would be assessed on a per ton basis on residential, commercial bin, and drop box wastes generated in the City of Modesto, and

WHEREAS, on June 11, 2012 the Economic Development Committee approved sending a recommendation to the Council to increase the AB 939 Green Waste Diversion fees in order to fully fund the purchase of green waste collection equipment that complies with the California Air Resources Board's (CARB) emissions regulations by FY 2014-2015, and

WHEREAS, the Committee recommended that the fee on wastes from residential sources be increased to \$1.93 per month, the fee on wastes from commercial bins be increased to \$3.46 per cubic yard per month, and the fee on wastes from industrial bins be increased to \$8.72 per ton to fund this purchase, and

WHEREAS, the above noted fees and charges to the collection companies have been incorporated into the recommended schedules of maximum rates shown as **Exhibit 1** hereto, and

WHEREAS, a report dated June 6, 2011, from the Parks, Recreation and Neighborhoods Department, a copy of which is on file in the office of the City Clerk, sets forth said recommendations, and

WHEREAS, said matter was set for a public hearing of the City Council to be held at 5:30 p.m. on June 26, 2012, in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto California, at which date and time a duly noticed public hearing was held at said time and place, at which time evidence, both oral and documentary, was received and considered, and

WHEREAS, it was found and determined by the Council of the City of Modesto that the existing schedules of rates and charges for garbage service in the City of Modesto

should be revised as recommended, and that quarterly adjustments to the fuel component of the maximum rates should be made,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Maximum Charges for Garbage Service as **attached** hereto marked **Exhibit "1"** and incorporated herein by reference. Said Maximum Charges for Garbage Service includes twice-a-year bulky item pickup for residential customers and all other residential services as stipulated in the Service Agreements and shall become effective July 1, 2012, and shall remain in effect until revised by Council.

BE IT FURTHER RESOLVED that any person who has prepaid garbage service charges for residential garbage service shall be entitled to receive garbage service for the balance of said prepaid period at the prepaid rates.

BE IT FURTHER RESOLVED that Resolution No. 2011-446 is hereby rescinded effective July 1, 2012.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

MAXIMUM CHARGES FOR GARBAGE SERVICE

STANDARD CONTAINERS

Maximum Monthly Rates
(Once a Week Pickup Service)

Standard container service shall include the following:

- One, 96-gallon container for garbage
- One, 96-gallon container for green waste, food, paper, and other organics
- Countertop container for kitchen scraps
- Drop-off of old TV and computer tubes
- Two bulky item collections per year by appointment
- Pruned Refuse Collection

Standard container service customers may opt for smaller containers; however, maximum rates apply. Containers must be placed in a location set forth in Section 5-5.111 of the Municipal Code.

1. Standard container service –

- a. The maximum rate for new sign ups for service or changes in service that occur after July 1, 1996, shall be **\$26.73 per month** regardless of size of container. A fuel component of \$1.36 per month is included in the maximum rate for the quarter beginning July 1, 2012 and ending September 30, 2012. The fuel component may be adjusted quarterly.
- b. The maximum rate for each additional garbage container shall be **\$19.88 per month, and \$10.07 per month** for each additional green waste container.

2. 60-gallon container service (grandfathered customers) –

- a. The maximum rate for customers with 60-gallon containers who subscribed to service at an address prior to July 1, 1996 and who have not changed their service address shall be **\$22.42 per month.** A fuel component of \$1.36 per month is included in the maximum rate for the quarter beginning July 1, 2012 and ending September 30, 2012. The fuel component may be adjusted quarterly.
- b. The maximum rate for each additional 60-gallon garbage container shall be **\$19.40 per month.**

- #### **3. Fuel Component adjustments** - The fuel component shall be analyzed quarterly and adjustments shall be made as necessary. The adjustment shall be based on the average price of fuel for a preceding quarter as follows: July 1/January-March; October 1/April-June; January 1/July-September; April 1/October-December. Average prices shall be determined based on published prices for California from the Department of Energy, Energy Information Agency.

**DETACHABLE CONTAINERS
Maximum Monthly Rates**

Container Size	Regular Container Maximum Rates					
	NUMBER OF COLLECTIONS PER WEEK					
	1	2	3	4	5	6
1 CY	\$30.17	\$60.34	\$90.51	\$120.68	\$150.85	\$181.02
2 CY	\$60.34	\$120.68	\$181.02	\$241.36	\$301.70	\$362.04
3 CY	\$90.51	\$181.02	\$271.53	\$362.04	\$452.55	\$543.06
4 CY	\$120.68	\$241.36	\$362.04	\$482.72	\$603.40	\$724.08
5 CY	\$150.85	\$301.70	\$452.55	\$603.40	\$754.25	\$905.10
6 CY	\$181.02	\$362.04	\$543.06	\$724.08	\$905.10	\$1,086.12

FORK Participants Container Maximum Rates						
Container Size	NUMBER OF COLLECTIONS PER WEEK					
	1	2	3	4	5	6
2 CY	\$45.26	\$90.51	\$135.77	\$181.02	\$226.28	\$271.53
3 CY	\$67.88	\$135.77	\$203.65	\$271.53	\$339.41	\$407.30
4 CY	\$90.51	\$181.02	\$271.53	\$362.04	\$452.55	\$543.06
5 CY	\$113.14	\$226.28	\$339.41	\$452.55	\$565.69	\$678.83
6 CY	\$135.77	\$271.53	\$407.30	\$543.06	\$678.83	\$814.59
90-gallon	\$20.05	\$40.10	\$60.14	\$80.19	\$100.24	\$120.29

- Weekly rental/Detachable Containers** - Shall not exceed the rate for 1 pickup per week for each size container.
- Fuel Component** - A fuel component of \$1.18 per cubic yard per month (\$0.27 per cubic yard) for a 1 cubic yard container collected once a week is included in the maximum rate for the quarter beginning July 1, 2012 and ending September 30, 2012. The fuel component shall be analyzed quarterly and adjustments shall be made as necessary. The adjustment shall be based on the average price of fuel for a preceding quarter as follows: July 1/January-March; October/April-June; January 1/July-September; April 1/October-December. Average prices shall be determined based on published prices for California from the Department of Energy.

DROP BOX CONTAINERS

- Pick up charge** - \$246.60 per pick up
- Rental**
 - \$0.85 per day up to 7 day maximum rental
 - \$3.00 per day for boxes kept 7 or more days without servicing
 - \$10.00 per day for boxes kept 21 or more days without servicing
- Disposal charge** - Actual charge to be paid by customer. Garbage company will provide up to 40 CY Drop Box containers for above stated charges subject only to load limit of transfer vehicle. An AB 939 Green Waste Diversion Fee of \$8.72 per ton will be added to the disposal charges.

COMPACTORS

Front Loader Type:

Compactor Rates						
Container Size	NUMBER OF COLLECTIONS PER WEEK					
	1	2	3	4	5	6
3 CY	\$271.53	\$543.06	\$814.59	\$1,086.12	\$1,357.65	\$1,629.18
4 CY	\$362.04	\$724.08	\$1,086.12	\$1,448.16	\$1,810.20	\$2,172.24
6 CY	\$543.06	\$1,086.12	\$1,629.18	\$2,172.24	\$2,715.30	\$3,258.36

Roll-Off Types:

- | | |
|-------------------------------------|--------------------------------------|
| 1. 6 CY to 40 CY | \$246.60 per pickup |
| 2. Medical waste compactors | \$265.00 per pickup |
| 3. Washing compactor | \$30.00 |
| 4. Disposal Charge: | Actual charge to be paid by customer |
| 5. AB 939 Green Waste Diversion Fee | \$8.72 per ton |

EXTRA PICKUPS

- | | |
|--------------------------------------|--------------------------------|
| 1. Standard containers or equivalent | \$3.50 plus \$1.38/container |
| 2. Detachable containers | \$12.00 plus \$2.75/cubic yard |

SPECIAL SERVICE CONDITIONS

In situations where none of the above maximum rates reasonably apply, the cost of service is to be negotiated between the garbage company and the customer.

**DETACHABLE CONTAINER ONLY
REPLACEMENT AND CLEANING SERVICE**

1 CY	1½ CY	2 CY	3 CY	4 CY	5 CY	6 CY
\$10.12	\$11.00	\$12.10	\$15.40	\$20.24	\$25.08	\$29.92

NOTATIONS

- The above maximum rates include a \$0.25 per month residential recycling fee; a \$0.05 per cubic yard (\$0.22/cubic yard/month) commercial recycling fee; and a \$5.00 per pull (\$0.25 per ton) industrial recycling fee, a \$0.15 per month residential litter abatement fee, and a \$0.05 per cubic yard (\$0.22/cubic yard/month) commercial litter abatement fee.
- The above residential maximum rates include a \$1.93 per month per household AB 939 Green Waste Diversion Fee.
- The above commercial bin and front-loader compactor maximum rates include an AB 939 Green Waste Diversion Fee of \$3.46 per yard/month.
- The above maximum rates include Carpenter Road Landfill Mitigation Fees of \$0.25 per month on residential wastes, \$0.21 per cubic yard (\$0.90/cubic yard/month) on commercial wastes; and \$5.00 per pull on industrial wastes.
- Pursuant to Section 11-6.16(c)(2) of the Modesto Municipal Code, the garbage company may require a deposit equivalent to two (2) months service charge from customers prior to beginning service. The deposit will be credited back to the customer after 18 months under specified conditions.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-268**

**A RESOLUTION APPROVING THE ANNUAL INFLATIONARY
ADJUSTMENT OF CERTAIN DEVELOPMENT USER FEES AS IDENTIFIED
IN THE DEVELOPMENT USER FEE SCHEDULE, PER RESOLUTION NO.
2011-106**

WHEREAS, Resolution Nos. 2003-446 and 2005-278 previously allowed for an automatic annual inflationary adjustment to fees, and

WHEREAS, on March 22, 2011, the City Council, by Resolution No. 2011-106, approved amending those resolutions to require Finance Committee and City Council review and approval for the annual inflationary adjustment to fees, and

WHEREAS, the adjustment is based on the U.S. Department of Labor Employment Cost Index-State & Local Government Employees, as published by the Bureau of Labor Statistics, and

WHEREAS, these figures are published on a quarterly basis, and

WHEREAS, the Development User Fees annual adjustment is based on the 4th quarter adjustment figure for the previous calendar year, ending December 31st, and

WHEREAS, the adjustment percent for the 4th quarter ending December 31, 2011, was 1.3%,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the 1.3% annual inflationary adjustment of certain Development User Fees as identified in the Development User Fee Schedule.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2012, by Councilmember Muratore, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-269**

A RESOLUTION AUTHORIZING THE DEPARTMENT OF PUBLIC WORKS TO NEGOTIATE AN AGREEMENT WITH VEOLIA TRANSPORTATION SERVICES (VEOLIA), INC, TO OPERATE THE MODESTO AREA EXPRESS (MAX) TRANSIT SERVICE COMMENCING ON SEPTEMBER 29, 2012 AND TERMINATING ON JUNE 30, 2017, AND SUBMIT THE FINAL AGREEMENT TO CITY COUNCIL FOR CONSIDERATION

WHEREAS, the existing agreement with MV Transportation to operate the MAX service expires September 28, 2012, and

WHEREAS, the City wishes to continue providing MAX service to the citizens of Modesto, and

WHEREAS, a Request for Proposals (RFP) was issued soliciting proposals from qualified firms for a new contract to be effective September 29, 2012, and

WHEREAS, Veolia submitted a proposal that was determined to be reasonable and cost effective, and

WHEREAS, an evaluation panel reviewed all proposals and best and final offers and interviewed proposers in the competition range, and

WHEREAS, after such evaluation the panel scored Veolia highest utilizing the scoring criteria included in the RFP and recommended award of the contract to Veolia,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Department of Public Works to negotiate an agreement with Veolia Transportation Services, Inc to operate the Modesto Area Express transit service commencing on September 29, 2012 and terminating on June 30, 2017, and submit the final agreement for City Council consideration.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of June, 2012, by Councilmember Muratore, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-270**

A RESOLUTION APPROVING THE FINAL MAP OF CORNERSTONE PLAZA FOR CONDOMINIUM PURPOSES AT 2000 BRIGGSMORE AVENUE IN THE CITY OF MODESTO, AND AUTHORIZING THE CITY CLERK TO SIGN THE FINAL MAP AND RECORD IT WITH THE COUNTY CLERK RECORDER'S OFFICE

WHEREAS, California Equity Management Group Inc ("OWNER"), is the owner of the Cornerstone Plaza Project located at 2000 Briggsmore Ave in the City of Modesto ("DEVELOPMENT"), and

WHEREAS, the OWNER has requested that the final map for Condominium purposes be filed with the County Recorder, and

WHEREAS, the DEVELOPMENT is comprised of one existing building and one proposed building, and

WHEREAS, the Map will allow up to 11 units to be set up on this property, and

WHEREAS, the Planning Commission and the City Engineer have reviewed and approved the Final Map for recording, and

WHEREAS, the Final Map is in general Compliance with the Tentative Map that was approved by the Planning Commission on September 19, 2011, and

WHEREAS, this item is exempt from CEQA under section 15268(b) (3), which exempts ministerial action, such as approval of final maps, and

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

1. The City Clerk is hereby authorized to sign the Final Map.
2. The City Clerk is hereby authorized to record the final Map with the County Clerk Recorder.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of July, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-271**

**RESOLUTION AMENDING THE POSITION CLASSIFICATION PLAN FOR
THE CITY OF MODESTO TO CREATE THE CLASSIFICATION OF WATER
METER TECHNICIAN**

WHEREAS, a Position Classification Plan for the City of Modesto was adopted by Modesto City Council Resolution No. 2008-681 pursuant to Rule 2.2 of the Personnel Rules and Regulations of the City of Modesto, and

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

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

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

SECTION I: CLASSIFICATION CREATED. The Position Classification Plan of the City of Modesto is hereby amended to create the classification of Water Meter Technician at salary range 124. The job specification for Water Meter Technician is being created to provide technical support for effective water resource management and accurate billing of residential and commercial water usage; to ensure water meters and related equipment are performing properly and providing accurate information: to calibrate and repair meters; to gather data, perform analysis and to make recommendations related to the repair and replacement of water meter equipment, as shown in **attached Exhibit "A,"** which is 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 July 3, 2012.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 3rd day of July, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
NO. 6698

WATER METER TECHNICIAN

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

DEFINITION

To provide technical support for effective water resource management and accurate billing of residential and commercial water usage; to ensure water meters and related equipment are performing properly and providing accurate information: to calibrate and repair meters; to gather data, perform analysis and to make recommendations related to the repair and replacement of water meter equipment. Incumbents must possess Grade III Water Distribution Operator Certificate issued by the State of California, Department of Health Services.

SUPERVISION RECEIVED AND EXERCISED

Receives general supervision from higher level supervisory and management staff.

May provide functional/technical direction or leadership to less experienced staff.

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

Essential Functions:

Locate, inspect, clean, repair, test, calibrate and adjust water meters and related metering equipment.

Perform skilled repair work on water meters, pumps, valves, and other mechanical equipment.

Gather data and make recommendations on the repair and replacement of water meters and related equipment.

Conduct special tests of meters upon customer request; document and maintain records of service.

Investigate, analyze, develop and prepare special studies or projects, as requested.

Analyze reports and/or data and flag discrepancies and or issues of concern.

Maintain records, supplies and equipment; carry out all required safety procedures including required use of safety equipment.

Contact customers to plan shutdowns and to schedule meter repairs/testing, as assigned.

EXHIBIT A

Essential Functions (Continued):

Respond to billing issues related to problems that may include leaks, low water pressure, meter connects and disconnects, and unusual meter readings; identify and resolve problem.

Install remote meters including wiring and mounting.

Tactfully respond to requests and inquiries from water utility customers and from the general public.

Identify equipment needs for each assigned project; read and interpret diagrams, sketches and specifications requiring the use of GIS and mapping, systems control and engineering drawings.

Observe proper safety precautions and maintain tools, supplies, equipment and the work site in a safe condition; clean up work area after job completed.

Perform work in emergency situations as required.

Marginal Functions:

Perform related duties as assigned.

MINIMUM QUALIFICATIONS

Knowledge of:

Methods, techniques, tools, and the operational characteristics of mechanical equipment used in the maintenance and repair of water meters and in the testing and calibrating of meters.

Methods and procedures used in monitoring water systems.

Basic arithmetic principles and related computer applications.

Safe work practices.

Applicable Federal, State and local laws, codes and regulations.

Ability to:

Test, adjust and calibrate residential and commercial water meters; inspect, remove and install meters; disassemble, clean, inspect, repair, assemble, and calibrate meters.

Test and determine the efficiencies of all types of meters and replace or rebuild as needed.

Ability to (Continued):

Identify equipment, tools and materials needed for each project.

Use and operate hand tools, mechanical equipment, power tools, and other equipment required for the work in a safe and efficient manner.

Understand and follow oral and written instructions.

Read meters accurately and interpret basic maps, blueprints, mechanical drawings and specifications.

Use and operate a personal computer and a handheld meter reading unit including applicable software.

Analyze facts, make sound recommendations, prepare technical reports and make presentations.

Communicate effectively, both orally and in writing.

Identify and respond to public issues and concerns.

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

Ability to expedite work on a daily basis

Experience and Training Guidelines

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

Experience:

Two years of increasingly responsible technical experience involving the installation, operation, maintenance, reading, testing, repair, calibration and analysis of water meters. Work experience within a municipal or private water utility is highly desirable.

Training:

Equivalent to graduation from High School or possession of a G.E.D. certificate.

License and Certificate

Possession of a Grade III Water Distribution Operator Certificate issued by the State of California, Department of Health Services at the time of appointment.

Possession of or ability to obtain an appropriate valid California driver's license.

PHYSICAL AND MENTAL REQUIREMENTS

Mobility: frequent performance of heavy manual labor; frequent standing for long period of time; frequent bending and squatting. **Lifting:** frequent lifting up to 50 pounds; occasional lifting up to 100 pounds. **Vision:** constant use of overall vision. **Dexterity:** frequent grasping, holding, and reaching. **Hearing/Talking:** frequent hearing and talking in person. May be required to wear ear protection or hear in noisy conditions. **Emotional/ Psychological:** frequent coworker contact; frequent customer and public contact; occasional working alone. **Environmental:** frequent exposure to loud noise; frequent exposure to chemicals, fumes, and other environmental substances; frequent work outdoors in hot and cold temperatures and inclement weather.

WORKING CONDITIONS

Work is performed in a typical outdoor environment on a year-round basis subject to typical street or field noise and environment including exposure to loud equipment and machinery. Some positions may be assigned to remote locations. Positions may require occasional overtime or weekend work and travel is rare. Positions may be required to perform standby on-call duties as scheduled, report to appropriate agencies and liaison with Police, Fire, and the Environmental Health Department.

May be required to work evenings, weekends and holidays; may be required to work overtime and irregular hours.

<i>Class Spec History</i>	
<i>Adopted</i>	<i>7/12</i>
<i>Revised</i>	
<i>BU</i>	<i>Gen NS</i>

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-272

AMENDED
on Dec. 9, 2014
By Resolution 2014-529

RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2008-585 TO REVISE THE CLASS RANGE TABLE FOR GENERAL NON-SWORN CLASSES TO ADD THE SALARY RANGE FOR WATER METER TECHNICIAN TO SALARY RANGE 124

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 2008-585, 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 I. AMENDMENT TO RESOLUTION NO. 2008-585. Exhibit "A" entitled, "City of Modesto Class Range Table General Non-Sworn Classes," attached to Resolution No. 2008-585, is hereby amended as shown on the amended **Exhibit "A"** entitled "City of Modesto Class Range Table General Non-Sworn Classes Effective July 3, 2012," which is **attached** hereto and made a part hereof as though set forth in full herein. Said **Exhibit "A"** adds the Water Meter Technician to salary range 124.

SECTION II. EFFECTIVE DATE. This resolution shall become effective on and after July 3, 2012.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 3rd day of July, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Stephanie Lopez
STEPHANIE LOPEZ, City Attorney

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
 CLASS RANGE TABLE
 GENERAL NON-SWORN CLASSES
 Effective July 3, 2012

RANGE	TITLE
103	Administrative Office Assistant I Custodian I
107	Administrative Office Assistant II Custodian II Exhibits Coordinator
109	Account Clerk I Customer Services Account Clerk I
110	Maintenance Worker I
111	Account Clerk II Administrative Office Assistant III Custodian Crewleader Customer Services Account Clerk II
114	Electrician Assistant I Equipment Service Technician Maintenance Worker II Production Technician Storeskeeper
115	Administrative Services Technician I Senior Administrative Office Assistant Senior Customer Services Account Clerk
116	Account Technician Airport Maintenance Worker Equipment Operator Groundskeeper Traffic Operations Technician Wastewater Collection Systems Operator I Water Distribution Operator I

RANGE	TITLE
118	Electrician Assistant II Fleet Procurement Technician Parking Facilities Crewleader Parks Maintenance Crewleader Recreation Coordinator Senior Storeskeeper Tree Trimmer Water Distribution Operator II
119	Administrative Services Technician II Building Maintenance Technician Code Enforcement Officer I -Neighborhood Preservation Unit Customer Services Account Technician Parks Maintenance Mechanic
120	Assistant Buyer Environmental Compliance Technician Laboratory Analyst I Senior Equipment Operator Traffic Striping Crewleader Wastewater Collection System Operator II Wastewater Treatment Plant Operator I Water Quality Control Technician I Water Resource Specialist
121	Solid Waste Enforcement Officer
122	Accountant I Development Services Technician I Electrician Assistant III Equipment Mechanic Tree Trimmer Crewleader Welder/Fabricator
123	Code Enforcement Officer II -Neighborhood Preservation Unit Engineering Assistant Trainee

RANGE	TITLE
124	Airport Maintenance Crewleader Community Development Program Specialist I Cross Connection Specialist Development Services Technician II Environmental Compliance Inspector I Fire Equipment Mechanic Head Groundskeeper Heavy Equipment Mechanic Laboratory Analyst II Operations Crewleader Wastewater Treatment Plant Operator II Water Conservation Specialist Water Distribution Operator III Water Meter Technician Water Production Operator I Water Quality Control Technician II Water Services Equipment Operator I
126	Equipment Mechanic Crewleader Housing Financial Specialist Housing Rehabilitation Specialist I Wastewater Collection System Crewleader Wastewater Treatment Plant Operator III
127	Engineering Assistant I
128	Building Inspector I Community Development Program Specialist II Electrician - Traffic and Buildings Electrician - Utilities Environmental Compliance Inspector II Heavy Equipment Mechanic Crewleader Instrumentation Technician Senior Fire Equipment Mechanic Water Production Operator II Water Services Equipment Operator II
130	Construction Inspector Housing Rehabilitation Specialist II Laboratory Analyst III Senior Wastewater Treatment Plant Operator

RANGE	TITLE
131	Engineering Assistant II
132	Building Inspector II Environmental Review Specialist Senior Environmental Compliance Inspector Water Division Crewleader
133	Assistant Land Surveyor
134	Plans Examiner Senior Construction Inspector
135	Engineering Project Coordinator
136	Senior Building Inspector

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-273**

RESOLUTION ACCEPTING THE 2012 ALCOHOLIC BEVERAGE CONTROL GRANT PROJECT IN THE AMOUNT OF \$100,000 FROM THE STATE DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL TO COMBAT ALCOHOL RELATED CRIMES; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY GRANT DOCUMENTS

WHEREAS, the City of Modesto Police Department desires to undertake a certain project designated as the Modesto ABC Project to be funded in part from funds made available through the Grant Assistance to Local Law Enforcement Agencies Project administered by the Department of Alcoholic Beverage Control (hereafter referred to as "ABC"), and

WHEREAS, the Police Department was awarded a grant in the amount of \$100,000 from the State Department of Alcoholic Beverage Control, and

WHEREAS, this \$100,000 grant will allow agencies in Stanislaus County and other outlying areas to work in collaboration to proactively address alcohol related-crimes in Stanislaus County,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the 2012 Alcoholic Beverage Control Grant Project in the amount of \$100,000 from the State Department of Alcoholic Beverage Control to combat alcohol related crimes.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of July, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-274**

**RESOLUTION AMENDING THE FISCAL YEAR 2012/2013 OPERATING
BUDGET TO REFLECT REVENUES AND EXPENSES IN THE AMOUNT OF
\$100,000 RELATED TO THE 2012 ALCOHOLIC BEVERAGE CONTROL
GRANT PROJECT**

WHEREAS, the Police Department acquired a grant award in the amount of \$100,000 from the State Department of Alcoholic Beverage Control for several programs developed to reduce alcohol-related crimes, and

WHEREAS, there is no local match required for this program, and

WHEREAS, the Fiscal Year 2012/2013 Operating Budget will be amended as shown on **Exhibit A**, which is **attached** to this resolution and incorporated herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes amending the Fiscal Year 2012/2013 Operating Budget as shown on the **attached Exhibit A**.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Exhibit A

The ABC grant allocation for Fiscal Year 2012/2013 will be applied to:

<u>Revenues:</u>	<u>Increase/(Decrease)</u>	<u>Description</u>
To:		
MY-1341-19999-42141-100712	<u>\$100,000</u>	ABC Grant
TOTAL:	\$100,000	
<u>Expenses:</u>		
To:		
MY-100712- Appr Unit A	\$ 5,500	Part-time
MY-100712- Appr Unit A	\$ 78,000	Overtime
MY-100712- Appr Unit C	\$ 10,000	Intergovernmental Services
MY-100712- Appr Unit C	\$ 2,000	Misc. Services
MY-100712- Appr Unit C	\$ 2,500	Police Equipment
MY-100712- Appr Unit C	<u>\$ 2,000</u>	Conference Expense
TOTAL	\$100,000	

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-275**

A RESOLUTION ACCEPTING THE ANTI-DRUG ABUSE (ADA) ENFORCEMENT PROGRAM GRANT FROM THE CALIFORNIA EMERGENCY MANAGEMENT AGENCY, IN THE AMOUNT OF \$310,874, FOR THE STANISLAUS DRUG ENFORCEMENT AGENCY (SDEA), TO COMBAT MAJOR DRUG TRAFFICKING AND MANUFACTURING; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY PROGRAM DOCUMENTS

WHEREAS, the Modesto Police Department applied for funding from the California Emergency Management Agency (Cal EMA) for the Stanislaus Anti-Drug Task Force, and

WHEREAS, the Stanislaus Anti-Drug Abuse Enforcement Program is part of the Stanislaus Drug Enforcement Agency (SDEA), and

WHEREAS, this program will integrate federal, state, and local law enforcement agencies, prosecutors, and probation officers for the purpose of enhancing inter-agency coordination and intelligence and facilitating multi-jurisdictional investigations to combat major drug trafficking and manufacturing, and

WHEREAS, the funding will allow the task force to work on special operations, service of warrants, arrests and seizure of drugs and assets, conduct probation searches, prosecute and convict arrestees, and major methamphetamine manufacturers and distributors, and

WHEREAS, the SDEA is responsible for compliance with all regulations pertaining to the Cal EMA grant, including all reporting requirements, and

WHEREAS, the City of Modesto is responsible for the financial reporting requirements,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Anti-Drug Abuse (ADA) Enforcement Program Grant from the California Emergency Management Agency, in the amount of \$310,874 for the Stanislaus Drug Enforcement Agency (SDEA) to combat major drug trafficking and manufacturing.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary program grant documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-276**

A RESOLUTION AMENDING THE AFFECTED SDEA FISCAL YEAR 2011/2012 MULTI-YEAR AND OPERATING BUDGETS TO APPROPRIATE REVENUES AND EXPENDITURES OF \$310,874 FROM THE CALIFORNIA EMERGENCY MANAGEMENT AGENCY (CAL EMA) FOR THE STANISLAUS DRUG ENFORCEMENT AGENCY (SDEA) TO COMBAT MAJOR DRUG TRAFFICKING AND MANUFACTURING; AND AUTHORIZING THE FINANCE DEPARTMENT TO FURTHER EXECUTE ALL RESULTING BUDGET ADJUSTMENTS TO REALIGN EXPENSES WITH REVENUES

WHEREAS, the Modesto Police Department applied for funding from the Governor's Office of Emergency Services (OES) for the Stanislaus Anti-Drug Task Force, and

WHEREAS, the Stanislaus Anti-Drug Abuse Enforcement Program is part of the Stanislaus Drug Enforcement Agency (SDEA), and

WHEREAS, this program will integrate federal, state, and local law enforcement agencies, prosecutors, and probation officers for the purpose of enhancing inter-agency coordination and intelligence and facilitating multi-jurisdictional investigations to combat major drug trafficking and manufacturing, and

WHEREAS, the SDEA has been a recipient of the OES grant for the past 20 years, and

WHEREAS, the grant is used to pay for personnel and training within the countywide Joint Powers Agreement unit,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2011/2012 Multi-Year and Operating Budgets are hereby amended as indicated in **attached Exhibit A**, which is incorporated by reference herein.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of June, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**Attachment A: Budget Adjustment for Multi-Year 11/12
Cal-EMA ADA Grant**

**SDEA Grant
6600-80240**

	<u>Current Budget</u>	<u>Increase/ (Decrease)</u>	<u>Revised Budget</u>
Revenues	\$923,300	(\$474,774)	\$448,526
Expenses	\$917,686	(\$469,160)	\$448,526

**SDEA JPA-Operating
6600-80210**

Revenues	\$2,043,393	(\$449,977)	\$1,593,416
Expenses	\$2,181,199	(\$587,783)	\$1,593,416

**SDEA – Asset Forfeiture
6600-80220**

Revenues	\$646,916	\$69,816	\$716,732
Expenses	\$646,916	\$69,816	\$716,732

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-277**

A RESOLUTION APPROVING THE AGREEMENT BETWEEN THE CITY OF MODESTO AND THE CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS) FOR MAINTENANCE OF IMPROVEMENTS WITHIN STATE HIGHWAY RIGHT OF WAY ON ROUTE 99 (PELANDALE AVENUE) WITHIN THE CITY OF MODESTO FOR THE STATE ROUTE 99 AND PELANDALE AVENUE INTERCHANGE RECONSTRUCTION PROJECT AND AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the State Route 99 and Pelandale Interchange improvement project is a State Project to address the traffic congestion problem at Pelandale Avenue and Highway 99 Interchange, and

WHEREAS, On February 21, 1995, the City of Modesto entered into a Freeway Maintenance Agreement 10-052 with the State of California, acting by and through its Department of Transportation (Caltrans) for maintenance responsibilities, and

WHEREAS, the City of Modesto is the lead agency for preparation of Plans, Specifications and Estimates (PS&E), and

WHEREAS, on May 22, 2012, the City Council of Modesto approved a Cooperative Agreement, Resolution 2012-176, with Caltrans for construction phase of the project, and

WHEREAS, the City of Modesto is the lead agency for construction phase of the project, and

WHEREAS, this Maintenance Agreement is required by Caltrans prior to start of construction

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Maintenance Agreement between the City of Modesto and the

California State Department of Transportation (Caltrans) for construction of State Route 99 and Pelandale Avenue Interchange Reconstruction 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 10th day of July, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-278**

RESOLUTION APPROVING A PURCHASE AND SALE AGREEMENT WITH JOSEPH R. SOUZA AND ZELMA P. SOUZA, TRUSTEES OF THE JOSEPH R. SOUZA AND ZELMA P. SOUZA TRUST, FOR ACQUISITION OF 10,249 SQUARE FEET FEE ACQUISITION AND 3,031 SQUARE FEET GRANT OF EASEMENT OF A PARCEL LOCATED AT 3949 SYLVAN AVENUE (APN 084-003-002), IN THE AMOUNT OF \$99,000, FOR THE SYLVAN AND LITT IMPROVEMENT PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND ALL RELATED DOCUMENTS REQUIRED TO CLOSE ESCROW

WHEREAS, the Sylvan and Litt Improvement Project is included in the Village One Facilities Master Plan and is a Priority 3 project on the Village One Project Prioritization List, and

WHEREAS, the project includes roadway improvements on Sylvan Avenue from west of Litt Road to Claus Road and on Litt Road from Sylvan Avenue to the north end of the future Grogan Park site, and

WHEREAS, the proposed street widening project also includes land acquisition for the needed right-of-way and abandonment of the south portion of Litt Road that will no longer be used for road purposes due to the realignment, and

WHEREAS, staff has identified a portion of a parcel located at 3949 Sylvan Avenue (APN 084-003-002), to place improvements as a part of the capital improvements identified for the Sylvan and Litt Improvement Project, and

WHEREAS, an Agreement is needed for the acquisition of the property and staff has investigated the subject property to ensure it is suitable for this purpose, and therefore recommends approving the Purchase and Sale Agreement for acquisition of the property.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Purchase and Sale Agreement with Joseph R. Souza and Zelma

P. Souza, Trustees of the Joseph R. Souza and Zelma P. Souza Trust, for 10,249 square feet fee acquisition and 3,031 square feet grant of easement of a parcel located at 3949 Sylvan Avenue (APN 084-003-002), in the amount of \$99,000, for the Sylvan and Litt Improvement Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Purchase and Sale Agreement, and all related documents required to close escrow.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of July, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-279**

RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN A CERTIFICATE OF ACCEPTANCE FOR THE GRANT DEED FOR THE ACQUISITION OF PROPERTY INTERESTS LOCATED AT 3949 SYLVAN AVENUE, OWNED BY JOSEPH R. SOUZA AND ZELMA P. SOUZA, TRUSTEES OF THE JOSEPH R. SOUZA AND ZELMA P. SOUZA TRUST, (APN 084-003-002) TO BE PURCHASED BY THE CITY OF MODESTO FOR THE SYLVAN AND LITT IMPROVEMENT PROJECT

WHEREAS, Section 27281 of the Government Code requires a public agency to accept real property prior to the recordation of a deed or adopt a resolution accepting real property, and

WHEREAS, the City of Modesto desires to acquire a 10,249 square feet portion fee acquisition of a parcel owned by Joseph R. Souza and Zelma P. Souza, (APN 084-003-002), to be purchased by the City of Modesto for the Sylvan and Litt Improvement Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign a Certificate of Acceptance for the Grant Deed for the acquisition of property interests located at 3949 Sylvan Avenue (APN 084-003-002), in the County of Stanislaus, owned by Joseph R. Souza and Zelma P. Souza, Trustees of the Joseph R. Souza and Zelma P. Souza Trust to be purchased by the City of Modesto for the Sylvan and Litt Improvement Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of July, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-280**

RESOLUTION APPROVING A WILL SERVE LETTER FOR THE PROPERTY LOCATED AT 12000 YOSEMITE BOULEVARD IN WATERFORD, APN: 080-045-054 TO CONNECT TO CITY OF MODESTO'S EXISTING WATER SYSTEM, AND AUTHORIZING THE CITY MANAGER TO SIGN THE WILL SERVE LETTER

WHEREAS, on May 22, 2012, the City Council approved a resolution number 2012-203 and

WHEREAS, it amended city of Modesto Municipal Code section 11-1.05 and Council Policy 5.001 relating to water connection charges and

WHEREAS, it required that the City Manager upon the recommendation of the Director responsible for utility system planning to request City Council approval for all extensions of water and sewer services into unincorporated areas.

WHEREAS, the property located at 12000 Yosemite Boulevard is not connected to City's water system and

WHEREAS, this property is located within the City of Waterford, outside Modesto City limits, and in the City's Sphere of Influence and

WHEREAS, this property is inside, continuous to, or near the former service area of the Del Este Water company and

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

WHEREAS, it has been determined that a sufficient quantity of potable water is available for normal usage by the proposed development and

WHEREAS, the proposed building meets all if the Stanislaus Consolidated Fire District's fire code requirements and

WHEREAS, the water connection fees are paid and associated permits be obtained prior to beginning any on site construction and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Will Serve letter for a property located at 12000 Yosemite Blvd. (APN 080-045-054) in Waterford.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to approve the Will Serve letter.

The foregoing documents were introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of July, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Stephanie Lopez
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-281**

**RESOLUTION APPROVING AN OUTSIDE SERVICE AGREEMENT
BETWEEN THE CITY OF MODESTO AND DG STRATIGIC II, LLC FOR
WATER SERVICE FOR THE PROPERTY LOCATED AT 12000 YOSEMITE
BOULEVARD IN WATERFORD, APN: 080-045-054 AND AUTHORIZING THE
CITY MANAGER, OR HIS DESIGNEE, TO EXCUTE THE AGREEMENT**

WHEREAS, the property located at 12000 Yosemite Boulevard is not connected to City's water system and

WHEREAS, this property is located within the City of Waterford, outside Modesto City limits, and in the City's Sphere of Influence and

WHEREAS, this property is inside, continuous to, or near the former service area of the Del Este Water company and

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

WHEREAS, it has been determined that a sufficient quantity of potable water is available for normal usage by the proposed development and

WHEREAS, the proposed building meets all if the Stanislaus Consolidated Fire District's fire code requirements and

WHEREAS, the water connection fees are paid and associated permits be obtained prior to beginning any on site construction and

WHEREAS, that the property owner enters into a standard outside water service agreement with the City, as required for water service outside of City limits.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the water service agreement for a property located at 12000 Yosemite Blvd. (APN 080-045-054) in Waterford.

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

The foregoing documents were introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of July, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-282**

RESOLUTION AUTHORIZING THE AWARD OF PROPOSAL FOR THE FURNISHING OF TRANSIT TICKETS FOR THE DEPARTMENT OF PUBLIC WORKS, TRANSIT DIVISION, TO DILLINGHAM TICKET CO., BALDWIN PARK, CA, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTION AT THE SOLE DISCRETION OF THE CITY, AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE A PURCHASE AGREEMENT FOR AN ESTIMATED ANNUAL COST OF \$17,211

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Proposals (RFP) for the furnishing of transit tickets, and

WHEREAS, the Purchasing Division issued RFP No. 1112-24 Transit Ticket Printing to fifteen (15) prospective proposers, eight (8) of which were local vendors, posted the RFP on the City's website and formally advertised as required by law, and

WHEREAS, proposals were formally opened in the City Clerk's Office. One company chose to respond. The company provided a responsive and responsible proposal, and

WHEREAS, based on providing a responsive and responsible proposal, City staff recommends the award of proposal for the furnishing of transit tickets to Dillingham Ticket Co., Baldwin Park, CA, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. The award of proposal for the furnishing of transit tickets to Dillingham Ticket Co., Baldwin Park, CA, conforms to the Modesto Municipal Code, and

WHEREAS, funds shall be budgeted for the furnishing of transit tickets in
Appropriation Unit: 4540-53472-52015,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby authorizes the award of proposal for the furnishing of transfer tickets for the
Department of Public Works, Transit Division, to Dillingham Ticket Co., Baldwin Park,
CA.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is
hereby authorized to issue a purchase agreement for an estimated annual cost of \$17,211.

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 10th day of July, 2012, by Councilmember Lopez, who
moved its adoption, which motion being duly seconded by Councilmember Muratore,
was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez,
Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-283**

**APPROVING AMENDMENT TO THE BY-LAWS OF THE TUOLUMNE RIVER
REGIONAL PARK CITIZEN'S ADVISORY COMMITTEE TO EXTEND THE
TERMS FROM CURRENT TWO (2) YEAR TERMS TO FOUR (4) YEAR
TERMS**

WHEREAS, the Tuolumne River Regional Park (TRRP) is a Joint Powers Authority between the cities of Modesto and Ceres and the County of Stanislaus, and

WHEREAS, the City of Modesto is the managing partner for the TRRP, and

WHEREAS, the TRRP Citizen's Advisory Committee (CAC) by-laws specify terms of two-years, and

WHEREAS, most City of Modesto Boards, Committees and Commissions have terms of four-years, and

WHEREAS, the change of terms was brought to the TRRP Commission at their February 2012 meeting, and

WHEREAS, the TRRP Commission is made up of representatives from each of the JPA Partners, and

WHEREAS, the TRRP Commission approved recommending the extension of terms for the CAC,

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

The by-laws of the Tuolumne River Regional Park Citizen's Advisory Committee terms be extended to four (4) year terms.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto, held on the 10th day of July, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh


NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-284**

**RESOLUTION AUTHORIZING THE CITY MANAGER TO VOTE ON
BEHALF OF THE CITY OF MODESTO IN A PROPOSITION 218 VOTE TO
ESTABLISH LEVEE MAINTENANCE ASSESSMENT FOR THE OPERATION
OF RECLAMATION DISTRICT NO. 2091**

WHEREAS, Reclamation District No. 2091 (RD 2091) was established on January 12, 1959, for the purpose of maintaining 7.59 miles of levee on the San Joaquin River, and

WHEREAS, RD 2091 is made up of 26 landowners representing approximately 7,015 acres surrounding and including the Jennings Wastewater Treatment Plant, and

WHEREAS, the District is moving forward with the Proposition 218 voting process to establish an assessment to landowners, and

WHEREAS, as the largest land owner in RD 2091, the City is afforded a weighted voted based on its land ownership, and

WHEREAS, passage of a Proposition 218 vote would provide funding from the land owners within RD 2091 for operations and maintenance of the levee and pump station, and

WHEREAS, if Proposition 218 fails, RD 2091 will be forced to ask the State of California Army Corps of Engineers to maintain the levee and pump station, and

WHEREAS this would be a more expensive option and the higher costs would then be distributed to the land owners including the City of Modesto.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager to vote on behalf of the City of Modesto in a

Proposition 218 vote to establish levee maintenance assessment for the operation of Reclamation District No. 2091.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of July, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-285**

RESOLUTION ACCEPTING THE WORK BY ROLFE CONSTRUCTION FOR THE “STRENGTHEN AND REPLACE WATER SYSTEM - SOUTH MODESTO PHASE 1” PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER UPON RECEIPT OF APPROVED WARRANTY BOND, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING \$1,360,057.18

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the Strengthen and Replace Water System – South Modesto Phase 1 project has been completed by Rolfe Construction in accordance with the contract agreement dated October 11, 2011,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Strengthen and Replace Water System – South Modesto Phase 1 project is hereby accepted as complete from said contractor Rolfe Construction that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder upon receipt of approved Warranty Bond, and that payment of amounts totaling \$1,360,057.18 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 10th day of July, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALÁ WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-286**

RESOLUTION ACCEPTING THE WORK BY DELTA PAINTING AND COATING, INC., DBA AS TRUTECH ROOFING FOR THE “ARRA ROOF AND SOLAR IMPROVEMENTS AT MODESTO CENTRE PLAZA AND POLICE TRAINING FACILITY” PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER UPON RECEIPT OF APPROVED WARRANTY BOND, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING \$387,111.07

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the ARRA Roof and Solar Improvements at Modesto Centre Plaza and Police Training Facility project has been completed by Delta Painting and Coating, Inc., dba as TruTech Roofing in accordance with the contract agreement dated August 9, 2011,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the ARRA Roof and Solar Improvements at Modesto Centre Plaza and Police Training Facility project is hereby accepted as complete from said contractor Delta Painting and Coating, Inc., dba as TruTech Roofing that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder upon receipt of approved Warranty Bond, and that payment of amounts totaling \$387,111.07 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of July, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-287**

RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE SYLVAN AND LITT IMPROVEMENT PROJECT, ACCEPTING THE BID, AND APPROVING A CONTRACT WITH DSS COMPANY DBA KNIFE RIVER CONSTRUCTION OF STOCKTON, CALIFORNIA IN THE AMOUNT OF \$4,854,281.31 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Sylvan and Litt Improvement Project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Sylvan and Litt Improvement Project were opened at 11:00 a.m. on June 19, 2012, and later tabulated by the Director of Community and Economic Development for the consideration of the Council, and

WHEREAS, the Director of Community and Economic Development has recommended that the bid of \$4,854,281.31, received from DSS Company dba Knife River Construction of Stockton, California, be accepted as the lowest responsive and responsible bid and the contract be awarded to DSS Company dba Knife River Construction,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Sylvan and Litt Improvement Project, accepts the bid of DSS Company dba Knife River Construction of Stockton, California, in the amount of \$4,854,281.31, and awards DSS Company dba Knife River Construction the contract for the Sylvan and Litt Improvement Project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of July, 2012, by Councilmember Burnside, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-288**

A RESOLUTION AUTHORIZING AWARD OF THE MANAGED COMPETITION PROPOSAL FOR THE MANAGEMENT, MAINTENANCE, AND OPERATIONS OF THE MODESTO CENTRE PLAZA (MCP) TO MODESTO HOSPITALITY LESSEE, LLC (DOUBLE TREE) FOR A THREE (3) YEAR AGREEMENT WITH TWO (2) ONE-YEAR EXTENSION OPTIONS FOR AN ESTIMATED AVERAGE ANNUAL COST OF \$133,000, PLUS INCENTIVE FEES, FOR A FIVE (5) YEAR COST OF \$663,075, PLUS INCENTIVE FEES AND DIRECTING STAFF TO NEGOTIATE A MANAGEMENT AGREEMENT WITH MODESTO HOSPITALITY LESSEE, LLC FOR THE MANAGEMENT, MAINTENANCE AND OPERATIONS OF THE MODESTO CENTRE PLAZA

WHEREAS, the City of Modesto currently manages, maintains, and operates the Modesto Centre Plaza a multipurpose convention center, and

WHEREAS, the Centre Plaza was created to serve the community, and

WHEREAS, the City's internal auditing firm Moss Adams LLP was tasked with conducting a management review of the Centre Plaza, and

WHEREAS, one of the objectives of the management review was to evaluate the ongoing financial stability of the operation and subsidy levels and determine whether the business was a candidate for outsourcing or privatization, and

WHEREAS, the Moss Adams concluded that options did exist for outsourcing the operations, and

WHEREAS, given that conclusion and the tough economic conditions the City seeks to explore the option of outsourcing the management, maintenance and operations of the Centre Plaza in order to reduce the City's overall cost of operations, and

WHEREAS, the outsourcing option was conducted through a managed competition formal Request for Proposal (RFP) process, and

WHEREAS, by authority of Council Resolution No. 96-676 titled “Competitive Delivery of City Services” representatives of both the Modesto City Employees Association (MCEA) and the Modesto Confidential and Management Association (MCMA) were noticed of the proposed RFP and were given the opportunity to submit a proposal, and

WHEREAS, the resolution also gives the City Manager the authority to consider retaining consultant assistance to help the City team prepare its proposal and the City Manager granted that assistance at a departmental cost of \$25,000 for the services, and

WHEREAS, RFP No. 1112-07 was issued to seven (7) prospective proposers and three (3) responses were received. Two (2) responses were deemed responsive. The two (2) responsive proposers were:

Modesto Confidential Management Association (MCMA) and Modesto City Employees Association (MCEA)

Modesto Hospitality Lessee, LLC (Double Tree), and

WHEREAS, responses were evaluated by a committee comprised of City and County staff, a subject matter expert (SME), a representative from a local non-profit organization and an auditor from the City’s audit firm Moss Adams, and

WHEREAS, the issuance of the formal RFP conformed to Section 8-3.203 of the Modesto Municipal Code

WHEREAS, based on scoring highest in total evaluation criteria as determined by the evaluation committee, a majority (3/2) of the evaluation committee members recommended award of proposal to Modesto Hospitality Lessee, LLC (Double Tree)

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of the managed competition proposal for the management, maintenance, and operations of the Modesto Centre Plaza (MCP) to Modesto Hospitality Lessee, LLC (Double Tree) for a three (3) year agreement with two (2) one-year extension options for an estimated average annual cost of \$133,000, plus incentive fees, for a five (5) year cost of \$663,075, plus incentive fees and directing staff to negotiate a management agreement with Modesto Hospitality Lessee, LLC for the management, maintenance and operations of the Modesto Centre Plaza (MCP).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of July, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Muratore, Mayor Marsh

NOES: Councilmembers: Lopez

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney



California
Public Employees' Retirement System

AMENDMENT TO CONTRACT

Between the
Board of Administration
California Public Employees' Retirement System
and the
City Council
City of Modesto

The Board of Administration, California Public Employees' Retirement System, hereinafter referred to as Board, and the governing body of the above public agency, hereinafter referred to as Public Agency, having entered into a contract effective August 1, 1946, and witnessed July 27, 1946, and as amended effective December 1, 1950, July 1, 1956, July 1, 1959, November 1, 1959, January 1, 1960, October 1, 1962, January 1, 1969, May 1, 1973, May 1, 1974, June 24, 1975, March 28, 1978, July 4, 1978, November 1, 1980, October 20, 1981, June 29, 1982, October 15, 1985, June 24, 1986, April 14, 1987, November 22, 1991, July 25, 1997, November 7, 2000, June 19, 2001, July 2, 2002, June 26, 2007, August 1, 2008, March 6, 2009 and January 17, 2012 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 16 are hereby stricken from said contract as executed effective January 17, 2012, and hereby replaced by the following paragraphs numbered 1 through 16 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 entering membership in the miscellaneous classification on or prior to January 17, 2012, age 60 for local miscellaneous members entering membership for the first time in the miscellaneous classification after January 17, 2012, age 50 for local fire members entering membership in the fire classification on or prior to January 17, 2012 and for those local police members entering membership in the police classification on or prior to the effective date of this amendment to contract, age 55 for local fire members entering membership for the first time in the fire classification after January 17, 2012 and for local police members entering membership for the first time in the police classification after the effective date of this amendment to contract.
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. Public Agency agrees to indemnify, defend and hold harmless the California Public Employees' Retirement System (CalPERS) and its trustees, agents and employees, the CalPERS Board of Administration, and the California Public Employees' Retirement Fund from any claims, demands, actions, losses, liabilities, damages, judgments, expenses and costs, including but not limited to interest, penalties and attorneys fees that may arise as a result of any of the following:
 - (a) Public Agency's election to provide retirement benefits, provisions or formulas under this Contract that are different than the retirement benefits, provisions or formulas provided under the Public Agency's prior non-CalPERS retirement program.
 - (b) Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than existing retirement benefits, provisions or formulas.
 - (c) Public Agency's agreement with a third party other than CalPERS to provide retirement benefits, provisions, or formulas that are different than the retirement benefits, provisions or formulas provided under this Contract and provided for under the California Public Employees' Retirement Law.

- (d) Public Agency's election to file for bankruptcy under Chapter 9 (commencing with section 901) of Title 11 of the United States Bankruptcy Code and/or Public Agency's election to reject this Contract with the CalPERS Board of Administration pursuant to section 365, of Title 11, of the United States Bankruptcy Code or any similar provision of law.
- (e) Public Agency's election to assign this Contract without the prior written consent of the CalPERS' Board of Administration.
- (f) The termination of this Contract either voluntarily by request of Public Agency or involuntarily pursuant to the Public Employees' Retirement Law.
- (g) Changes sponsored by Public Agency in existing retirement benefits, provisions or formulas made as a result of amendments, additions or deletions to California statute or to the California Constitution.

- 4. 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).
- 5. 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;**
 - b. **ALL HOURLY RATED OR HOURLY BASIS EMPLOYEES HIRED ON AND AFTER OCTOBER 1, 1962; AND**
 - c. **CITY COUNCIL MEMBERS ELECTED INTO OFFICE ON OR AFTER AUGUST 1, 2008.**

6. 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.
7. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member entering membership in the miscellaneous classification on or prior to January 17, 2012 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).
8. The percentage of final compensation to be provided for each year of credited current service as a local miscellaneous member entering membership for the first time in the miscellaneous classification after January 17, 2012 shall be determined in accordance with Section 21353 of said Retirement Law (2% at age 60 Full).
9. The percentage of final compensation to be provided for each year of credited prior and current service as a local fire members entering membership in the fire classification on or prior to January 17, 2012 and for those local police members entering membership in the police classification on or prior to the effective date of this amendment to contract shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).
10. The percentage of final compensation to be provided for each year of credited current service as a local fire member entering membership for the first time in the fire classification after January 17, 2012 and for those local police members entering membership for the first time in the police classification after the effective date of this amendment to contract shall be determined in accordance with Section 21363.1 of said Retirement Law (3% at age 55 Full).
11. Public Agency elected and elects to be subject to the following optional provisions:
 - a. Section 21222.1 (One-Time 5% Increase - 1970). Legislation repealed said Section effective January 1, 1980.

- b. Section 21222.2 (One-Time 5% Increase - 1971). Legislation repealed said Section effective January 1, 1980.
- c. Section 21319 (One-Time 15% Increase for Local Miscellaneous Members Who Retired or Died Prior to July 1, 1971). Legislation repealed said Section effective January 1, 2002.
- d. Section 21572 (Increased Level of 1959 Survivor Benefits) for local miscellaneous members only.
- e. Section 20042 (One-Year Final Compensation) for local fire members entering membership on or prior to January 17, 2012 and miscellaneous members entering membership on or prior to January 17, 2012 and for those local police members entering membership on or prior to the effective date of this amendment to contract.
- 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 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.

Section 21353 (2% @ 60 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to local miscellaneous members entering membership for the first time in the miscellaneous classification after January 17, 2012.

Section 21363.1 (3% @ 55 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to local fire members entering membership for the first time in the fire classification after January 17, 2012.

Section 21363.1 (3% @ 55 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to local police members entering membership for the first time in the police classification after the effective date of this amendment to contract.

- 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).
 - o. Section 21118 (Partial Service Retirement) for local miscellaneous members only.
12. 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.
13. 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.
14. 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.
15. 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.
16. 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 11 day of September, 2012.

BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL
CITY OF MODESTO

BY Karen De Frank
KAREN DE FRANK, CHIEF
CUSTOMER ACCOUNT SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY Garrad Marsh
PRESIDING OFFICER
Mayor Garrad Marsh

August 21, 2012

Witness Date

Attest:

Stephanie Lopez
Clerk

Stephanie Lopez, City Clerk

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of July, 2012, by Councilmember Lopez, who moved its adoption, which motion is being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Stephanie Lopez
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood
SUSANA ALCALA WOOD, City Attorney

To be attached
to City Clerk original
from HR
Kor - Police
3% @ 50

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-290**

A RESOLUTION APPROVING A SEVERANCE PACKAGE WHICH INCLUDES SEVERANCE PAY, HEALTH BENEFITS, EMPLOYEE ASSISTANCE PROGRAM AND INTERVIEW LEAVE FOR EMPLOYEES SUBJECT TO LAYOFF DUE TO AN AUTHORIZED REDUCTION IN FORCE

WHEREAS, the City has projected a budget shortfall for Fiscal Year 2012-13 as a result of the economic downturn, and

WHEREAS, the layoff of some full time employees is inevitable, and the City desires to establish a severance package to include Severance Pay, Health Benefits and Interview Leave for employees subject to an authorized reduction in force due to budget reductions,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City to offer a Severance Package to eligible employees upon layoff as outlined in **Exhibit A**, entitled, "City of Modesto Severance Package Upon Layoff."

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to sign implementation documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of July, 2012, by Councilmember Gunderson, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**City of Modesto
Layoff and Severance Benefits
FY 12-13**

Important Note: The benefits listed below for Severance Pay, Health Contribution, Interview Leave and Extended EAP Benefits have been negotiated by the City and the Modesto Confidential and Management Association (MCMA).

Severance Pay

Employees in the classified service shall be paid Severance Pay in the amount of two (2) pay periods (four weeks) base salary upon layoff. Such pay shall be calculated based upon the employee's regular base pay, excluding acting pay, assignment pay, shift differential or other special pays.

In addition, employees with six (6) or more full years of service are eligible for additional severance pay as follows: Employees with six (6) to eight (8) years of services would receive one additional week of severance pay for a total of five (5) weeks, employees with nine (9) to eleven (11) years of service would receive two additional weeks of severance pay for a total of six (6) weeks, employees with twelve (12) to fourteen (14) years of service would receive three additional weeks of severance pay for a total of seven (7) weeks and employees with more than fourteen (14) years of service would receive a total of eight (8) weeks of severance.

At time of layoff, an employee shall have the option to receive Severance Pay in a lump sum payment or in the form of a contribution of equal value by the City to the employee's deferred compensation plan, subject to all appropriate IRS regulations and limitations.

If you elect to have all or part of your severance pay in the form of deferred compensation, please contact the Employee Benefits Coordinator **immediately** at 577-5209.

These severance benefits are offered to employees by the City as an indication of the value the City places on its employees. It is a requirement that should the employee be re-hired by the City within four (4) weeks from the date of separation, the employee shall return the salary portion of the severance package less the period of time the employee was separated from the City.

Health Contribution

Employees in the classified service who receive Severance Pay shall also be eligible to receive the City's contribution to health, dental and vision premiums for a period of four (4) to eight (8) weeks following layoff. The amount of this contribution shall be the same as that provided to active employees, except that that amount shall not include the equivalent of any in-lieu deferred compensation. The duration of the premium contributions shall be for the same number of weeks as the severance pay provision (4-8 weeks depending on years of service). The contribution shall be paid directly to the insurance carriers. (See section below on continuation of coverage under COBRA.)

Interview Leave

Employee in the classified service shall be eligible for Interview Leave upon notification by their Department Director that they may be laid off. Employees who elect to demote in-lieu of layoff are also eligible. An employee may be granted up to fifteen (15) hours of paid leave for the purpose of participating in employment interviews or examinations with other employers. As with other leave requests, Interview Leave is subject to approval, in advance, by the supervisor. Employees must provide supervisors with sufficient advance notice and employees may be required to provide verification of the scheduled interview or examination. Interview Leave in excess of fifteen (15) hours may be granted with the written approval of the Department Director. **For timesheet recording of Interview Leave, use pay code 59.**

Cashout of Leave Accruals

Employees who are laid off shall be paid for all accrued and earned holiday, vacation, overtime and management/confidential leave. Employees with at least five (5) years of continuous City service may cash out sick leave at 25% of accrued hours, or the employee may elect to leave sick leave on the books. If the sick leave is left on the books and the employee is not reinstated within two (2) years from the date of layoff, (and/or in accordance with the appropriate MOU), the employee shall be paid for said accrued sick leave (25%) at the employee's hourly rate of compensation at the time of layoff. If you elect to leave your sick leave on the books, please contact the Human Resources Department immediately.

Employees with less than five (5) years of continuous City service will automatically have their sick leave left on the books. However, if they are not reinstated within two (2) years, or in accordance with the appropriate MOU, there shall be no payout of the sick leave hours.

Deferred Compensation (ICMA Retirement Corporation)

Most regular employees have been contributing a percentage of their salary into a deferred compensation plan. The City has been contributing another 1% - 2.5% for the employee to the same account.

In addition, if an employee does not have dependent coverage on health benefits or has opted-out of health coverage, the City has been making in-lieu contributions to the employee's account. If an employee has one or more years of service at the time of layoff, the employee is entitled to a refund of the City's contributions as well as the employee's contributions upon layoff. Employees with less than one year of service are entitled to a refund of the employee's contributions, only.

Refund payments from the employee's deferred compensation account may be made according to any of the following schedules:

1. in a one-time lump sum,

2. payment over a specified period of years,
3. payment over life expectancy, until account is exhausted,
4. equal payments until account is exhausted,
5. irregular schedule option.

Refunds are usually issued within 30 days, if requests are received by ICMA by the first day of a month.

Deferred Compensation forms will be provided to employees upon layoff (ICMA will not accept withdrawal forms in advance).

Public Employees' Retirement System

When employees leave City service, they are entitled to receive a refund from the Public Employees' Retirement System or they have the option of leaving their contributions in the retirement system. Those employees wishing to cash out will receive a refund of the employee's contributions plus interest. A refund terminates your membership, and you will not be eligible for any retirement benefits unless you return to PERS membership at a later date. **There are advantages to leaving your contributions on deposit with PERS, especially if you are hoping to be reinstated to City of Modesto employment or if you might seek employment with another PERS-covered agency or an agency that has reciprocity with PERS (e.g. Stanislaus County).** If you eventually return to the City or to other PERS-covered employment and you have cashed out your contributions, your previous years of service with the City will not count toward your retirement.

While you can "buy back" these PERS service credits at a later date, you can only do so while you are employed by a PERS-covered agency, and it can be very expensive. Employees are encouraged to carefully consider whether withdrawing PERS contributions is the right choice for their particular situation.

Once application is made to PERS for a withdrawal, it usually takes 6 to 8 weeks for a refund. The City does not keep account balances for PERS accounts. However, the Employee Benefits Coordinator in the City's Human Resources Office may be able to assist you in estimating your PERS balance.

Withdrawal forms will be provided to employees upon layoff. (PERS will not accept withdrawal forms in advance).

Continuation of Health, Dental and Vision Benefits (COBRA)

COBRA allows employees and their eligible dependents to elect to continue group health, dental and vision benefits under the health plan the employee is currently enrolled in, at the **employee's expense**. (See section on Health Contribution, providing for 4-8 weeks premium contribution by the City). In the event of a "qualifying event," an employee has 60 days to elect coverage under COBRA. An employee's layoff is considered a "qualifying event." If an employee has access to another group health plan, the COBRA conversion does not apply.

Based on the Federal guidelines, if an employee is laid off, the employee may continue health benefits for up to 36 months. Monthly premium payments are made by the employee to the City of Modesto. As long as payments are made in a timely manner, there will not be a lapse in coverage.

The premium varies depending on the health plan. Premiums can be paid to continue coverage for the employee only, as well as the employee with dependents. Under most plans, coverage can be limited to health (dropping dental and vision) if the employee so chooses.

If you have any questions about continuing health, dental and vision coverage, please contact the Employee Benefits Coordinator at 577-5403.

Employee Assistance Program

Employees currently have available to them an Employee Assistance Program (EAP) counseling benefit. The City's EAP provides assessment, counseling and referral services for personal problems that may affect employees and their families.

This confidential counseling is provided by the PacifiCare Behavioral Health. To schedule an appointment, simply call PacifiCare Behavioral Health and identify yourself as an employee (or spouse) of the City of Modesto. The phone number is 1-800-999-9585. Current employees and dependents are covered for up to three visits each, per year (July 1 - June 30).

The EAP counseling benefit will be extended to the laid off employee and/or spouse for a period of six (6) months from date of layoff, not to exceed six (6) visits per family. This benefit will be at no cost to the employee.

If you have any questions regarding the EAP, please feel free to call PacifiCare Behavioral Health, or the City's Employee Benefits Coordinator at 577-5209. All calls and inquiries will be confidential.

Reinstatement

Employees who are laid off shall have their names placed on a departmental reinstatement list, by classification and by reverse order of layoff. Vacant positions within the department and the classification series (customary promotional progression) shall first be offered to employees on the appropriate classification reinstatement list for that department. Employees who are laid off will also be considered for vacancies in other departments. Employees on a reinstatement list will be strongly considered for vacancies, Citywide, for their specific classification, (and may be given preference) prior to the City considering applicants on a valid eligible list for that classification.

The eligibility of individuals on the reinstatement list shall extend for a period of two (2) years from date of layoff and/or in accordance with the appropriate MOU. Eligibles not responding to a written notification of an opening within fourteen (14) calendar days shall have their names removed from the reinstatement list. It is the individual's responsibility

to keep the City of Modesto Human Resources Department informed of any change of address.

If an individual is reinstated from a reinstatement list within six (6) months of layoff to the same position in the same department, no new probationary period shall be required. All other appointments from a reinstatement list shall require that a new probationary period be served.

The City encourages Departments to consider employees on these reinstatement lists for interviews when filling vacancies that would be considered lateral moves or demotions for the employee (where the vacancy is at the same, or lower, Salary Range as the employee, where the employee holds the minimum knowledges, skills, abilities, experience and/or education of the vacant position, but where the vacant position is not in the customary promotional progression of the laid off employee).

Job Search Assistance

For a period of three (3) months following date of layoff, Human Resources Department staff and administrative support staff from other departments will provide job search and job application assistance to laid off employees.

Assistance will include:

- * Preparation of resumes
- * Typing of application and/or resumes
- * Free photocopying of applications and/or resumes
- * Free photocopying of job flyers from other agencies
- * Brochures on benefits and job search from E.D.D.
- * A staff prepared guide to Resume Preparation
- * A staff prepared guide to Job Search and Interviewing
- * A list of local Regular and Temporary Employment Agencies
- * Access to an assortment of job flyers from other agencies

In addition, laid off employees are encouraged to provide resumes to the Human Resources Department so that staff can contact them by phone in the event job leads are reported to the Human Resources Department.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-291**

RESOLUTION APPROVING A PROPOSED AGREEMENT INCLUDING LANGUAGE CHANGES FOR A SUCCESSOR MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MODESTO AND MODESTO CONFIDENTIAL AND MANAGEMENT ASSOCIATION (MCMA) FOR A TERM OF JUNE 19, 2012 TO SEPTEMBER 23, 2013 AND AUTHORIZING THE DIRECTOR OF HUMAN RESOURCES AND CITY MANAGER TO TAKE THE NECESSARY ADMINISTRATIVE ACTION TO IMPLEMENT THE AGREEMENT

WHEREAS, the current Memorandum of Understanding (MOU) between the City of Modesto (CITY) and the Modesto Confidential and Management Association (MCMA) expired on June 18, 2012, and

WHEREAS, representatives of the CITY and the MCMA have met and conferred in good faith concerning wages, hours, terms and conditions of employment for employees in said bargaining unit, and

WHEREAS, the CITY and MCMA have reached agreement on language changes for a successor MOU which, upon execution, shall be attached hereto and made a part hereof, and

WHEREAS, the MOU provides as follows:

SECTION 1. TERM. The term of the MOU shall be from June 19, 2012 to September 23, 2013.

SECTION 2. MANDATORY FURLOUGHS. For FY 2012-13, each bargaining unit member shall take 40-hours of mandatory furloughs totaling 1.9% salary deduction taken in equalized payroll deductions. Bargaining unit members will take these furlough hours on December 24, 26-28, and 31, 2012.

SECTION 3. SALARY RATES AND RANGES. On July 2, 2013, employees will receive a 1.5% salary increase.

SECTION 4. INITIAL STEP PLACEMENT. Salary range will be converted from a nine (9) step progression to a five (5) step progression.

SECTION 5. SICK LEAVE. Employees hired on or before December 31, 2010 who retire from the City on or after August 14, 2012 will have the option to have ninety percent (90%) of their unused sick leave accrued up to August 13, 2012 applied upon retirement toward health insurance premiums. All sick leave hours accrued on or after August 14, 2012 shall not be converted toward retiree medical.

SECTION 6. CATASTROPHIC LEAVE. MCMA desires to initiate participation in State Disability Insurance (SDI) program for all employees in the unit. The City agrees to the coordination of benefits so long as there is no financial or administrative cost to the City. Two full quarters after implementation of SDI, the parties agree to eliminate the Catastrophic Leave Program.

SECTION 7. LICENSE CERTIFICATES, REGISTRATION. Employees required to obtain a certificate, license or registration in order to carry out the duties assigned, except a California Class C Driver's License, the City will reimburse the costs associated with obtaining and renewing the license, certificate or registration subject to Department Director approval for standard preparatory training and study material; required prerequisite classes or training; for non-exempt employees, the time required to attend any required class or exam to obtain or renew a license, certificate or registration shall be considered as hours worked; and sufficient CEU eligible activities for the employee to retain eligibility for renewal of the license, certificate or registration.

SECTION 8. PAY DIFFERENTIALS. Police Civilian Supervisor shall be paid shift differential of \$6.00 per hour for any shift beginning on or after 12 noon up to 4:29pm and \$8.00 per hour for any shift beginning on or after 4:30pm.

SECTION 9. RETIREE HEALTH INSURANCE. Employees hired on or before December 31, 2010 who retire from the City on or after August 14, 2012, the monthly contribution towards medical for retirees who converted sick leave hours accrued on or before August 13, 2012, shall be frozen and not exceed the following amounts: Up to \$1,100 for retirees with dependent coverage; up to \$621 for retirees without dependent coverage.

Effective July 2, 2013, employees hired on or before December 31, 2010 shall receive a contribution of \$25.00 per month into a Health Reimbursement Arrangement (HRA) account.

SECTION 10. RETIREMENT. Effective July 17, 2012 employees hired prior to January 17, 2012 (Tier 1) shall increase their portion of the employee contribution from four-tenths (0.4%) percent by three and three tenths (3.3%) percent for a total of three and seven tenths (3.7%) percent contribution.

SECTION 11. RETIREMENT. Effective July 2, 2013 employees hired prior to January 17, 2012 (Tier 1) shall increase their portion of the employee contribution from three and seven-tenths (3.7%) percent by three and three tenths (3.3%) percent for a total of seven (7%) percent contribution.

SECTION 12. LABOR MANAGEMENT COMMITTEE. The City and MCMA agree to hold no less than three (3) meetings commencing no later than August 1, 2012 and completed by October 1, 2012 to resolve the following:

1. Define leave accrual exhaustion requirement for exempt employees
2. Clarify call duty requirement for exempt employees
3. Discuss removal of management leave exhaustion requirement

SECTION 13. CONTINUATION OF REMAINING PROVISIONS. Except as provided above, the remaining provisions of the June 22, 2010, through June 18, 2012, MOU between the CITY and MCMA shall continue in the new MOU.

The exact language of all provisions shall be set forth in the MOU between the CITY and MCMA.

WHEREAS, the Council considered this matter at its meeting of July 10, 2012,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the language changes for a successor Memorandum of Understanding between the City of Modesto and the Modesto Confidential and Management Association, which covers a term from June 19, 2012 through September 23, 2013, and upon execution of same, a copy of the MOU will be on file in the office of the City Clerk.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of July, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-292**

RESOLUTION AMENDING A LABOR POLICY FOR PAYING AND REPORTING THE VALUE OF EMPLOYER PAID MEMBER CONTRIBUTIONS TO THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (CALPERS) ON BEHALF OF EMPLOYEES REPRESENTED BY THE MODESTO CONFIDENTIAL AND MANAGEMENT ASSOCIATION (MCMA)

WHEREAS, by Resolution No 2012-17 adopted by the Council, the City adopted a labor policy providing for Public Employees' Retirement System (PERS) employee contributions to be paid by the City on behalf of employees and for reporting of employer-paid normal member contributions to PERS as compensation, and

WHEREAS, the governing body of the City of Modesto has the authority to implement Government Code Section 20636(c)(4) pursuant to Section 20691, and

WHEREAS, the governing body of the City of Modesto has a written labor policy or agreement which specifically provides for the normal member contributions to be paid by the employer, and reported as additional compensation, and

WHEREAS, one of the steps in the procedures to implement Section 20691 is the adoption by the governing body of the City of Modesto of a Resolution to commence paying and reporting the value of said Employer Paid Member Contributions, and

WHEREAS, the governing body has the authority to amend all members in a group or class of employment pursuant to Government Code Section 20691.

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

Effective July 17, 2012, Miscellaneous employees hired before January 17, 2012, the City of Modesto elects to pay three and three-tenths percent (3.3%) of the normal

member contributions of seven percent (7%) as employer paid member contributions and report the same value to CalPERS as compensation earnable as additional compensation.

Effective July 17, 2012, Miscellaneous employees hired on or after January 17, 2012, the City of Modesto elects to pay zero percent (0%) of the normal member contributions of seven percent (7%). No payment shall be implemented pursuant to the provisions of Section 20636 (c)(4) of the California Government Code.

Effective July 2, 2013, the City of Modesto elects to pay zero percent (0%) of the normal member contributions of seven percent (7%) for all Miscellaneous employees. No payment shall be implemented pursuant to the provisions of Section 20636 (c)(4) of the California Government Code.

BE IT FURTHER RESOLVED that this Resolution shall become effective on July 17, 2012.

BE IT FURTHER RESOLVED that effective July 17, 2012 Resolution No. 2012-17 is hereby repealed in its entirety.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of July, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-293**

RESOLUTION APPROVING A PURCHASE AGREEMENT FOR A TEMPORARY CONSTRUCTION EASEMENT BETWEEN THE CITY OF MODESTO AND MOHAMMED S. HUSSAIN & KHAIRUL N. HUSSAIN, FOR A 907 SQ. FT. (0.021 ACRES) PARCEL OF LAND (APN 135-029-049), IN THE AMOUNT OF \$3,200.00, FOR THE PELANDALE AVENUE/SR 99 INTERCHANGE RECONSTRUCTION PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND ALL RELATED DOCUMENTS REQUIRED TO CLOSE ESCROW

WHEREAS, the City of Modesto is planning a project to reconstruct the Pelandale Avenue/SR 99 Interchange, and

WHEREAS, the Project will alleviate congestion and improve operations of the Pelandale Avenue and SR 99 Interchange, and

WHEREAS, the City of Modesto has obtained lead agency status from the California Department of Transportation for the Project, and

WHEREAS, staff has identified a 907 sq. ft. (0.021 acres) portion of a parcel of APN 135-029-049 for a Temporary Construction Easement to improve the roadway on Salida Boulevard as part of the capital improvements identified for the Project, and

WHEREAS, staff has completed the required environmental review for the Project, and

WHEREAS, an Agreement is needed for the acquisition interests of the property,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Purchase Agreement between the City of Modesto and Mohammed S. Hussain & Khairul N. Hussain, for a 907 sq. ft. (0.021 acres) Temporary Construction Easement, located at 4324 Salida Boulevard. (APN 135-029-049), in the amount of \$3,200 for the Pelandale Avenue/SR 99 Interchange Reconstruction Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement, and all related documents required to finalize the acquisition.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of August, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSAN ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-294**

RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE CERTIFICATE OF ACCEPTANCE FOR THE TEMPORARY CONSTRUCTION EASEMENT FOR THE ACQUISITION OF PROPERTY INTERESTS LOCATED AT 4324 SALIDA BOULEVARD, OWNED BY MOHAMMED S. HUSSAIN & KHAIRUL N. HUSSAIN, (APN 135-029-049) TO BE PURCHASED BY THE CITY OF MODESTO FOR THE PELANDALE AVENUE/SR 99 INTERCHANGE RECONSTRUCTION PROJECT

WHEREAS, Section 27281 of the Government Code requires a public agency to accept real property prior to the recordation of a deed or adopt a resolution accepting real property, and

WHEREAS, the City of Modesto desires to acquire a 907 sq. ft. (0.021 acres) portion of land for a Temporary Construction Easement located on Salida Boulevard, owned by Mohammed S. Hussain & Khairul N. Hussain., (APN 135-029-049), to be purchased by the City of Modesto for the Pelandale Avenue/SR 99 Interchange Reconstruction Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign the Certificate of Acceptance for the Temporary Construction Easement for the acquisition of property interests located at 4324 Salida Boulevard, owned by Mohammed S. Hussain & Khairul N. Hussain, (APN 135-029-049) to be purchased by the City of Modesto for the Pelandale Avenue/SR 99 Interchange Reconstruction Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of August, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-295**

A RESOLUTION APPROVING A MAINTENANCE AGREEMENT BETWEEN THE CITY OF MODESTO AND THE CALIFORNIA DEPARTMENT OF TRANSPORTATION FOR MAINTENANCE OF IMPROVEMENTS WITHIN STATE HIGHWAY RIGHT OF WAY ON ROUTE 132 WITHIN THE CITY OF MODESTO; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the project widened existing two-lane State Route 132 to a divided four-lane conventional highway from Riverside Drive to Garner/Clause Road to reduce congestion and improve traffic operations and safety of this arterial, and

WHEREAS, on October 30, 2006, Stanislaus Council of Governments entered into a Construction Co-operative Agreement with California Department of Transportation for construction phase of the project, and

WHEREAS, roadway construction for this project is completed, and the project is currently in close out process, and

WHEREAS, this Maintenance Agreement is required by Caltrans prior to close out of the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Maintenance Agreement between the City of Modesto and the California State Department of Transportation for maintenance of improvements within state highway right of way on Route 132 within the City of Modesto.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of August, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-296**

RESOLUTION APPROVING A WILL SERVE LETTER FOR THE PROPERTY LOCATED AT 2200 HOOVER AVENUE, MODESTO (APN: 036-001-078) FOR A WATER FIRE SPRINKLER SYSTEM CONNECTION TO CITY OF MODESTO'S EXISTING WATER SYSTEM, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO SIGN THE WILL SERVE LETTER

WHEREAS, on May 22, 2012, the City Council, by Resolution No. 2012-203, approved amending City Council Policy 5.001, and

WHEREAS, Policy 5.001 requires that the City Manager, upon the recommendation of the Director responsible for utility system planning, request City Council approval for all extensions of water and sewer services into unincorporated areas, and WHEREAS, the property located at 2200 Hoover Avenue is currently connected to the City water system for domestic use but requires a 6" connection for fire sprinklers, and

WHEREAS, the property is located within the Beard Industrial Area within Modesto City limits, and in the City's Sphere of Influence, and

WHEREAS, the property is inside, continuous to, or near the former service area of the Del Este Water Company, and

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

WHEREAS, it has been determined that sufficient water pressure and flow is available for fire usage by the proposed development, and

WHEREAS, the proposed building meets all of the Stanislaus Consolidated Fire District's Fire Code requirements, and

WHEREAS, the water connection fees are paid and associated permits will be obtained prior to beginning any on site construction,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Water Will Serve letter for a water fire sprinkler system connection for the property located at 2200 Hoover Avenue, Modesto (APN 036-001-078).

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to sign the Water Will Serve letter.

The foregoing documents were introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of August, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None


ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:


SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2013-297**

A RESOLUTION ADOPTING THE REVISED DEBT MANAGEMENT POLICY

WHEREAS, pursuant to the City of Modesto Debt Management Policy, the City of Modesto is required to periodically review and update its Debt Management Policy to address changes to the primary objectives related to the City's debt and financing related activities, and

WHEREAS, staff has identified the need to update the City's Debt Management Policy in order to continue to maintain cost-effective access to capital markets through prudent yet flexible policies; moderate debt principal and debt service payments through effective planning and project cash management; and achieve the highest practical credit ratings, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby adopts the Debt Management Policy, for consideration by this City Council,

BE IT FURTHER RESOLVED that City staff is hereby authorized and directed to proceed with any and all actions deemed necessary or advisable, following the adopted policy guidelines pursuant to this Resolution, in connection with the future issuances of the City Debt, for future consideration by this City Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of August, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-298**

RESOLUTION APPROVING A CONSULTING CONTRACT WITH CGI TECHNOLOGIES AND SOLUTIONS INC. IN THE AMOUNT NOT TO EXCEED \$56,000 TO ANALYZE AND PRODUCE W-2c FORMS FOR CITY OF MODESTO EMPLOYEES AND MAGNETIC MEDIA FOR THE IRS FOR THE FOLLOWING FOUR CALENDAR YEARS: 2007, 2008, 2009, AND 2010 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ANY AND ALL RELATED DOCUMENTS

WHEREAS, the City determined during the implementation of the COSMO ERP system that non-taxable wages in Box 12 on past years' W-2 forms were incorrectly reported by the legacy accounting system; and

WHEREAS, taxable wages on past years' W-2 forms were correctly stated and not impacted by this error; and

WHEREAS, the IRS informed the City that W-2 forms must be reissued for at least 4 prior calendar years to reflect updated and corrected information; and

WHEREAS, the COSMO system generated correct W-2 forms for the 2011 calendar year; and

WHEREAS, City staff does not possess the technical IT expertise required to generate the revised W-2c forms from the legacy accounting system; and

WHEREAS, the City paid CGI Technologies \$8,000 to verify that the City's legacy accounting system could produce corrected W-2c forms for calendar years 2007, 2008, 2009, and 2010; and

WHEREAS, CGI Technologies possesses the expertise and ability to produce W-2c forms for calendar years 2007, 2008, 2009, and 2010; and

WHEREAS, CGI Technologies possesses the expertise and ability to generate the magnetic media for submittal to the IRS for calendar years 2007, 2008, 2009, and 2010; and

WHEREAS, CGI Technologies will provide this service for an additional \$48,000 for a total contract cost not to exceed \$56,000.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Consulting Agreement with CGI Technologies and Solutions Inc. of the following interests: analyze and produce W-2c forms for City of Modesto employees and magnetic media for the IRS for the following four calendar years: 2007, 2008, 2009, and 2010.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of August, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-299**

**A RESOLUTION APPROVING AN ANNUAL RETAIL ADVERTISING
CONTRACT WITH THE MODESTO BEE (MCCLATCHY NEWSPAPER
GROUP); AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE,
TO EXECUTE THE CONTRACT**

WHEREAS, the City of Modesto is currently using the Modesto Bee (McClatchy Newspaper Group) as its primary advertising source for its advertising requirements, and

WHEREAS, the advertising services are required for classified and legal advertisements as required by law, and for retail advertisements for public information purposes, and

WHEREAS, the City's Purchasing Manager annually meets with the Modesto Bee and based on advertising volume commitments over the prior year identifies retail contract options which would best meet the City's retail advertising needs, and

WHEREAS, the current retail contract has expired, and

WHEREAS, the City's Purchasing Manager once again met with the Modesto Bee to discuss what contract renewal options would be available to the City, and

WHEREAS, the Modesto Bee has agreed to renew the retail advertising contract for another year, and

WHEREAS, the "non-profit no-commitment" will be at a contract rate of \$51.68 per column inch, and

WHEREAS, once signed, the advertising contract shall be implemented and tracked by the City's Purchasing Manager, and with the City's Public Information Officer assisting departments with their advertising needs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an annual retail advertising contract with the Modesto Bee (McClatchy Newspaper Group), consisting of one contract for a retail "no-commitment" non-profit rate of \$51.68 per column inch, and

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 August, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-300

RESOLUTION AMENDING THE FISCAL YEAR 2011-2012 AND FISCAL YEAR
2012-2013 ANNUAL OPERATING BUDGETS

WHEREAS, a financial analysis has been completed and it has been determined that a budget adjustment is required to the Annual Budgets of the City of Modesto for Fiscal Years 2011-2012 and 2012-2013,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Years 2011-2012 and 2012-2013 annual operating budgets as shown in **Exhibit A**, which is **attached** hereto and incorporated by reference herein.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of August, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez,
Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

The following budget adjustments relate to FY 2011/12:

FINANCE

A budget adjustment is necessary for Fiscal Year 2011-2012 to reduce \$100,000 from CA Transportation grant revenue and increase \$100,000 for a Surface Transportation Fund grant match transfer due to preliminary engineering cost incurring before the project was awarded which are considered ineligible cost and not covered through the Cal Transportation grant.

An adjustment is necessary to modify the budgeted expenses and revenues for the operating cost centers in the Surface Transportation Fund (1700). Due to various changes made to the adopted budget or recognized revenues the amount of gas tax funding necessary to fund the expenses needs to be modified to ensure only the essential amount is transferred to fund operations.

PARKS, RECREATION AND NEIGHBORHOODS

A budget adjustment is necessary to increase the existing transfer of \$492,530 to \$682,530, an increase of \$190,000, from General Fund Reserves to the Community Center Operations Fund (4700), Centre Plaza, due to lower than expected room rental revenue.

POLICE

A budget adjustment is necessary to appropriate \$150,000 from General Fund Reserves to the Traffic Offender Fund (1610) to accommodate a shortfall caused from a reduction in vehicle release revenues. Funding for this transfer will be obtained from FY2011-12 departmental savings.

PUBLIC WORKS

A budget adjustment is necessary to appropriate \$350,000 from Transit Reserves to Transit Maintenance to accommodate an increase in fuel costs in Fiscal Year 2011-2012 for Modesto Area Express (MAX) buses.

A budget adjustment is necessary to appropriate \$350,000 from Transit Reserves to Transit Services for purchased transportation. The contract for purchased transportation includes an allowance for annual increases in the CPI, and the CPI increase for Fiscal Year 2011-12 was larger than anticipated.

The initial purchase of non-General Fund vehicles and equipment is expensed in the Fleet Replacement Fund 5410. Once the purchase has been completed, and approved by Fleet, the Fleet Replacement Fund 5410 is reimbursed by the purchasing departments Fleet Replacement Fund. In some cases, purchases can span over multiple fiscal years. The following adjustments fall into this situation and require adjustments to be completed in fiscal year 2011-2012:

A budget adjustment is necessary to appropriate \$742,828 from Water Replacement Fund (4109) to Fleet Replacement Fund (5410) for the following equipment; in FY 09/10 (2) Trucks w/Air Comp; FY10/11 (1) Truck w/Transfer Body; (4) ¾ ton Trucks w/Utility Body; FY11/12 (2) Trucks w/Dump Body 14yd.

A budget adjustment is necessary to appropriate \$478,640 from Wastewater Replacement Fund (4219) to Fleet Replacement Fund (5410) for the following equipment; in FY09/10 (1) Truck w/Boom Crane; FY10/11 (2) ½ ton Extended Cab PU Trucks; (1) Truck w/Dump Body 3-4yd; (1) Truck w Vacuum Body (Vac-Con).

A budget adjustment is necessary to appropriate \$124,735 fro Surface Replacement Fund 1709 to Fleet Replacement Fund 5410 for the following equipment; in FY10/11 (1) Truck Tractor w/Wet Kit; FY 11/12 (6) Compactor Vibraplates.

A budget adjustment is necessary to appropriate \$1,230,343 from Storm Replacement Fund 4489 to Fleet Replacement Fund 5410 for the following equipment; in FY09/10 (1) Truck w/Boom Crane ID41148; FY 10/11 (2) Truck 66K Vacon; FY11/12 (1) Truck w/Vacuum body (Vac-Con)

The Water Capital Improvement Project Fund (4180) receives annual reimbursements from the Water Bond Fund (4130), Water Development Fund (4101), and Water Fund Reserves for expenses incurred from various Capital Improvement Projects. A budget adjustment is necessary to create a transfer from the above mentioned funds to the Capital Improvement Project Fund (4180) to accommodate expense incurred from various projects.

Annually, the Water Fund (4100) reimburses the 2008 Water Bond Debt Service operating budget for debt service payments. The adopted FY2011-12 transfer did not include interest payment. A budget adjustment is necessary to appropriate \$295,098 from Water Fund Reserves to the 2008 Water Bond Debt Service (4130) operating budget for this expense.

A budget adjustment is necessary to appropriate \$920,000 from capacity charge revenues in the Wastewater Development Fees Fund (4211) to Capital Improvement Project 100546, Wastewater Phase 1 A Tertiary for growth related Wastewater project expense.

The following budget adjustments relate to FY 2012/13:

PARKS, RECREATION AND NEIGHBORHOODS

On February 27, 2012 the Finance Committee recommended that PRN move forward with a budget adjustment to assist with major vandalism needed within the City for electrical repairs, graffiti, restroom plumbing and irrigation lines repairs. A budget adjustment is necessary to appropriate \$112,783 from General Fund Reserves to Parks Operations to conduct the repairs.

PUBLIC WORKS

A budget adjustment is necessary to appropriate \$175,000 from Water Fund Reserves to the Water General Cost Center (41410) to pay for anticipated legal services related to the Water Rights litigation.

A budget adjustment is necessary to appropriate \$150,000 from Wastewater Fund Reserves to the Wastewater General Cost Center (41310) to pay for anticipated legal services related to the Stanislaus Foods litigation.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-301**

**RESOLUTION AMENDING THE POSITION ALLOCATION FOR FISCAL
YEAR 12/13 AS ADOPTED IN THE OPERATING BUDGET**

WHEREAS, a Position Allocation for the City of Modesto was adopted by Modesto City Council on June 21, 2012, as part of the Annual Budget of the City of Modesto for Fiscal Year 2012-2013, and

WHEREAS, a Clerical Review Committee recently met to evaluate four separate positions, due to changes in the level of their work assignments, and

WHEREAS, the Committee concluded that the assigned duties and responsibilities of these four positions exceeded the essential functions of their current classification and recommended re-allocation to a higher level,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Position Allocation for Fiscal Year 2012-13 as follows:

1. City Clerk's Department to reallocate one (1) Administrative Office Assistant II (\$2,533-\$3,079 monthly) to one (1) Administrative Office Assistant III (Confidential) (\$2,927- \$3,567 monthly) in Cost Center 05010;
2. Parks, Recreation and Neighborhoods-Housing Department to reallocate one (1) Administrative Office Assistant II (\$2,533-\$3,079 monthly) to one (1) Administrative Office Assistant III (\$2,796-\$3,399 monthly) in Cost Center 38200;
3. Public Works Waste Water Services Department to reallocate one (1) Administrative Office Assistant III (\$2,796-\$3,399 monthly) to one (1) Senior Administrative Office Assistant (\$3,087-\$3,752 monthly) in Cost Center 54310;
4. Community and Economic Development-IFP Department to reallocate one (1) Administrative Office Assistant II (\$2,533- \$3,079 monthly) to one (1) Senior Administrative Office Assistant (\$3,087-\$3,752 monthly) in Cost Center 14160.

This resolution shall become effective on and after August 8, 2012.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 8th day of August 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-302**

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF
MODESTO AND OFFICER JESSE GUTIERREZ, JR. FOR THE PURCHASE OF
RETIRED CITY OF MODESTO POLICE CANINE, ZAK; AND AUTHORIZING
THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

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

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

WHEREAS, it is necessary to adopt a resolution authorizing the purchase of a
City of Modesto police canine by its assigned handler,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves the agreement between the City of Modesto and Officer Gutierrez,
Jr. for the purchase of retired police canine, Zak.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of August, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-303**

RESOLUTION ACCEPTING THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT, FOR A JOINT AWARD WITH THE COUNTY OF STANISLAUS AND THE CITY OF MODESTO IN THE AMOUNT OF \$145,713; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY PROGRAM DOCUMENTS

WHEREAS, on May 1, 2012, the City Council, by Resolution No. 2012-160, approved a Memorandum of Agreement between the County of Stanislaus and the City of Modesto for a joint application to the Edward Byrne Memorial Justice Assistance Grant Formula Program in the amount of \$145,713, and

WHEREAS, the City of Modesto will use its allocation of \$105,553 to purchase a personnel scheduling and tracking software program and personal video recording devices for patrol officers, and

WHEREAS, the County of Stanislaus will use its allocation of \$36,895 for the Probation Department and the Sheriff's Operations Division, and

WHEREAS, the Memorandum of Agreement states that the City agrees to provide the County with a quarterly financial and programmatic report not later than fifteen calendar days after the end of each quarter, and

WHEREAS, the project start period is July 1, 2012, and there is a statutory four-year period within which to spend the funds, and

WHEREAS, the Memorandum of Agreement was approved at the Board of Supervisors meeting on May 8, 2012,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Edward Byrne Memorial Justice Assistance Grant, for a joint award with the County of Stanislaus and the City of Modesto in the amount of \$145,713.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of August, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-304**

RESOLUTION AMENDING THE MULTI-YEAR 2012/13 OPERATING BUDGET, ESTIMATING REVENUE OF \$105,553 FROM THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM, AND APPROPRIATING FUNDS

WHEREAS, on May 1, 2012, the City Council, by Resolution No. 2012-160, approved a Memorandum of Agreement between the County of Stanislaus and the City of Modesto for a joint application to the Edward Byrne Memorial Justice Assistance Grant Formula Program in the amount of \$145,713, and

WHEREAS, recommended distribution of the 2012 grant is as follows:

Stanislaus County Probation	\$ 10,054
Stanislaus County Sheriff	\$ 26,841
Stanislaus County (Admin Fee)	\$ 3,265
Modesto Police Department	\$105,553

WHEREAS, the City agrees to provide the County with a quarterly financial and programmatic report not later than fifteen calendar days after the end of each quarter, and

WHEREAS, the project start date is July 1, 2012, and there is a statutory four-year period within which to spend the funds,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Multi-Year 2012/2013 Operating Budget as indicated in **Attachment A**, which is **attached** hereto.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of August, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Attachment A: Budget Adjustment for 2013 BJAG Grant

Fund 1341- Operation Grants Reimbursed:

<u>Expense:</u>	<u>Increase/ (Decrease)</u>	<u>Description of Account</u>
To:		
MY-100716-Appr. C	\$ 14,177	Tools, Equip. Supplies < \$5K
MY-100716-Appr. C	<u>\$ 91,376</u>	Info Tech Equip. >\$5K
	\$ 105,553	

<u>Revenue:</u>		
To:		
MY-1341-19999-42090-100716	\$ 105,553	Intergov-Federal-Misc.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-305**

**RESOLUTION APPROVING A REQUEST FOR PROPOSAL APPLICATIONS
FOR THE CITY OF MODESTO TO APPLY TO BECOME A “HOST CITY”
FOR THE 2013 AMGEN TOUR OF CALIFORNIA; AND AUTHORIZING THE
CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE APPLICATION AND
RELATED DOCUMENTS**

WHEREAS, each of the past eight years the Amgen Tour of California has swept through California for eight to nine days generating over \$100 million of economic impact to the host cities and the State with over one billion marketing impressions created worldwide, and

WHEREAS, Modesto was the Host City for the Stage 3 Start of the third annual Amgen Tour of California in February 2008, and the Host City for a finish stage in May of 2009, 2010 and 2011, and

WHEREAS, the City of Modesto received lavish praise from local residents and from race officials and participants, and staff has been encouraged to submit a Request for Proposal application to again become a Host City for the Amgen Tour of California in May 2013, and

WHEREAS, the Amgen Tour of California has posted their Request for Proposal application for response from cities who wish to be considered as a “Host City” for the Amgen Tour of California in May 2013, and

WHEREAS, the City of Modesto has read the requirements in Amgen’s RFP and agrees to abide by the requirements,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the filing of a Request for Proposal application for the City of Modesto to apply to become a "Host City" for the 2013 Amgen Tour of California.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is here by authorized to sign the application and related documents.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized as agent of the applicant to conduct all negotiations and execute and submit all documents, including, but not limited to, applications, contracts, amendments, payment requests, and compliance with all applicable current state and federal laws, which may be necessary for the completion of the aforementioned event upon acceptance of said RFP by the City Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of August, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-306**

RESOLUTION ACCEPTING THE WORK BY DSS COMPANY dba KNIFE RIVER CONSTRUCTION FOR THE "ARRA OVERLAY AND ADA CURB RAMP IMPROVEMENTS" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER UPON RECEIPT OF APPROVED WARRANTY BOND, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING \$2,739,345

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the ARRA Overlay and ADA Curb Ramp Improvements project has been completed by DSS Company dba Knife River Construction in accordance with the contract agreement dated August 4, 2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the ARRA Overlay and ADA Curb Ramp Improvements project is hereby accepted as complete from said contractor DSS Company dba Knife River Construction that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder upon receipt of approved Warranty Bond, and that payment of amounts totaling \$2,739,345 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 August, 2012, by Councilmember Burnside, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Muratore,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill, Lopez

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-307**

RESOLUTION APPROVING A PURCHASE AND SALE AGREEMENT WITH A. E. KLINE, TRUSTEE OF THE A. E. KLINE LIVING TRUST FOR ACQUISITION OF THE FOLLOWING PROPERTY INTERESTS: (1) A 600 S. F. PERMANENT UTILITY EASEMENT, AND (2) A 1,400 S. F. TEMPORARY CONSTRUCTION EASEMENT, LOCATED AT 3924 OAKDALE ROAD (APN 083-004-041), IN THE AMOUNT OF \$7,640, FOR THE DOWNSTREAM WATER IMPROVEMENTS TIER 2 PRESSURE REGULATING VALVES PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND ALL RELATED DOCUMENTS REQUIRED TO CLOSE ESCROW

WHEREAS, the City of Modesto is continuing to make improvements to the overall quality, quantity and efficiency of the drinking water to its users, and

WHEREAS, the improvements in this project include installing special pressure regulating valves (PRVs) throughout the City, and

WHEREAS, these valves are part of the City's Downstream Water System Improvements and will be used to control the flow of treated surface water to the City's distribution system, and

WHEREAS, due to safety and operational requirements, some of these valve stations will need to be constructed on private property, outside of existing City rights-of-way and easements, and

WHEREAS, City staff is recommending acquisition of permanent utility easements and temporary construction easements for installation of these valve stations, and staff has investigated the subject property to ensure it is suitable for this purpose, and

WHEREAS, an agreement is needed for the acquisition of the easements and City staff recommends approving the Purchase and Sale Agreement for acquisition of the property.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Purchase and Sale Agreement with A. E. Kline, Trustee of the A. E. Kline Living Trust for acquisition of the following property interests: (1) a 600 s. f. Permanent Utility Easement, and (2) a 1,400 s. f. Temporary Construction Easement, located at 3924 Oakdale Road (APN 083-004-041), in the amount of \$7,640, for the Downstream Water Improvements Tier 2 Pressure Regulating Valves Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement, and all related documents required to close escrow.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of August, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-308**

RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN CERTIFICATES OF ACCEPTANCE FOR THE PERMANENT UTILITY EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT FOR THE ACQUISITION OF PROPERTY INTERESTS LOCATED AT 3924 OAKDALE ROAD (APN 083-004-041), OWNED BY A. E. KLINE, TRUSTEE OF THE A. E. KLINE LIVING TRUST, TO BE PURCHASED BY THE CITY OF MODESTO FOR THE DOWNSTREAM WATER IMPROVEMENTS TIER 2 PRESSURE REGULATING VALVES PROJECT

WHEREAS, Section 27281 of the Government Code requires a public agency to accept real property prior to the recordation of a deed or adopt a resolution accepting real property, and

WHEREAS, the City of Modesto desires to acquire (1) a 600 s.f. Permanent Utility Easement, and (2) a 1,400 s.f. Temporary Construction Easement, for the acquisition of property interests located at 3924 Oakdale Road (APN 083-004-041), owned by A. E. Kline, Trustee of the A. E. Kline Living Trust, to be purchased by the City of Modesto for the Downstream Water Improvements Tier 2 Pressure Regulating Valves Project, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign Certificates of Acceptance for the Permanent Utility Easement and Temporary Construction Easement for the acquisition of property interests located at 3924 Oakdale Road (APN 083-004-041), owned by A. E. Kline, Trustee of the A. E. Kline Living Trust, to be purchased by the City of Modesto for the Downstream Water Improvements Tier 2 Pressure Regulating Valves Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of August, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-309**

**RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE,
TO SIGN CERTIFICATES OF ACCEPTANCE FOR THE PERMANENT
UTILITY EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT FOR
THE ACQUISITION OF PROPERTY INTERESTS LOCATED AT 515 SUTTER
AVENUE (APN 037-047-039), OWNED BY MODESTO CITY SCHOOL
DISTRICT TO BE PURCHASED BY THE CITY OF MODESTO FOR THE
DOWNSTREAM WATER IMPROVEMENTS TIER 2 PRESSURE
REGULATION VALVES PROJECT**

WHEREAS, Section 27281 of the Government Code requires a public agency to accept real property prior to the recordation of a deed or adopt a resolution accepting real property, and

WHEREAS, the City of Modesto desires to acquire (1) a Permanent Utility Easement, and (2) a Temporary Construction Easement, for the acquisition of property interests located at 515 Sutter Avenue (APN 037-047-039), owned by Modesto City School District, to be purchased by the City of Modesto for the Downstream Water Improvements Tier 2 Pressure Regulating Valves Project, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign Certificates of Acceptance for the Permanent Utility Easement and Temporary Construction Easement for the acquisition of property interests of a parcel located at 515 Sutter Avenue (APN 037-047-039), owned by Modesto City School District, to be purchased by the City of Modesto for the Downstream Water Improvements Tier 2 Pressure Regulating Valves Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of August, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-310**

RESOLUTION ACCEPTING THE WORK BY A. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, FOR THE “DOWNSTREAM WATER SYSTEM IMPROVEMENTS-TIER 1, NORTH TANK WATER TRANSMISSION MAINS” PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING \$4,565,339.11

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the Downstream Water System Improvements-Tier 1, North Tank Water Transmission Mains project has been completed by A. Teichert & Son, Inc. dba Teichert Construction, in accordance with the contract agreement dated October 27, 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Downstream Water System Improvements-Tier 1, North Tank Water Transmission Mains project is hereby accepted as complete from said contractor A. Teichert & Son, Inc. dba Teichert Construction, that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling \$4,565,339.11 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 August, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-311**

RESOLUTION APPROVING LOAN DOCUMENTS IN THE AMOUNT OF \$1,000,000 FOR HABITAT FOR HUMANITY, STANISLAUS COUNTY (HABITAT) FOR ACQUISITION OF REAL PROPERTY NOT TO EXCEED \$315,000 OR CURRENT MARKET APPRAISED VALUE, PRE-DEVELOPMENT, AND CONSTRUCTION COSTS FOR A 21-UNIT SUBDIVISION LOCATED AT SIGNATURE COURT IN MODESTO ALSO KNOWN AS SPORTSMEN ESTATES CONTINGENT UPON THE SATISFACTORY COMPLETION OF ENVIRONMENTAL REVIEW. HABITAT TO LEVERAGE FUNDS WITH APPROXIMATELY \$1.8 MILLION IN NON-NSP3 FUNDS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN ANY AND ALL RELATED DOCUMENTS

WHEREAS, on February 8, 2011, the City Council, by Resolution No. 2011-41, approved the Neighborhood Stabilization Program 3 (NSP3) grant award in the amount of \$2,951,549, and

WHEREAS, the U.S. Department of Housing and Urban Development (HUD) approved the City's original NSP3 Plan on March 9, 2011, and

WHEREAS, on May 22, 2012, the City Council authorized staff to prepare subrecipient and developer agreements with Habitat for Humanity, Stanislaus County (Habitat) to implement the NSP3 Plan, and.

WHEREAS, on July 19, 2012, the City received Authority to Use Grant Funds from HUD, and

WHEREAS, the City will provide NSP3 funding to its partners in the form of forgivable and/or assumable acquisition and construction loans for each unit and will impose affordability restrictions on these units for a period of at least 20 years, and

WHEREAS, Habitat's homeownership units will be sold to eligible homebuyers through Habitat for Humanity's Homebuyer Program in which homebuyers assume no-interest, amortized loans with Habitat as lender, and

WHEREAS, Habitat will retain the proceeds from the monthly mortgage payments, and

WHEREAS, rental proceeds will be retained by HACS or STANCO as net operating income to operate, maintain, and repair the units, and

WHEREAS, the NSP3 loan documents were reviewed by the Citizens' Housing and Community Development Committee on July 18, 2012,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves loan documents in the amount of \$1,000,000 for Habitat for Humanity, Stanislaus County for Acquisition or real property not to exceed \$315,000 or current market appraised value pre-development, and construction costs for 21-unit subdivision located at Signature Court in Modesto, also known as Sportsman Estates.

BE IT FURTHER RESOLVED that Habitat to leverage funds with approximately \$1.8 million in non-NSP3 funds.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to sign all related documents contingent upon the satisfactory completion of environmental review and receipt by City of Modesto of a release of funds from the U.S. Department of Housing and Urban Development under 24 CFR Part 58.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of August, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-312

RESOLUTION AMENDING FISCAL YEAR 2011-2012 ANNUAL OPERATING BUDGET TO ADD \$339,613 TO THE INSURANCE SETTLEMENT FUND BUDGET IN COST CENTER 32010 OF THE GENERAL FUND (0100) FOR REPAIRS AND RENOVATIONS OF THE MCHENRY MANSION DUE TO FIRE DAMAGE, AND AUTHORIZING THE FINANCE DIRECTOR, OR HER DESIGNEE, TO IMPLEMENT THE PROVISION OF THIS RESOLUTION

WHEREAS, a fire occurred at the McHenry Mansion on December 6, 2011, and

WHEREAS, an early evaluation of the extent of damage and cost to repair said damage is less than actual, and

WHEREAS, repair and renovation expenses due to the fire at the McHenry Mansion are now estimated at \$2,400,000, and

WHEREAS, all expenses are pre-approved by the insurance carrier (Traveler's Insurance) prior to work being completed, and

Whereas, the City of Modesto will be reimbursed for all expenses associated with this project minus the \$100,000 deductible which has been provided by the Property Fund,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2011-12 annual operating budget as shown in **Exhibit A**, which is **attached** hereto and incorporated by reference herein.


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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of August, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

1. A budget adjustment is necessary to fund additional expenses incurred in FY 2011-2012 and to recognize anticipated revenue in the same amount to be received through a reimbursement check from Travelers Insurance.

Revenues										
11/12	-	0100	-	32010	-	47020	\$500,000	\$339,613	\$839,613	Funds, Damages and Cost Recovery
Expenses										
11/12	-	0100	-	32010	-	57020	\$75,000	\$0	\$75,000	Non CIP-Capital
11/12	-	0100	-	32010	-	52300	\$5,000	\$0	\$5,000	Tools and Field Supplies <\$5,000
11/12	-	0100	-	32010	-	54501	\$75,000	\$0	\$75,000	Services City Forces - Intrafund
11/12	-	0100	-	32010	-	53300	\$270,000	\$339,613	\$609,613	Professional Services
11/12	-	0100	-	32010	-	54500	\$75,000	\$0	\$75,000	Services City Forces - Interfund

2. A budget adjustment is necessary to lift the project budget ceiling to \$2,400,000 so that the monies received by the property insurance carrier, Travelers can be used for expenses associated with repairs of the McHenry Mansion due to fire damage.

Revenues										
1/13	-	0100	-	32010	-	47020	\$0	\$1,560,387	\$1,560,387	Funds, Damages and Cost Recovery
Expenses										
12/13	-	0100	-	32010	-	57020	\$0	\$75,000	\$75,000	Non CIP-Capital
12/13	-	0100	-	32010	-	52300	\$0	\$5,000	\$5,000	Tools and Field Supplies <\$5,000
12/13	-	0100	-	32010	-	54501	\$0	\$75,000	\$75,000	Services City Forces - Intrafund
12/13	-	0100	-	32010	-	53300	\$0	\$1,330,387	\$1,330,387	Professional Services
12/13	-	0100	-	32010	-	54500	\$0	\$75,000	\$75,000	Services City Forces - Interfund

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-313

RESOLUTION AMENDING FISCAL YEAR 2012-2013 ANNUAL OPERATING BUDGET TO ADD \$1,560,387 TO THE INSURANCE SETTLEMENT FUND BUDGET IN COST CENTER 32010 OF THE GENERAL FUND (0100) FOR REPAIRS AND RENOVATIONS OF THE MCHENRY MANSION DUE TO FIRE DAMAGE, AND AUTHORIZING THE FINANCE DIRECTOR, OR HER DESIGNEE, TO IMPLEMENT THE PROVISION OF THIS RESOLUTION

WHEREAS, a fire occurred at the McHenry Mansion on December 6, 2011, and

WHEREAS, an early evaluation of the extent of damage and cost to repair said damage is less than actual, and

WHEREAS, repair and renovation expenses due to the fire at the McHenry Mansion are now estimated at \$2,400,000, and

WHEREAS, all expenses are pre-approved by the insurance carrier (Traveler's Insurance) prior to work being completed, and

Whereas, the City of Modesto will be reimbursed for all expenses associated with this project minus the \$100,000 deductible which has been provided by the Property Fund,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2012-13 annual operating budget as shown in **Exhibit A**, which is **attached** hereto and incorporated by reference herein.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of August, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

1. A budget adjustment is necessary to fund additional expenses incurred in FY 2011-2012 and to recognize anticipated revenue in the same amount to be received through a reimbursement check from Travelers Insurance.

Revenues										
11/12	-	0100	-	32010	-	47020	\$500,000	\$339,613	\$839,613	Funds, Damages and Cost Recovery
Expenses										
11/12	-	0100	-	32010	-	57020	\$75,000	\$0	\$75,000	Non CIP-Capital
11/12	-	0100	-	32010	-	52300	\$5,000	\$0	\$5,000	Tools and Field Supplies <\$5,000
11/12	-	0100	-	32010	-	54501	\$75,000	\$0	\$75,000	Services City Forces - Intrafund
11/12	-	0100	-	32010	-	53300	\$270,000	\$339,613	\$609,613	Professional Services
11/12	-	0100	-	32010	-	54500	\$75,000	\$0	\$75,000	Services City Forces - Interfund

2. A budget adjustment is necessary to lift the project budget ceiling to \$2,400,000 so that the monies received by the property insurance carrier, Travelers can be used for expenses associated with repairs of the McHenry Mansion due to fire damage.

Revenues										
1/13	-	0100	-	32010	-	47020	\$0	\$1,560,387	\$1,560,387	Funds, Damages and Cost Recovery
Expenses										
12/13	-	0100	-	32010	-	57020	\$0	\$75,000	\$75,000	Non CIP-Capital
12/13	-	0100	-	32010	-	52300	\$0	\$5,000	\$5,000	Tools and Field Supplies <\$5,000
12/13	-	0100	-	32010	-	54501	\$0	\$75,000	\$75,000	Services City Forces - Intrafund
12/13	-	0100	-	32010	-	53300	\$0	\$1,330,387	\$1,330,387	Professional Services
12/13	-	0100	-	32010	-	54500	\$0	\$75,000	\$75,000	Services City Forces - Interfund

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-314**

A RESOLUTION APPROVING A FOUR-YEAR, NINE-MONTH AGREEMENT WITH VEOLIA TRANSPORTATION SERVICES, INC. COMMENCING SEPTEMBER 29, 2012, AND TERMINATING JUNE 30, 2017, TO PROVIDE DRIVERS AND OTHER SERVICES FOR THE OPERATION OF THE MODESTO AREA EXPRESS TRANSIT SYSTEM AT AN ANNUAL COST OF APPROXIMATELY \$6,934,794, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the existing agreement with MV Transportation to operate the MAX service expires September 28, 2012, and

WHEREAS, the City wishes to continue providing MAX service to the citizens of Modesto, and

WHEREAS, a Request for Proposals (RFP) was issued soliciting proposals from qualified firms for a new contract to be effective September 29, 2012, and

WHEREAS, Veolia submitted a proposal that was determined to be reasonable and cost effective, and

WHEREAS, an evaluation panel reviewed all proposals and best and final offers and interviewed proposers in the competitive range, and

WHEREAS, after such evaluation the panel scored Veolia highest utilizing the scoring criteria included in the RFP and recommended award of the contract to Veolia, and

WHEREAS, on June 26, 2012, the City Council, by Resolution No. 2012-269, authorized staff of the Department of Public Works to negotiate an agreement with Veolia and return it to the City Council for final approval, and

WHEREAS, an agreement has been finalized and is now ready for City Council approval,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a four-year, nine-month agreement with Veolia Transportation Services, Inc. commencing September 29, 2012, and terminating June 30, 2017, to provide drivers and other services for the operation of the Modesto Area Express transit system at an annual cost of approximately \$6,934,794.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of August, 2012 by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh


NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-315**

**A RESOLUTION DECLARING THE RESULTS OF THE PROPERTY OWNER
PROTEST BALLOT PROCEEDINGS CONDUCTED FOR THE LEVY OF
ASSESSMENTS RELATED TO THE FORMATION OF LANDSCAPE
MAINTENANCE ASSESSMENT DISTRICT NO. 2012-1**

WHEREAS, the City Council of the City of Modesto (the “City”) pursuant to the provisions of the Landscaping and Lighting Act of 1972, being Part 2, Division 15 of the California Streets and Highways Code, commencing with Section 22500 (hereafter referred to as the “Act”), did by previous resolutions, initiate proceedings for the formation of a landscape maintenance district to be known and designated as the City of Modesto Landscape Maintenance Assessment District No. 2012-1 (hereafter referred to as the “District”), and declared its intention to conduct a protest balloting for the levy of new assessments within the District commencing in Fiscal Year 2012/2013 for the special benefits received by properties therein from the improvements related thereto, and

WHEREAS, in accordance with the provisions of the California Constitution, Article XIIIID, the City Council has caused and conducted a property owner protest ballot proceeding for the proposed new assessments to be levied on properties within the District, and

WHEREAS, the assessments presented to each property owner of record within the District reflects the proportional annual special benefit assessment amount for the parcel identified on the ballot for the costs and expenses related to the ongoing operation, maintenance, servicing, and incidental expenses related to the local landscaping improvements associated with Landscape Maintenance Assessment District No. 2012-1 as authorized by the Act and the provisions of the California Constitution. The notice and

ballot presented to the property owners of record clearly identified the total amount balloted to all properties; the proposed assessment rate and the inflationary adjustment applicable to future assessments; and the proportional annual amount for the parcel identified on the ballot commencing with Fiscal Year 2012/2013, and

WHEREAS, upon the close of the Public Hearing held on August 8, 2012, the protest ballots returned by the landowners of record within the District, were opened and tabulated, the results of which are illustrated below:

Yes: \$4,966.72

No: \$17,054.40

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the foregoing recitals are true and correct.

BE IT FURTHER RESOLVED that the protest ballot proceedings were conducted with the notices and ballots of the proposed new assessments being presented to the qualified property owners of record within the District as required by law, with a required receipt of the returned ballots to the City Clerk prior to the close of the Public Hearing on August 8, 2012.

BE IT FURTHER RESOLVED that the canvass of the protest ballots cast for the proposed District, received prior to the close of the public hearing, and weighted according to the proportional financial obligation of the affected properties is hereby approved and confirmed.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to enter this Resolution on the minutes of this meeting, which shall constitute the official declaration of the result of such property owner protest ballot proceeding.

BE IT FURTHER RESOLVED that this Resolution shall become effective immediately upon its adoption.

BE IT FURTHER RESOLVED that the City Clerk shall certify the adoption 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 August, 2012, by Councilmember Burnside, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-316**

**A RESOLUTION CONFIRMING THE FISCAL YEAR 2012-2013 DIAGRAM
AND ASSESSMENT, AND ORDERING THE LEVY AND COLLECTION OF
CHARGES WITHIN LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT
NO. 1 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 1-6**

WHEREAS, on June 12, 2012, the City Council, by Resolution No. 2012-229, declared its intent to levy charges or assessments for the purpose of administering the maintenance of landscaping in the public right-of-way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 1-6 under the provisions of the California Streets and Highways Code Sections 22500 through 22679, more commonly known as the Landscape and Lighting Act of 1972, and

WHEREAS, the charges against the real property are not levied with regard to property values but rather by allocated cost reports prepared by the Engineer of Work, and

WHEREAS, the City of Modesto has determined and certifies that the charges are either exempt from or in compliance with all the provisions of Proposition 218, which was passed by the voters in November 1996. The City of Modesto has further determined the charges are in compliance with all laws pertaining to the levy of such charges,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby orders the levy and collection of such charges within City of Modesto Landscape Maintenance Assessment District No. 1 for Dry Creek Meadows Subdivisions Nos. 1-6 for Fiscal Year 2012-2013, and in each subsequent fiscal year in which the charges may validly be levied.

BE IT FURTHER RESOLVED that a certified copy of this resolution and **attached** documentation shall be delivered to the Auditor-Controller of the County of Stanislaus for placement of such charges on the 2012-2013 County Tax Roll, and in each subsequent fiscal year in which the charges may validly be levied.

BE IT FURTHER RESOLVED that the diagram of said assessment district and amount of levy thereon is hereby confirmed.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Modesto held on the 8th day of August, 2012 by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

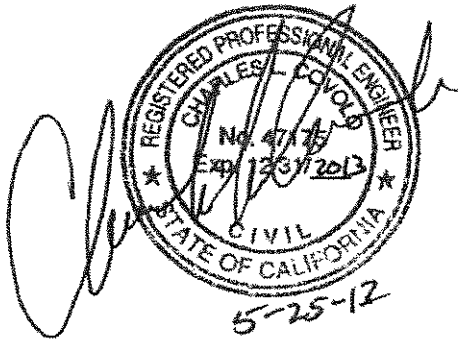


MODESTO
CALIFORNIA

City of Modesto
LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT No. 1
◆ DRY CREEK MEADOWS SUBDIVISIONS Nos. 1 through 6 ◆
*A Landscape Maintenance Assessment District pursuant to
the Landscape and Lighting Act of 1972*

ENGINEER'S ANNUAL REPORT

FISCAL YEAR
JULY 1, 2012 - JUNE 30, 2013



Prepared By:

Tina Rocha, IFP Administrator

Certified By:

Charles Covolo, Senior Civil Engineer

Accepted By Motion:

Modesto City Council -

ATTACHMENT 2

TABLE OF CONTENTS

<u>SECTION</u>	<u>TITLE</u>
I.	History
II.	Annual Assessment Review & Summary
III.	Financials – Annual Assessment Revenue & Expense Projections
IV.	Maintenance & Plan Specifications
V.	Annual Assessment District Diagram
VI.	Annual Assessments List by Parcel & Property Owner

SECTION I HISTORY

On December 12, 1988, Landscape Maintenance Assessment District No. 1 ("LMAD No. 1") was formed in accordance with the Landscape and Lighting Act of 1972 (California Streets and Highway Code §22500 through §22679) ("the Act"), to administer the maintenance of landscaping in the public right-of-way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 1-6. All costs for the LMAD No. 1 are funded by the annual assessments levied on each property within the district. The Act requires several courses of action on the part of City staff and City Council prior to August 10th of each year.

The Act initially requires the City Council to order, prepare, and file an Engineer's Annual Report for the City Council. This report is prepared for the purpose of detailing the plans and specifications for the maintenance of work, the estimates of costs for landscape maintenance performed by City contractors, utility service charges, City street tree pruning costs, City staff time to administer the maintenance contract, and additional work to be performed by the City Contractor at the request of the City.

LMAD No. 1 is located east of North McClure Road and southwest of MID Lateral #2 and Claus Road. It is comprised of 749 single-family residential lots and two (2) public agency owned parcels. An annual assessment of \$26 per single-family residential parcel has remained the same since 1996. The total assessment to be levied for LMAD No. 1 for Fiscal Year 2012-2013 is \$19,474.

Upon the City Council's approval of the Engineer's Annual Report, the City Council adopts a resolution declaring its intent to levy and collect assessments within LMAD No. 1 for the following fiscal year and schedules a public hearing. This public hearing and proposed resolution levying the proposed assessments is in accordance with the annual assessment procedures.

Finally, in compliance with the Act, the City Council conducts the public hearing and adopts certain resolutions in accordance with the California Streets and Highways Code §22625 through §22641. The City Clerk is required to give the Modesto Bee notice of the public hearing no less than 10 days prior to the scheduled hearing date. All interested persons are afforded the opportunity to be heard during the public hearing. Should there be any protests, whether written or oral, the City Council may choose to continue the hearing to a later date and/or may change any part of the Engineer's Annual Report to address the concerns of the property owner(s). The adopted resolution is then forwarded to the Auditor-Controller of the County of Stanislaus for placement of such charges on the upcoming year's County Tax Roll.

ATTACHMENT 2

Proposed Changes for Fiscal Year 2012-2013:

The proposed budget for fiscal year 2012-2013 is based on the revenue that is currently able to be generated within LMAD No. 1. These expenditures do not represent the actual amount needed for a good service level within LMAD No. 1. City staff has heard from many area residents that they desire a higher level maintenance than is currently provided. The City contracted with Willdan Financial Services, Inc. ("Willdan") to perform a thorough evaluation of both LMAD No. 1 and neighboring Landscape and Maintenance Assessment District No. 2. For economy and efficiency reasons, Willdan has recommended and the City has pursued consolidation of the LMADs. Additionally, Willdan has developed a budget option that provides the residents of both LMADs an opportunity to vote on combining the LMADS and increasing their annual assessments. The increased annual assessments will allow a higher maintenance standard to be provided.

A separate City Council action is being processed concurrently to move forward with consolidation of the LMADs and allows the residents to vote on the consolidation and increase in the annual assessment. In the event the consolidation and increase are defeated, the existing LMAD assessments, as determined in this report, will be levied and current maintenance levels will continue.

SECTION II ANNUAL ASSESSMENT REVIEW AND SUMMARY

A. PARCEL REVIEW

1. Single Family Residential Parcels:
There are 749 single-family residential parcels located within LMAD No. 1.
2. Multi-Family Residential Parcels:
There are no multi-family residential parcels located within LMAD No. 1.
3. Commercial/Industrial Parcels:
There are no commercial or industrial parcels located within LMAD No. 1.
4. Public Agency Parcels:
There are two (2) parcels owned by the City of Modesto (Creekwood Park and the Pedestrian Overcrossing at Claus Road) and one (1) parcel owned by the Empire School District (Bernard Hughes School). According to Section 22663 of the California Streets and Highways Code, public property owned by any public agency and in use in the performance of a public function shall not be subject to assessment.

B. 2012-2013 ANNUAL ASSESSMENTS

All single-family residential parcels are levied at a flat rate of \$26.00 per parcel. Each parcel receives equal benefits from the District. The annual assessments levied are calculated by multiplying the total number of parcels by the flat rate.

\$ 26.00	Annual assessment per parcel
x 749	Single-family residential parcels
\$ 19,474.00	Total annual assessment

C. COMPARISON TO PREVIOUS FISCAL YEAR

The proposed Fiscal Year 2012-2013 annual assessment is the same as the annual assessment for Fiscal Year 2011-2012 of \$26.00 per single-family residential parcel.

ATTACHMENT 2

SECTION 3 FINANCIALS – ANNUAL ASSESSMENT REVENUE & EXPENSE PROJECTIONS

LMAD #1 Fund 6480		Estimated FY 2011-12 ¹	Proposed FY 2012-13 ²
Beginning Fund Balance		\$ 631	\$ (1,917)
Revenue (Cost Center 80010)			
Special Assessments		\$ 18,781	\$ 19,474
Interest		\$ (43)	\$ -
Total Revenue		\$ 18,738	\$ 19,474
Expenses (Cost Center 80010)			
<i>Operating Budget</i>			
Postage	52025	\$ -	\$ (200)
Water Utility Expenses	53043	\$ (3,010)	\$ (3,000)
Rental of Photocopy Service Supply	53073		\$ (50)
Repair and Maintenance Services	53165	\$ (9,958)	\$ (6,000)
Professional Services	53300	\$ (4,338)	\$ (2,500)
Services City Forces	54500	\$ (2,136)	\$ (4,893)
ISF - Mail Services - Inside	58010	\$ -	\$ (254)
<i>Estimated - Water Utility Expenses</i>	53043	\$ (500)	
<i>Estimated - Repair and Maintenance Services</i>	53165	\$ (1,200)	
<i>Estimated - Professional Services</i>	53300	\$ -	
<i>Estimated - Services City Forces</i>	54500	\$ (143)	
Total Expenses		\$ (21,286)	\$ (16,897)
Ending Fund Balance		-1,917	660

Footnotes:

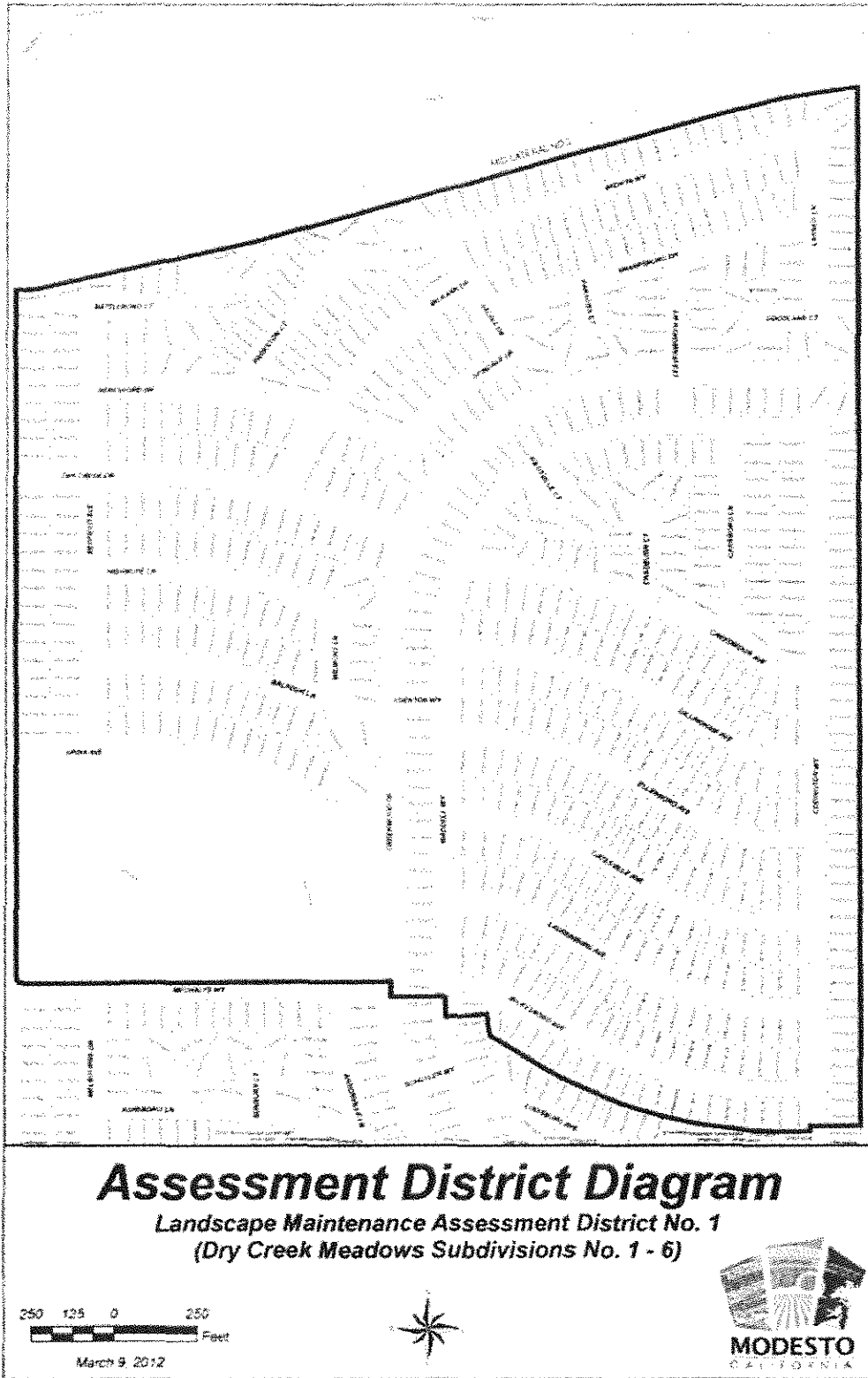
¹The estimated amount shows what has been expended as of 05-22-2012. There will be more expenses through the end of the fiscal year (June); these are shown as *Estimated*.

²The estimated expenditures for FY 2012-13 are based on the revenue that is currently able to be generated within LMAD #1. These expenditures do not represent the actual amount needed for a good service level within LMAD #1. The City has initiated the process of consolidating LMAD #1 & #2 into one district and increasing the assessment in the new district adequate to provide good level of service. A Proposition 218 election will occur in early August, 2012.

SECTION IV MAINTENANCE & PLAN SPECIFICATIONS

Plans and specifications are available for review in the Parks, Recreation, and Neighborhood's Department, located at 501 N. Jefferson Street, Modesto, CA 95354. For more information, contact Kelly Gallagher, Parks Operations Supervisor at (209) 524-2330.

SECTION V ANNUAL ASSESSMENT DISTRICT DIAGRAM



ATTACHMENT 2

SECTION VI ANNUAL ASSESSMENT LIST BY PARCEL & PROPERTY OWNER

APN	Owner Name	Property Address	City	State	Zip	2012-2013 Assessment
079-003-031-000	DE ALBA RIGOBERTO & DE ALBA SANDRA	3505 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-002-001-000	JONES MICHAEL I & JONES CATHRINE J	736 N MC CLURE ROAD	MODESTO	CA	95357	\$26.00
079-002-002-000	FEDERAL HOME LOAN MORTGAGE CORP	732 N. MC CLURE ROAD	MODESTO	CA	95357	\$26.00
079-002-003-000	SORDO BRYON S ET AL	728 N. MC CLURE ROAD	MODESTO	CA	95357	\$26.00
079-002-004-000	PRASAD AJAY B & CHANDRA SAILESHWI D	724 N. MC CLURE ROAD	MODESTO	CA	95357	\$26.00
079-002-005-000	YUSON BONIFACIO C & YUSON ZENAIDA P	720 N. MC CLURE ROAD	MODESTO	CA	95354	\$26.00
079-002-006-000	YATES MICHAEL V & YATES CHRISTINE M	716 N. MC CLURE ROAD	MODESTO	CA	95357	\$26.00
079-002-007-000	ALBANO FLORANTE J & ALBANO JUANITA T	712 N. MC CLURE ROAD	MODESTO	CA	95354	\$26.00
079-002-008-000	GARCIA JOSE DE JESUS	708 N. MC CLURE ROAD	MODESTO	CA	95354	\$26.00
079-002-009-000	ESPINOZA GABRIEL	704 N. MC CLURE ROAD	MODESTO	CA	95357	\$26.00
079-002-010-000	LEON MARTHA	700 N. MC CLURE ROAD	MODESTO	CA	95357	\$26.00
079-002-011-000	SAMRA AMARJIT S TR	701 REDFIELD AVENUE	MODESTO	CA	95357	\$26.00
079-002-012-000	BARRIENTOS DAVID & BARRIENTOS MARIA E	705 REDFIELD AVENUE	MODESTO	CA	95357	\$26.00
079-002-013-000	US BANK NA	709 REDFIELD AVENUE	MODESTO	CA	95357	\$26.00
079-002-014-000	BATTAGLIA COREY J	713 REDFIELD AVENUE	MODESTO	CA	95357	\$26.00
079-002-015-000	BADAL EDWARD E & BADAL JANET E	717 REDFIELD AVENUE	MODESTO	CA	95357	\$26.00
079-002-016-000	NAWROCKI JAMES R & NAWROCKI MARIA J	721 REDFIELD AVENUE	MODESTO	CA	95357	\$26.00
079-002-017-000	SMITH ROBIN K & SMITH SUSAN R	725 REDFIELD AVENUE	MODESTO	CA	95357	\$26.00
079-002-018-000	DEOL HARMINDER S & DEOL SUKHWINDER K	729 REDFIELD AVENUE	MODESTO	CA	95357	\$26.00
079-002-019-000	BERGLIN JUDY R TR	733 REDFIELD AVENUE	MODESTO	CA	95357	\$26.00
079-002-020-000	MIGUEL TARA L ET AL	737 REDFIELD AVENUE	MODESTO	CA	95357	\$26.00
079-002-021-000	PANYANOUVONG ROCKY P ET AL	3513 BATTLEBORO COURT	MODESTO	CA	95357	\$26.00
079-002-022-000	JOHNSON VERDELL TR	3517 BATTLEBORO COURT	MODESTO	CA	95357	\$26.00
079-002-023-000	VILLEGAS JOSEPH J	3521 BATTLEBORO COURT	MODESTO	CA	95354	\$26.00
079-002-024-000	REYES FRANCISCO J & REYES SILVIA	3525 BATTLEBORO COURT	MODESTO	CA	95357	\$26.00
079-002-025-000	HILL ROBERT L & KELLY TRS	3529 BATTLEBORO COURT	MODESTO	CA	95357	\$26.00
079-002-028-000	ALVAREZ VICTOR R & CRISTINA TRS	3536 BATTLEBORO COURT	MODESTO	CA	95357	\$26.00
079-002-029-000	CARBERY DONALD R & FREIDA A TRS	3532 BATTLEBORO COURT	MODESTO	CA	95357	\$26.00
079-002-030-000	TREVINO SHONDA	3528 BATTLEBORO COURT	MODESTO	CA	95357	\$26.00
079-002-031-000	VILLALPANDO HERIBERTO & ROSA	3524 BATTLEBORO COURT	MODESTO	CA	95357	\$26.00
079-002-032-000	CARR PATRICK R & CHERYL J	3520 BATTLEBORO COURT	MODESTO	CA	95357	\$26.00
079-002-033-000	PRASHAD RAJENDRA & SONI L	3516 BATTLEBORO COURT	MODESTO	CA	95357	\$26.00
079-002-034-000	VO SANG	3512 BATTLEBORO COURT	MODESTO	CA	95357	\$26.00
079-002-035-000	ARROYO STEVEN I & ARROYO SANDRA	3513 BERESFORD DRIVE	MODESTO	CA	95357	\$26.00
079-002-036-000	CARREON JOSE & CECILIA	3517 BERESFORD DRIVE	MODESTO	CA	95357	\$26.00
079-002-037-000	GOMEZ PATRICIA	3521 BERESFORD DRIVE	MODESTO	CA	95357	\$26.00
079-002-038-000	COENEN KELVIN L & COENEN CHRISTINA P	3525 BERESFORD DRIVE	MODESTO	CA	95357	\$26.00
079-002-039-000	HILL PAUL JAMES SR TRS & HILL DORTHA	3529 BERESFORD DRIVE	MODESTO	CA	95357	\$26.00
079-002-040-000	CARSON SAMMY D & CARSON BRENDA S	713 PARKSTON COURT	MODESTO	CA	95357	\$26.00
079-002-041-000	HAHTO MARK D & HAHTO KAREN A	717 PARKSTON COURT	MODESTO	CA	95357	\$26.00
079-002-042-000	WOLTER DENNIS & CAROL	721 PARKSTON COURT	MODESTO	CA	95357	\$26.00
079-002-043-000	BEJARAND CARLOS	725 PARKSTON COURT	MODESTO	CA	95357	\$26.00
079-002-044-000	MEFFERD JULIE A	729 PARKSTON COURT	MODESTO	CA	95357	\$26.00
079-002-048-000	CADIZ SIMPLICIO V JR & CADIZ ALMA B	745 PARKSTON COURT	MODESTO	CA	95357	\$26.00
079-002-049-000	BISHOP ROSIE	749 PARKSTON COURT	MODESTO	CA	95357	\$26.00
079-002-050-000	ALTON KARIM & ALTON WAILET	753 PARKSTON COURT	MODESTO	CA	95357	\$26.00
079-002-051-000	SINGH BEER	752 PARKSTON COURT	MODESTO	CA	95357	\$26.00
079-002-052-000	BLAKE TERRY L & CANDACE L	748 PARKSTON COURT	MODESTO	CA	95357	\$26.00
079-002-053-000	LANZA ROBERT J & LANZA MARION R	744 PARKSTON COURT	MODESTO	CA	95357	\$26.00
079-002-054-000	RUCKER SHARON E	740 PARKSTON COURT	MODESTO	CA	95357	\$26.00
079-002-055-000	LONN RALPH S & MICHELA SUZANNE	736 PARKSTON COURT	MODESTO	CA	95357	\$26.00
079-002-056-000	MOUSHIPOUR OUSHANA EDDIE & ELIZABETH	732 PARKSTON COURT	MODESTO	CA	95357	\$26.00

ATTACHMENT 2

APN	Owner Name	Property Address	City	State	Zip	2012-2013 Assessment
079-002-057-000	DALMAN DAVID & JEAN	728 PARKSTON COURT	MODESTO	CA	95357	\$26.00
079-002-058-000	COLLS LUIS R TR	724 PARKSTON COURT	MODESTO	CA	95357	\$26.00
079-002-059-000	FRAMSTAD RAYMOND J & TAMMIE LYNN	720 PARKSTON COURT	MODESTO	CA	95357	\$26.00
079-002-060-000	ORTEGA EFRAIN R & GLORIA C	716 PARKSTON COURT	MODESTO	CA	95355	\$26.00
079-002-061-000	CASTIGLIONE JOSEPH B & BECKY M	713 MILBANK DRIVE	MODESTO	CA	95357	\$26.00
079-002-062-000	LUBINSKY EDWARD & LUBINSKY CAROL E	717 MILBANK DRIVE	MODESTO	CA	95354	\$26.00
079-002-063-000	CASTILLO HECTOR	721 MILBANK DRIVE	MODESTO	CA	95357	\$26.00
079-002-064-000	PRASAD RAMA	725 MILBANK DRIVE	MODESTO	CA	95357	\$26.00
079-002-065-000	WINGO NAIDA J	729 MILBANK DRIVE	MODESTO	CA	95357	\$26.00
079-002-066-000	SMITH MARQUE R	733 MILBANK DRIVE-	MODESTO	CA	95357	\$26.00
079-002-067-000	VILLANUEVA DAVID M & VILLANUEVA DIANE	737 MILBANK DRIVE	MODESTO	CA	95357	\$26.00
079-002-068-000	JAMES BRENDAN R ET AL	741 MILBANK DRIVE	MODESTO	CA	95357	\$26.00
079-002-069-000	HEWITT SCOTT	745 MILBANK DRIVE	MODESTO	CA	95357	\$26.00
079-002-070-000	WILKERSON KENNETH	817 SALINA DRIVE	MODESTO	CA	95357	\$26.00
079-002-071-000	DIAZ ANGELINA	821 SALINA DRIVE	MODESTO	CA	95357	\$26.00
079-002-072-000	KEMPER CHRISTOPHER S	825 SALINA DRIVE	MODESTO	CA	95357	\$26.00
079-002-073-000	GRANT CURTIS R & NANCY E	3701 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-002-074-000	BELL KIMBERLY ANN	3705 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-002-076-000	BATES HAROLD & JANICE	3533 BATTLEBORO COURT	MODESTO	CA	95357	\$26.00
079-002-078-000	HESKEL MATTHEW	733 PARKSTON COURT	MODESTO	CA	95357	\$26.00
079-002-079-000	MARTINEZ CONCHA A	737 PARKSTON COURT	MODESTO	CA	95357	\$26.00
079-002-080-000	HASKEL ROBERT P	3537 BATTLEBORO COURT	MODESTO	CA	95357	\$26.00
079-002-082-000	GOMAN TOD A & JENNIFER	741 PARKSTON COURT	MODESTO	CA	95357	\$26.00
079-003-001-000	MAHARAJ SANJAI S & MAHARAJ ARUNA D	3641 DRY CREEK DRIVE	MODESTO	CA	95357	\$26.00
079-003-002-000	HUFFMAN JOSEPH R II & MARLENE J	3637 DRY CREEK DRIVE	MODESTO	CA	95357	\$26.00
079-003-003-000	MC ENTIRE MICHAEL A & MC ENTIRE ANNA M	3633 DRY CREEK DRIVE	MODESTO	CA	95357	\$26.00
079-003-004-000	CALVO SERGIO & SILVIA	3629 DRY CREEK DRIVE	MODESTO	CA	95357	\$26.00
079-003-005-000	MCE VENTURES LLC	3625 DRY CREEK DRIVE	MODESTO	CA	95357	\$26.00
079-003-006-000	MAGCALAS JOEL & VIRGINIA	3621 DRY CREEK DRIVE	MODESTO	CA	95357	\$26.00
079-003-007-000	CORDOVA ISIDRO C & CORDOVA MARTHA B	3613 DRY CREEK DRIVE	MODESTO	CA	95357	\$26.00
079-003-008-000	CHUANGS INVESTMENT INC	3609 DRY CREEK DRIVE	MODESTO	CA	95357	\$26.00
079-003-009-000	SINGH ASHOK K & SINGH JAQLIN O	3605 DRY CREEK DRIVE	MODESTO	CA	95357	\$26.00
079-003-010-000	GIL MARTIN & GIL DEBORAH L	3601 DRY CREEK DRIVE	MODESTO	CA	95357	\$26.00
079-003-011-000	DOUGLAS GREG & DOUGLAS TERI	3537 DRY CREEK DRIVE	MODESTO	CA	95357	\$26.00
079-003-012-000	HERNANDEZ FERNANDO PARDO & GLORIA C	3533 DRY CREEK DRIVE	MODESTO	CA	95357	\$26.00
079-003-013-000	WERNER RONALD L & WERNER JACQUELINE	3529 DRY CREEK DRIVE	MODESTO	CA	95357	\$26.00
079-003-014-000	CRANDALL FREDERICK J HEIRS OF	3525 DRY CREEK DRIVE	MODESTO	CA	95357	\$26.00
079-003-015-000	ANDERSON CAMERON C	3521 DRY CREEK DRIVE	MODESTO	CA	95357	\$26.00
079-003-016-000	DIXON THOMAS	3517 DRY CREEK DRIVE	MODESTO	CA	95357	\$26.00
079-003-017-000	MICHAEL SCOTT A	3512 BERESFORD DRIVE	MODESTO	CA	95354	\$26.00
079-003-018-000	ESTRADA ADRIANA G	3516 BERESFORD DRIVE	MODESTO	CA	95357	\$26.00
079-003-019-000	DELANEY KIMBERLY R	3520 BERESFORD DRIVE	MODESTO	CA	95357	\$26.00
079-003-020-000	EHRLER LEE & EHRLER THERESA A	3524 BERESFORD DRIVE	MODESTO	CA	95357	\$26.00
079-003-021-000	DHALIWAL AMRITPAL	3528 BERESFORD DRIVE	MODESTO	CA	95357	\$26.00
079-003-022-000	LUTTRELL ERIC ET AL	3532 BERESFORD DRIVE	MODESTO	CA	95357	\$26.00
079-003-023-000	MENDOZA ADRIAN & ROSA	3536 BERESFORD DRIVE	MODESTO	CA	95357	\$26.00
079-003-024-000	MANHOSO FRANK & MANHOSO MARIA	3540 BERESFORD DRIVE	MODESTO	CA	95357	\$26.00
079-003-025-000	FISCHER WILLIAM & FISCHER CAROL	3600 BERESFORD DRIVE	MODESTO	CA	95357	\$26.00
079-003-026-000	MEYER FELESHIA J ET AL	3604 BERESFORD DRIVE	MODESTO	CA	95357	\$26.00
079-003-027-000	PRAKASH OM & SUSHIL	3608 BERESFORD DRIVE	MODESTO	CA	95357	\$26.00
079-003-028-000	REYES ERLINDA M TR	3616 BERESFORD DRIVE	MODESTO	CA	95357	\$26.00
079-003-029-000	CHUNG WILLIAM & YEH GEORGINA PIK-CHING	3620 BERESFORD DRIVE	MODESTO	CA	95357	\$26.00
079-003-030-000	STANLEY COYE & MACHELLE	3624 BERESFORD DRIVE	MODESTO	CA	95357	\$26.00
079-003-031-000	MUNOZ ALFREDO F & CEYLON A	3628 BERESFORD DRIVE	MODESTO	CA	95357	\$26.00
079-003-032-000	PALHEGYI RICK L	3632 BERESFORD DRIVE	MODESTO	CA	95357	\$26.00

ATTACHMENT 2

APN	Owner Name	Property Address	City	State	Zip	2012-2013 Assessment
079-003-033-000	ROTH WILLIAM C & ROTH DOLORES	704 SPINDALE DRIVE	MODESTO	CA	95350	\$26.00
079-003-034-000	SOLIS MARIA	708 SPINDALE DRIVE	MODESTO	CA	95357	\$26.00
079-003-035-000	MUNCRIEF DAVID E	712 SPINDALE DRIVE	MODESTO	CA	95357	\$26.00
079-003-036-000	SHARMA RUDRA DUTT & RESHMICA	716 SPINDALE DRIVE	MODESTO	CA	95357	\$26.00
079-003-037-000	DEL REAL INDELACIO & DEL REAL ELENA	720 SPINDALE DRIVE	MODESTO	CA	95357	\$26.00
079-003-038-000	MORALES DIANA R	724 SPINDALE DRIVE	MODESTO	CA	95357	\$26.00
079-003-039-000	JORDAN NEIL WAYNE & JORDAN MARY	728 SPINDALE DRIVE	MODESTO	CA	95357	\$26.00
079-003-041-000	PEREZ CHRISTINA M	729 SPINDALE DRIVE	MODESTO	CA	95357	\$26.00
079-003-042-000	CORONA ALVARO	725 SPINDALE DRIVE	MODESTO	CA	95357	\$26.00
079-003-043-000	HANLEY JOHN & SAMANTHA L	721 SPINDALE DRIVE	MODESTO	CA	95357	\$26.00
079-003-044-000	GEISER KATHLEEN	717 SPINDALE DRIVE	MODESTO	CA	95357	\$26.00
079-003-045-000	HOWARD THOMAS A	713 SPINDALE DRIVE	MODESTO	CA	95357	\$26.00
079-003-046-000	CLELAND DOUGLAS B & CLELAND PAMELA J	709 SPINDALE DRIVE	MODESTO	CA	95357	\$26.00
079-003-047-000	BIELEFELDT JAMES W & MONICA C	3617 BERESFORD DRIVE	MODESTO	CA	95357	\$26.00
079-003-048-000	IDTS LLC	720 MILBANK DRIVE	MODESTO	CA	95357	\$26.00
079-003-049-000	MOODY ROBERT P & MOODY DIANE K	724 MILBANK DRIVE	MODESTO	CA	95357	\$26.00
079-003-050-000	SWITZER LYNDELL	728 MILBANK DRIVE	MODESTO	CA	95357	\$26.00
079-003-051-000	KILGORE LINDA L & SELLERS JESSE M	732 MILBANK DRIVE	MODESTO	CA	95357	\$26.00
079-003-052-000	MAXWELL VIRGINIA	736 MILBANK DRIVE	MODESTO	CA	95357	\$26.00
079-003-053-000	JUDD JIMMIE RANDALL ET AL	740 MILBANK DRIVE	MODESTO	CA	95357	\$26.00
079-003-054-000	SPIEKER DAVE M & SPIEKER JANE R	744 MILBANK DRIVE	MODESTO	CA	95357	\$26.00
079-003-055-000	ALVEAR FELICITAS	748 MILBANK DRIVE	MODESTO	CA	95357	\$26.00
079-003-056-000	WILSON JANENE M ET AL	733 SPINDALE DRIVE	MODESTO	CA	95357	\$26.00
079-004-001-000	ESPARZA WILLIAM & ELSA	3709 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-002-000	CASSIDY ALAN K & CASSIDY SUSAN H	3713 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-003-000	HAWIL ALFRED	3717 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-004-000	PALMERIN ARTURO & PATRICIA	3721 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-005-000	FRIEDRICH MATTHEW I TR	3725 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-006-000	MANLULU NOEL M & MANLULU MARIVIC F	3729 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-007-000	TOWNE JAMES E & TOWNE AMANDA J	3733 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-008-000	BRIGHT GARY E & BETTY J TRS	3801 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-009-000	DE ALBA RIGOBERTO & DE ALBA SANDRA L	3805 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-010-000	DE ALBA RIGOBERTO SR & DEL ALBA SANDRA L	3809 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-011-000	WATTLE DANNY & CAROLANNE	3813 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-012-000	HECKLER LAWRENCE S TR	3817 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-013-000	GARCIA ARMANDO & MARISOL RESENDIZ	3821 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-014-000	CURTRIGHT BARBARA TR	3825 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-015-000	KENNEDY CHAD & SHINOBU	3829 WICHITA WAY	MODESTO	CA	95354	\$26.00
079-004-016-000	GETREU DANIEL L & GETREU PATRICIA E	3901 WICHITA WAY	MODESTO	CA	95354	\$26.00
079-004-017-000	MILLER RAYMOND E & MILLER JERELYN	3905 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-018-000	CUIRIZ EDER JAVIER	3909 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-019-000	ALBERG DAVID A & PAMELA M TRS	3913 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-020-000	ROBERTS BILLIE G & ROBERTS WAVVA J	3917 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-021-000	COX JULIE A	3921 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-022-000	TEJADA SERGIO L	3925 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-023-000	RUIZ GREGORIO & MARIA	3929 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-024-000	MARTINEZ ARTHUR J & ELISA R	3933 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-025-000	GARDNER GEORGE & GARDNER DAWN	844 LARNED LANE	MODESTO	CA	95357	\$26.00
079-004-026-000	SAMUEL BENJAMIN & JANET Y	840 LARNED LANE	MODESTO	CA	95357	\$26.00
079-004-027-000	MORALES JOSE & MARIA	836 LARNED LANE	MODESTO	CA	95357	\$26.00
079-004-028-000	SEN INDAR & SEN SURUJ M	832 LARNED LANE	MODESTO	CA	95357	\$26.00
079-004-029-000	VIGIL CELSO ET AL	828 LARNED LANE	MODESTO	CA	95357	\$26.00
079-004-030-000	WELLS FARGO BANK NA TRUSTEE	3925 SHARPSBURG DRIVE	MODESTO	CA	95357	\$26.00
079-004-031-000	VEGA CESAR & SABRINA	3921 SHARPSBURG DRIVE	MODESTO	CA	95357	\$26.00
079-004-032-000	MARTIN CHRISTOPHER & MONIQUE	3917 SHARPSBURG DRIVE	MODESTO	CA	95357	\$26.00

ATTACHMENT 2

APN	Owner Name	Property Address	City	State	Zip	2012-2013 Assessment
079-004-033-000	GLEN MAVIS J TR	3913 SHARPSBURG DRIVE	MODESTO	CA	95357	\$26.00
079-004-034-000	CHRISTIANSON ADAM F & YVONNE M	3909 SHARPSBURG DRIVE	MODESTO	CA	95357	\$26.00
079-004-035-000	CHICKEN RANCH MEWUK INDIANS	3905 SHARPSBURG DRIVE	MODESTO	CA	95357	\$26.00
079-004-036-000	PHIPPS CORY L & PHIPPS CAROLE J	3901 SHARPSBURG DRIVE	MODESTO	CA	95357	\$26.00
079-004-037-000	RETFORD HANK W & RETFORD KAREN J	3821 SHARPSBURG DRIVE	MODESTO	CA	95357	\$26.00
079-004-038-000	SORIA JULIAN ET AL	3817 SHARPSBURG DRIVE	MODESTO	CA	95357	\$26.00
079-004-039-000	MCE VENTURES LLC	3813 SHARPSBURG DRIVE	MODESTO	CA	95357	\$26.00
079-004-040-000	AU-YEUNG CHI & AU-YEUNG TZE H	3809 SHARPSBURG DRIVE	MODESTO	CA	95357	\$26.00
079-004-041-000	VASQUEZ RICHARD P & VASQUEZ SHAROLYN	3805 SHARPSBURG DRIVE	MODESTO	CA	95351	\$26.00
079-004-042-000	SERNA JOE H & SERNA MARLA A	3801 SHARPSBURG DRIVE	MODESTO	CA	95357	\$26.00
079-004-043-000	SOUZA RICK L & SOUZA MARVELYN	3721 SHARPSBURG DRIVE	MODESTO	CA	95357	\$26.00
079-004-044-000	WOOD SHAWN & WOOD KRISTINA M	3717 SHARPSBURG DRIVE	MODESTO	CA	95357	\$26.00
079-004-045-000	HATTERSLEY SCOTT LEYTON & SANDRA LEE	3713 SHARPSBURG DRIVE	MODESTO	CA	95357	\$26.00
079-004-046-000	CHIEN PETER C	3709 SHARPSBURG DRIVE	MODESTO	CA	95357	\$26.00
079-004-047-000	DIVYD JASON R ET AL	3705 SHARPSBURG DRIVE	MODESTO	CA	95354	\$26.00
079-004-048-000	KRUKAR JOHN & KRISTINE W	3701 SHARPSBURG DRIVE	MODESTO	CA	95354	\$26.00
079-004-049-000	EYRING MARION L TR	3712 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-050-000	BENTLEY DOUGLAS & BENTLEY LEEANNE K	3716 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-051-000	DUMAS JAMES BRIAN & PAMELA L	3720 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-052-000	EVANS-BRADLEY MITTIE V & BRADLEY MARK D	3724 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-053-000	MORENO LUIS F & MORENO ROSA M	3728 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-054-000	GONZALEZ JUAN R	3732 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-055-000	CASTILLO RAFAEL	3800 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-056-000	SALVATION ARMY	3804 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-057-000	CLINE DAVID L & DEBRA N TRS	3808 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-058-000	FUGATE KAREN M TR	3812 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-059-000	COUCHMAN PAUL E & KATHRYN A	3816 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-060-000	CABEBE MA. RIZALINA C TR	3820 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-061-000	MAYOL BIRGITTA A TR ET AL	3824 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-062-000	HERNANDEZ CESAR E & MARGARITA C	3828 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-063-000	BEAUDETTE GARY & BEAUDETTE DEBORAH	3900 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-064-000	ALVAREZ LOUIS L ET AL	3904 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-065-000	MANCINI JUDITH	3908 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-066-000	ISRAEL SAMMY S & SHERLY ESGUERRA	3912 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-067-000	ROJAS ROGELIO A	3916 WICHITA WAY	MODESTO	CA	95354	\$26.00
079-004-068-000	OVIEDO RAFAEL S & OVIEDO IRMA L	3920 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-004-069-000	OCKEY LEOTA L TR	3924 WICHITA WAY	MODESTO	CA	95357	\$26.00
079-005-001-000	SIMPSON STEVEN	732 SPINDALE DRIVE	MODESTO	CA	95357	\$26.00
079-005-002-000	BALLIET RICHARD L & BALLIET SHERRY	736 SPINDALE DRIVE	MODESTO	CA	95357	\$26.00
079-005-003-000	BORDNER FATIMA	800 SALINA DRIVE	MODESTO	CA	95357	\$26.00
079-005-004-000	HELLERUD GARRY A & HELLERUD ARLENE L	804 SALINA DRIVE	MODESTO	CA	95354	\$26.00
079-005-005-000	SOUZA DONOVAN & SOUZA NICOLE	813 PARSONS COURT	MODESTO	CA	95354	\$26.00
079-005-006-000	BARRINGTON AMANDA MARIE	809 PARSONS COURT	MODESTO	CA	95357	\$26.00
079-005-007-000	THOMPSON MELANIE	805 PARSONS COURT	MODESTO	CA	95357	\$26.00
079-005-008-000	LAKE DAVID E & LAKE MARGARET R	800 PARSONS COURT	MODESTO	CA	95357	\$26.00
079-005-009-000	LEE EDMUND W TR	804 PARSONS COURT	MODESTO	CA	95357	\$26.00
079-005-010-000	GARCIA EDUARDO C & GARCIA ELIZABETH A	808 PARSONS COURT	MODESTO	CA	95351	\$26.00
079-005-011-000	KHAMOO BABA & HILDA TRS	812 PARSONS COURT	MODESTO	CA	95357	\$26.00
079-005-012-000	BANK OF NEW YORK MELLON	817 LEAVENWORTH WAY	MODESTO	CA	95357	\$26.00
079-005-013-000	MEDINA VICTOR & IRMA	813 LEAVENWORTH WAY	MODESTO	CA	95357	\$26.00
079-005-014-000	FAGUNDES ANTONIO & HAIR JACQUELINE K	809 LEAVENWORTH WAY	MODESTO	CA	95357	\$26.00
079-005-015-000	GARCIA MATIAS & GARCIA MERCEDES	805 LEAVENWORTH WAY	MODESTO	CA	95357	\$26.00
079-005-016-000	SANDHU MANJINDER SINGH & SUKHJIT KAUR	801 LEAVENWORTH WAY	MODESTO	CA	95357	\$26.00
079-005-017-000	OWENS LARRY G & MARY Z	800 LEAVENWORTH WAY	MODESTO	CA	95351	\$26.00
079-005-018-000	TAYLOR BRADLEY JOSEPH	804 LEAVENWORTH WAY	MODESTO	CA	95357	\$26.00

ATTACHMENT 2

APN	Owner Name	Property Address	City	State	Zip	2012-2013 Assessment
079-005-019-000	BISHOFF PHYLLIS	808 LEAVENWORTH WAY	MODESTO	CA	95357	\$26.00
079-005-020-000	GROSS THOMAS T	812 LEAVENWORTH WAY	MODESTO	CA	95357	\$26.00
079-005-021-000	EWING MARGARET K & JOHN	816 LEAVENWORTH WAY	MODESTO	CA	95357	\$26.00
079-005-022-000	AMIRAH YOUNBERT B	3908 SHARPSBURG DRIVE	MODESTO	CA	95357	\$26.00
079-005-023-000	DAVISON WAYNE & JO	3912 SHARPSBURG DRIVE	MODESTO	CA	95357	\$26.00
079-005-024-000	HAWIL ALFRED	3916 SHARPSBURG DRIVE	MODESTO	CA	95357	\$26.00
079-005-025-000	PLUMMER THOMAS L & PLUMMER JOANN L	817 LARNED LANE	MODESTO	CA	95357	\$26.00
079-005-026-000	MERCHANT JEANETTE	813 LARNED LANE	MODESTO	CA	95357	\$26.00
079-005-027-000	CHEN GEORGE CHONG IYH & HOLLY YUN YAN	809 LARNED LANE	MODESTO	CA	95357	\$26.00
079-005-028-000	VAN DIEMEN MICHAEL B & LAURI L	805 LARNED LANE	MODESTO	CA	95357	\$26.00
079-005-029-000	LIGHT MARK T	3909 GOODLAND COURT	MODESTO	CA	95357	\$26.00
079-005-030-000	LUCAS THOMAS M III & LUCAS LISA M	3905 GOODLAND COURT	MODESTO	CA	95357	\$26.00
079-005-031-000	BARKLEY JOSEPH E	3900 GOODLAND COURT	MODESTO	CA	95357	\$26.00
079-005-032-000	BROOKS CHARLES A & BROOKS SUSAN D	3904 GOODLAND COURT	MODESTO	CA	95357	\$26.00
079-005-033-000	DEUTSCHE BANK NATIONAL TRUST CO	3908 GOODLAND COURT	MODESTO	CA	95357	\$26.00
079-005-034-000	MORALES SHARON & LUIS	3912 GOODLAND COURT	MODESTO	CA	95357	\$26.00
079-005-035-000	YOUNGER ROGLER & LAURA	3916 GOODLAND COURT	MODESTO	CA	95357	\$26.00
079-005-036-000	COLE TINA M	3920 GOODLAND COURT	MODESTO	CA	95357	\$26.00
079-005-037-000	ALVARADO MARIA D	800 LARNED LANE	MODESTO	CA	95357	\$26.00
079-005-038-000	PALMERIN JOSE DE JESUS	804 LARNED LANE	MODESTO	CA	95357	\$26.00
079-005-039-000	HATTER MICHAEL A & LINDA D	808 LARNED LANE	MODESTO	CA	95357	\$26.00
079-005-040-000	PARKS STEVEN M & BECKY	812 LARNED LANE	MODESTO	CA	95357	\$26.00
079-005-041-000	SEIDLER MICHAEL	816 LARNED LANE	MODESTO	CA	95357	\$26.00
079-005-042-000	MORAD EDMOND & MORAD CARMEN	820 LARNED LANE	MODESTO	CA	95357	\$26.00
079-005-043-000	PULIDO HECTOR E ET AL	824 LARNED LANE	MODESTO	CA	95357	\$26.00
079-006-001-000	WALLACE JOHN W TR	737 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-006-002-000	M & M PROPERTIES INC	741 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-006-003-000	VALLEY PROPERTIES INVESTORS LLC	745 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-006-004-000	CHHIM LIM	749 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-006-005-000	TRIMBLE ANDREW J & TRIMBLE SHERRY L	753 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-006-006-000	ESQUIVEL JAMES P & ESQUIVEL SUZANNE	757 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-006-007-000	FEDERAL NATL MORTGAGE ASSOC	761 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-006-008-000	REYES JIM R & REYES ELLEN S	765 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-006-009-000	CITY OF MODESTO	756 CODDINGTON WAY	MODESTO	CA	95357	\$0.00
079-006-010-000	JOHNSON GERALD L ET AL	752 CODDINGTON WAY	MODESTO	CA	95357	\$26.00
079-006-011-000	BUGARIN LUIS DEL REAL	748 CODDINGTON WAY	MODESTO	CA	95357	\$26.00
079-006-012-000	CAMACHO EFREN ET AL	744 CODDINGTON WAY	MODESTO	CA	95357	\$26.00
079-006-013-000	GARCIA FRANCISCO & YOLANDA	740 CODDINGTON WAY	MODESTO	CA	95357	\$26.00
079-006-014-000	MC CRARY LLOYD U & MC CRARY MARY J	736 CODDINGTON WAY	MODESTO	CA	95357	\$26.00
079-006-015-000	PARKINS HARRY ROBERT TR	732 CODDINGTON WAY	MODESTO	CA	95357	\$26.00
079-006-016-000	TELLEZ MAURICE R & MARGARITA F	728 CODDINGTON WAY	MODESTO	CA	95357	\$26.00
079-006-017-000	TELLEZ MAURICE R & MARGARITA F	724 CODDINGTON WAY	MODESTO	CA	95357	\$26.00
079-006-018-000	SANTOS LUZ MARIA	720 CODDINGTON WAY	MODESTO	CA	95357	\$26.00
079-006-019-000	SANTOS LUZ	716 CODDINGTON WAY	MODESTO	CA	95357	\$26.00
079-006-020-000	PADILLA SALVADOR & PADILLA ANTONIA	712 CODDINGTON WAY	MODESTO	CA	95357	\$26.00
079-006-021-000	MAUCH EVA & LOREN	708 CODDINGTON WAY	MODESTO	CA	95357	\$26.00
079-006-022-000	BAINS GURNAM S & BALVINDER K	704 CODDINGTON WAY	MODESTO	CA	95355	\$26.00
079-006-023-000	LOTKO ANN E	700 CODDINGTON WAY	MODESTO	CA	95357	\$26.00
079-006-024-000	PEREZ JUAN MANUEL & SILVIA PULIDO	640 CODDINGTON WAY	MODESTO	CA	95357	\$26.00
079-006-025-000	RAM RAVI PRAKASH & RAM SANJILA PRAKASH	701 CODDINGTON WAY	MODESTO	CA	95357	\$26.00
079-006-026-000	BANUELOS MARTHA E	705 CODDINGTON WAY	MODESTO	CA	95357	\$26.00
079-006-027-000	LEISHMAN DONALD E & LEISHMAN MARCIA L	709 CODDINGTON WAY	MODESTO	CA	95357	\$26.00
079-006-028-000	CONDER DEBORAH	713 CODDINGTON WAY	MODESTO	CA	95357	\$26.00
079-006-029-000	BRAUN BRANDON	717 CODDINGTON WAY	MODESTO	CA	95357	\$26.00
079-006-030-000	GOMEZ FRANCISCO J & PATRICIA	721 CODDINGTON WAY	MODESTO	CA	95357	\$26.00

ATTACHMENT 2

APN	Owner Name	Property Address	City	State	Zip	2012-2013 Assessment
079-006-031-000	BAINS GURNAM S & BALVINDER K	725 CODINGTON WAY	MODESTO	CA	95357	\$26.00
079-006-032-000	FIGUEROA LUIS E & FIGUEROA ISABEL L	729 CODINGTON WAY	MODESTO	CA	95357	\$26.00
079-006-033-000	CARROLL EDWIN JOSEPH & CONNIE	733 CODINGTON WAY	MODESTO	CA	95357	\$26.00
079-006-034-000	AMBROSICH STEPHEN F	737 CODINGTON WAY	MODESTO	CA	95357	\$26.00
079-006-035-000	ARMENDARIZ DAVID & ARMENDARIZ LORI A	741 CODINGTON WAY	MODESTO	CA	95357	\$26.00
079-006-036-000	GALE MARK D II & DEBRA L TRS	745 CODINGTON WAY	MODESTO	CA	95357	\$26.00
079-006-037-000	SILLEMONT ANTHONY	749 CODINGTON WAY	MODESTO	CA	95357	\$26.00
079-006-038-000	GUZMAN JESUS A	744 CARRBORO LANE	MODESTO	CA	95357	\$26.00
079-006-039-000	LOUCKS DAVID GEORGE & JOSEFA M TRS	740 CARRBORO LANE	MODESTO	CA	95357	\$26.00
079-006-040-000	PATRICK ANTONIO	736 CARRBORO LANE	MODESTO	CA	95357	\$26.00
079-006-041-000	WRIGHT DARREN W & ANGELA M	732 CARRBORO LANE	MODESTO	CA	95357	\$26.00
079-006-042-000	MCE VENTURES LLC	728 CARRBORO LANE	MODESTO	CA	95357	\$26.00
079-006-043-000	DE BERRY GARY L & ALICE A	724 CARRBORO LANE	MODESTO	CA	95357	\$26.00
079-006-044-000	LAMPROE LEONARD C & LAMPROE MARY A	720 CARRBORO LANE	MODESTO	CA	95357	\$26.00
079-006-045-000	GARCIA FELIPE & FLORES BLANCA	716 CARRBORO LANE	MODESTO	CA	95357	\$26.00
079-006-046-000	ODISHO DAVID & ODISHO JULIET	712 CARRBORO LANE	MODESTO	CA	95357	\$26.00
079-006-047-000	WAY DONALD E & TERESA M TRS	708 CARRBORO LANE	MODESTO	CA	95357	\$26.00
079-006-048-000	DAVID VIRGEEN	704 CARRBORO LANE	MODESTO	CA	95357	\$26.00
079-006-049-000	CONN HILARY A & GARY	700 CARRBORO LANE	MODESTO	CA	95357	\$26.00
079-007-001-000	CHOW MINH LU ET AL	729 WADDELL WAY	MODESTO	CA	95354	\$26.00
079-007-002-000	BIBENS ROBERT E TRS & BIBENS JO ANN R	725 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-007-003-000	BROWN JEFF	721 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-007-004-000	RUNYAN JOHN MICHAEL & BRANDY LYNN TRS	717 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-007-005-000	L & D RENTALS LLC	713 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-007-006-000	SWEETEN HAROLD	709 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-007-007-000	SANCHEZ ENRIQUE	705 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-007-008-000	PENIRIAN JODI	701 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-007-009-000	FERNANDEZ RAMIRO & ALMA	669 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-007-010-000	ZAMORA GUILLERMO	665 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-007-011-000	STOLLBERG WILLIAM R & HOAI TRS	661 WADDELL WAY	MODESTO	CA	95354	\$26.00
079-007-012-000	L & D RENTALS LLC	657 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-007-013-000	MCCULLOUGH STACI ET AL	653 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-007-014-000	CHAUVIN GARY & DEBBIE	649 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-007-015-000	MARSELLA BARBARA A	645 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-007-016-000	LIONSGATE INVESTMENTS LLC	641 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-007-017-000	ORR MILDRED M ET AL	648 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-007-018-000	MEYER LISA M	652 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-007-019-000	MENDEZ HILARIO	656 WADDELL WAY	MODESTO	CA	95350	\$26.00
079-007-020-000	SANTOS RICHARD	721 RIEDSVILLE COURT	MODESTO	CA	95357	\$26.00
079-007-021-000	GOOTGELD MARIA	717 RIEDSVILLE COURT	MODESTO	CA	95354	\$26.00
079-007-022-000	OCHOA JOSE G ET AL	713 RIEDSVILLE COURT	MODESTO	CA	95357	\$26.00
079-007-023-000	ACOSTA DAVID ET AL	716 RIEDSVILLE COURT	MODESTO	CA	95357	\$26.00
079-007-024-000	SCHULTZ BRENDA J & RONALD	720 RIEDSVILLE COURT	MODESTO	CA	95357	\$26.00
079-007-025-000	SCALA PAOLO & MEDINA MIRIAM	712 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-007-026-000	JIMENEZ GREGORIO	716 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-007-027-000	MOLES EDWARD A & MOLES SUSAN H	720 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-007-028-000	VALLEY PROPERTY INVESTORS LLC	724 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-007-029-000	TRIMBLE BRENDA E	728 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-007-030-000	POZZOLI JOHN L	732 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-007-031-000	SINGH SURUJ B & SINGH LACHMI BAI	736 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-007-032-000	DE LA TORRE CONRAD M & ROSEMARY H	740 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-007-033-000	MARCIANO ARMANDO D & REMEDIOS R	737 CARRBORO LANE	MODESTO	CA	95357	\$26.00
079-007-034-000	PLACE GREGORY & SHERI L	733 CARRBORO LANE	MODESTO	CA	95357	\$26.00
079-007-035-000	HARAKH DUSTIN L	729 CARRBORO LANE	MODESTO	CA	95357	\$26.00
079-007-036-000	HAM TAMMY J TR	725 CARRBORO LANE	MODESTO	CA	95357	\$26.00

ATTACHMENT 2

APN	Owner Name	Property Address	City	State	Zip	2012-2013 Assessment
079-007-037-000	AYALA ROBERTO DUARTE TRS & AYALA LUCY C	721 CARRBORO LANE	MODESTO	CA	95357	\$26.00
079-007-038-000	NAVARRO RAFAEL	717 CARRBORO LANE	MODESTO	CA	95357	\$26.00
079-007-039-000	HARRISON KAREN S	713 CARRBORO LANE	MODESTO	CA	95357	\$26.00
079-007-040-000	VILLALOVOS YOLANDA & ART R	709 CARRBORO LANE	MODESTO	CA	95357	\$26.00
079-007-041-000	GALLOWAY JACK	700 CHADBURN COURT	MODESTO	CA	95357	\$26.00
079-007-042-000	FEDERAL NATIONAL MORTGAGE ASSN	704 CHADBURN COURT	MODESTO	CA	95357	\$26.00
079-007-043-000	GRIM ROBERT & AMANDA	708 CHADBURN COURT	MODESTO	CA	95357	\$26.00
079-007-044-000	SAMRA GURDIP & PREET	712 CHADBURN COURT	MODESTO	CA	95357	\$26.00
079-007-045-000	STAPF GLENDA	716 CHADBURN COURT	MODESTO	CA	95357	\$26.00
079-007-046-000	SINGH JORAWAR ET AL	720 CHADBURN COURT	MODESTO	CA	95354	\$26.00
079-007-047-000	TRUESDAIL SHELBY J	724 CHADBURN COURT	MODESTO	CA	95357	\$26.00
079-007-048-000	BAHI EILEEN	721 CHADBURN COURT	MODESTO	CA	95354	\$26.00
079-007-049-000	IBARRA JUANA	717 CHADBURN COURT	MODESTO	CA	95357	\$26.00
079-007-050-000	YEFREMENKO ALEKSEY & CANDICE	713 CHADBURN COURT	MODESTO	CA	95357	\$26.00
079-007-051-000	BROOKS HARVEY EARL TR	709 CHADBURN COURT	MODESTO	CA	95357	\$26.00
079-007-052-000	ESTRADA-GAMBOA RAMON	705 CHADBURN COURT	MODESTO	CA	95355	\$26.00
079-007-053-000	SILVEIRA FERNANDA	3725 CREEDMOOR AVENUE	MODESTO	CA	95357	\$26.00
079-007-054-000	BERTRAM ELLEN TR	3721 CREEDMOOR AVENUE	MODESTO	CA	95357	\$26.00
079-007-055-000	PEREZ JOSE P & PEREZ ROSA M	3717 CREEDMOOR AVENUE	MODESTO	CA	95357	\$26.00
079-007-056-000	SKOCHKO KATHLEEN A & SKOCHKO RICHARD A	3713 CREEDMOOR AVENUE	MODESTO	CA	95357	\$26.00
079-007-057-000	DAVIS JAMES R & DAVIS LETECIA B	3709 CREEDMOOR AVENUE	MODESTO	CA	95354	\$26.00
079-008-001-000	BUAYA DAVID S	620 MC CLURE ROAD	MODESTO	CA	95357	\$26.00
079-008-002-000	DANIEL JAMES ET AL	616 MC CLURE ROAD	MODESTO	CA	95357	\$26.00
079-008-003-000	CONCHAS SANDRA H	612 MC CLURE ROAD	MODESTO	CA	95356	\$26.00
079-008-004-000	RENO FRED W	608 MC CLURE ROAD	MODESTO	CA	95354	\$26.00
079-008-005-000	CHAND VIJAY & MATI SOHAN	604 MC CLURE ROAD	MODESTO	CA	95354	\$26.00
079-008-006-000	CHAND VIJAY V ET AL	600 MC CLURE ROAD	MODESTO	CA	95357	\$26.00
079-008-007-000	JACKSON MATTHEW & JACKSON SUZANNA	564 MC CLURE ROAD	MODESTO	CA	95357	\$26.00
079-008-008-000	WARD DONALD G & CARLILE-WARD CARRIE	560 MC CLURE ROAD	MODESTO	CA	95354	\$26.00
079-008-009-000	MOUNDI HARINDER K & GURDIAL SINGH W	556 MC CLURE ROAD	MODESTO	CA	95354	\$26.00
079-008-010-000	BORGES FRANK J	552 MC CLURE ROAD	MODESTO	CA	95357	\$26.00
079-008-011-000	MILLER THOMAS H TR	548 MC CLURE ROAD	MODESTO	CA	95357	\$26.00
079-008-012-000	COLEMAN TERRICA T	544 MC CLURE ROAD	MODESTO	CA	95357	\$26.00
079-008-013-000	MAHARAJ ARNOLD	540 MC CLURE ROAD	MODESTO	CA	95357	\$26.00
079-008-014-000	TAGRE ABEL JOSE & TERRIE MARIE TRS	536 MC CLURE ROAD	MODESTO	CA	95357	\$26.00
079-008-015-000	DECKARD GARY & IVONNE IRMA TRS	501 REDFIELD AVENUE	MODESTO	CA	95357	\$26.00
079-008-016-000	SABLOK SATISH KUMAR & RENUKA DEVI	505 REDFIELD AVENUE	MODESTO	CA	95357	\$26.00
079-008-017-000	PEEK CHARLES & PEEK ADRIENNE	509 REDFIELD AVENUE	MODESTO	CA	95357	\$26.00
079-008-018-000	BERNAL ARMANDO R & BERNAL JACKIE Z	513 REDFIELD AVENUE	MODESTO	CA	95357	\$26.00
079-008-019-000	SHARMA DEO D & UMA L	517 REDFIELD AVENUE	MODESTO	CA	95357	\$26.00
079-008-020-000	CARDOSO JOHN P	521 REDFIELD AVENUE	MODESTO	CA	95357	\$26.00
079-008-021-000	MARQUEZ VICENTE MARTINEZ	525 REDFIELD AVENUE	MODESTO	CA	95357	\$26.00
079-008-022-000	VILLAGE SOLUTIONS FOUNDATION	529 REDFIELD AVENUE	MODESTO	CA	95357	\$26.00
079-008-023-000	TANAKA KIMBERLY	533 REDFIELD AVENUE	MODESTO	CA	95357	\$26.00
079-008-024-000	ISHAYA JACK DAVID TRS & ISHAYA ELISHWA L	601 REDFIELD AVENUE	MODESTO	CA	95357	\$26.00
079-008-025-000	LI YUN TO & LI STELLA	605 REDFIELD AVENUE	MODESTO	CA	95357	\$26.00
079-008-026-000	BETTENCOURT JOHN C TRS ET AL	609 REDFIELD AVENUE	MODESTO	CA	95357	\$26.00
079-008-027-000	KUMAR PRANEEL	613 REDFIELD AVENUE	MODESTO	CA	95357	\$26.00
079-008-028-000	ATHWAL NAVJOT	617 REDFIELD AVENUE	MODESTO	CA	95357	\$26.00
079-008-029-000	MIRELES FRANCISCO SR & MIRELES LAURA	3516 DRY CREEK DRIVE	MODESTO	CA	95357	\$26.00
079-008-030-000	BROWN CAROL C TR	3520 DRY CREEK DRIVE	MODESTO	CA	95357	\$26.00
079-008-031-000	WRIGHT JACQUELINE L TR	3524 DRY CREEK DRIVE	MODESTO	CA	95354	\$26.00
079-008-032-000	JONES CARROLL J JR & JONES BARBARA L	3528 DRY CREEK DRIVE	MODESTO	CA	95357	\$26.00
079-008-033-000	LA MAS MIKE & SHIRLEY LEE TRS	3532 DRY CREEK DRIVE	MODESTO	CA	95357	\$26.00
079-008-034-000	BHATTI BALBIR S & JASVIR K	3536 DRY CREEK DRIVE	MODESTO	CA	95357	\$26.00

ATTACHMENT 2

APN	Owner Name	Property Address	City	State	Zip	2012-2013 Assessment
079-008-035-000	SINGH KULDIP & KOUR JASBIR	3600 DRY CREEK DRIVE	MODESTO	CA	95357	\$26.00
079-008-036-000	EDWARDS ROBERT S IV	3604 DRY CREEK DRIVE	MODESTO	CA	95357	\$26.00
079-008-037-000	ORTIZ MATIAS & ORTIZ JOSEFINA	3608 DRY CREEK DRIVE	MODESTO	CA	95357	\$26.00
079-008-038-000	SULLIVAN MICHAEL I & SANDRA L	3612 DRY CREEK DRIVE	MODESTO	CA	95357	\$26.00
079-008-039-000	CARPENTER WALTON L & CARPENTER TERRAE	3616 DRY CREEK DRIVE	MODESTO	CA	95357	\$26.00
079-008-040-000	ECKLES ROBERT S & ECKLES JULIE L	3620 DRY CREEK DRIVE	MODESTO	CA	95357	\$26.00
079-008-041-000	HENSRUD VICTOR & JENNIFER	3624 DRY CREEK DRIVE	MODESTO	CA	95357	\$26.00
079-008-042-000	MALLEY KATHERINE S	3628 DRY CREEK DRIVE	MODESTO	CA	95357	\$26.00
079-008-043-000	KELLER ALFRED W	3632 DRY CREEK DRIVE	MODESTO	CA	95357	\$26.00
079-008-044-000	DAVIS LUJELLA B & DAVIS WAYNE W	3636 DRY CREEK DRIVE	MODESTO	CA	95357	\$26.00
079-008-045-000	HERNANDEZ FRANK J & DIANA C	3640 DRY CREEK DRIVE	MODESTO	CA	95357	\$26.00
079-008-046-000	STAMPS GENE A & GLORIA M	532 WILMONT LANE	MODESTO	CA	95357	\$26.00
079-008-047-000	JIMENEZ GERARDO	536 WILMONT LANE	MODESTO	CA	95357	\$26.00
079-008-048-000	MATULIS ERIC A	3633 HIGHMORE LANE	MODESTO	CA	95357	\$26.00
079-008-049-000	CHIU JOSEPH C & CHIU HELEN LEE	3629 HIGHMORE LANE	MODESTO	CA	95357	\$26.00
079-008-050-000	FARA AHMED & FARA MUFDHLA	3625 HIGHMORE LANE	MODESTO	CA	95357	\$26.00
079-008-051-000	JAUREGUI HORACIO J & SUSANA	3621 HIGHMORE LANE	MODESTO	CA	95357	\$26.00
079-008-052-000	CISNEROS MARTIN T & CISNEROS MELISSA	3617 HIGHMORE LANE	MODESTO	CA	95357	\$26.00
079-008-053-000	SINGH NARAYAN & SINGH PREM	3613 HIGHMORE LANE	MODESTO	CA	95357	\$26.00
079-008-054-000	WHITAKER SAUDIA F	3609 HIGHMORE LANE	MODESTO	CA	95357	\$26.00
079-008-055-000	PRASAD JACK J & RESHMA D	3605 HIGHMORE LANE	MODESTO	CA	95357	\$26.00
079-008-056-000	GUTIERREZ JESUS & MARIA DE JESUS	3601 HIGHMORE LANE	MODESTO	CA	95357	\$26.00
079-008-057-000	WELLS JEFFREY R & CARRIE H	3533 HIGHMORE LANE	MODESTO	CA	95357	\$26.00
079-008-058-000	POSLANIEC COBY L	3529 HIGHMORE LANE	MODESTO	CA	95357	\$26.00
079-008-059-000	SADA FRED & JACKIE N	3525 HIGHMORE LANE	MODESTO	CA	95357	\$26.00
079-008-060-000	WHITE JOHN I & WHITE MARILYN K	3521 HIGHMORE LANE	MODESTO	CA	95357	\$26.00
079-008-061-000	BASSI JOE & KIRAN TRS	3517 HIGHMORE LANE	MODESTO	CA	95357	\$26.00
079-008-062-000	KOKOLOGIANNAKIS MARTHA TR	3513 HIGHMORE LANE	MODESTO	CA	95357	\$26.00
079-009-003-000	HENRY JILL & MULLINS MARY FRANCES TRS	3629 ARDIA AVENUE	MODESTO	CA	95357	\$26.00
079-009-004-000	POK NAVEEN ET AL	3625 ARDIA AVENUE	MODESTO	CA	95353	\$26.00
079-009-005-000	WRIGHT ROBERT T SR	3621 ARDIA AVENUE	MODESTO	CA	95357	\$26.00
079-009-006-000	DALMAN NINON M	3617 ARDIA AVENUE	MODESTO	CA	95357	\$26.00
079-009-007-000	REDELLE JAMES & JENNIFER	3613 ARDIA AVENUE	MODESTO	CA	95357	\$26.00
079-009-008-000	RUSH ROBERT P SR & PATRICIA L	3609 ARDIA AVENUE	MODESTO	CA	95357	\$26.00
079-009-009-000	REYNOLDS EVA NELL TR	3605 ARDIA AVENUE	MODESTO	CA	95357	\$26.00
079-009-010-000	WILLIAMS DONALD F & DEBORAH A	3601 ARDIA AVENUE	MODESTO	CA	95357	\$26.00
079-009-011-000	NAIRN DENNIS & NAIRN REBECCA	3533 ARDIA AVENUE	MODESTO	CA	95357	\$26.00
079-009-012-000	PERKINS ROBERT	3529 ARDIA AVENUE	MODESTO	CA	95357	\$26.00
079-009-013-000	JOHAL SUKHWINDER KAUR & JASBIR S SINGH	3525 ARDIA AVENUE	MODESTO	CA	95357	\$26.00
079-009-014-000	THANDI H S & S K	3521 ARDIA AVENUE	MODESTO	CA	95357	\$26.00
079-009-015-000	RATTANANAI KAYTHAWEEP	3517 ARDIA AVENUE	MODESTO	CA	95357	\$26.00
079-009-016-000	MARTINEZ TONY R JR	3513 ARDIA AVENUE	MODESTO	CA	95357	\$26.00
079-009-017-000	BILYCIA STEVEN M	3512 BALFOUR LANE	MODESTO	CA	95357	\$26.00
079-009-018-000	GREWAL JASKIRAN	3516 BALFOUR LANE	MODESTO	CA	95357	\$26.00
079-009-019-000	OGDEN ROBERT C & DEBORAH A TRS	3520 BALFOUR LANE	MODESTO	CA	95357	\$26.00
079-009-020-000	FOUNTAIN TIMOTHY J & FOUNTAIN DEBORAH	3524 BALFOUR LANE	MODESTO	CA	95357	\$26.00
079-009-021-000	MILLS AUDREY C	3528 BALFOUR LANE	MODESTO	CA	95357	\$26.00
079-009-022-000	COLLS LUIS R TR	3600 BALFOUR LANE	MODESTO	CA	95357	\$26.00
079-009-023-000	MANRIQUEZ UBALDO & DORA	3604 BALFOUR LANE	MODESTO	CA	95357	\$26.00
079-009-024-000	AMEREL CLEVE & ROSA	3608 BALFOUR LANE	MODESTO	CA	95357	\$26.00
079-009-025-000	MIRALLE GRACE A TR	3612 BALFOUR LANE	MODESTO	CA	95357	\$26.00
079-009-026-000	LEWMAN-KUNKLER BRENDA F TR	3616 BALFOUR LANE	MODESTO	CA	95357	\$26.00
079-009-027-000	HANSEN ERIKA & DAHLIN KEITH R	3620 BALFOUR LANE	MODESTO	CA	95357	\$26.00
079-009-028-000	CHAVEZ ALFONSO & CHAVEZ-GONZALES JUDY	3624 BALFOUR LANE	MODESTO	CA	95357	\$26.00
079-009-029-000	SANCHEZ HUGO & ZENAIDA	3628 BALFOUR LANE	MODESTO	CA	95357	\$26.00

ATTACHMENT 2

APN	Owner Name	Property Address	City	State	Zip	2012-2013 Assessment
079-009-030-000	TOMLINSON MARK S & TOMLINSON JENNIFER	3632 BALFOUR LANE	MODESTO	CA	95357	\$26.00
079-009-031-000	GOVEA PETER C & CAROL M TRS	512 WILMONT LANE	MODESTO	CA	95357	\$26.00
079-009-032-000	SHELTON CHRISTINA D	516 WILMONT LANE	MODESTO	CA	95357	\$26.00
079-009-033-000	FRANCO DANIEL R & TANIA SALIBA	520 WILMONT LANE	MODESTO	CA	95351	\$26.00
079-009-034-000	BARRY MAGED	524 WILMONT LANE	MODESTO	CA	95355	\$26.00
079-009-035-000	BIZZINI KELLY A & BIZZINI SHELLY	528 WILMONT LANE	MODESTO	CA	95357	\$26.00
079-009-036-000	CHEN KOM & SAYKO CHAMNONG	3628 HIGHMORE LANE	MODESTO	CA	95357	\$26.00
079-009-037-000	RAMIREZ JESUS & LORENA	3624 HIGHMORE LANE	MODESTO	CA	95357	\$26.00
079-009-038-000	MARIA LOUISA HUMAN 2010 TRUST	3620 HIGHMORE LANE	MODESTO	CA	95357	\$26.00
079-009-039-000	WILHELM DENNIS & WILHELM JANICE	3616 HIGHMORE LANE	MODESTO	CA	95357	\$26.00
079-009-040-000	ALBARRAN CELIA P ET AL	3612 HIGHMORE LANE	MODESTO	CA	95357	\$26.00
079-009-041-000	VIZCARRA JOSE A	3608 HIGHMORE LANE	MODESTO	CA	95357	\$26.00
079-009-042-000	YAU KING PO & YAU SU AI	3604 HIGHMORE LANE	MODESTO	CA	95357	\$26.00
079-009-043-000	THE BANK OF NEW YORK MELLON TRUSTEE	3600 HIGHMORE LANE	MODESTO	CA	95357	\$26.00
079-009-044-000	CHIU CHARLES	3528 HIGHMORE LANE	MODESTO	CA	95357	\$26.00
079-009-045-000	FORBES DEENA M ET AL	3524 HIGHMORE LANE	MODESTO	CA	95357	\$26.00
079-009-046-000	MINOT SANDRA J & MINOT BRAD	3520 HIGHMORE LANE	MODESTO	CA	95357	\$26.00
079-009-047-000	DUSCHEN ALAN F & DUSCHEN LENNA J	3516 HIGHMORE LANE	MODESTO	CA	95357	\$26.00
079-009-048-000	SPYKSA GLENN D & CARLA	3512 HIGHMORE LANE	MODESTO	CA	95357	\$26.00
079-009-049-000	MAHUSAY SATURNINO & MAHUSAY PATRICIA	3513 BALFOUR LANE	MODESTO	CA	95357	\$26.00
079-009-050-000	REYNOSO SOCORRO GUTIERREZ	3517 BALFOUR LANE	MODESTO	CA	95357	\$26.00
079-009-051-000	BILLKOPF GREGORY E & BILLKOPF LINDA M	3521 BALFOUR LANE	MODESTO	CA	95357	\$26.00
079-009-052-000	PETERSON GAIL W & KAREN TRS	3525 BALFOUR LANE	MODESTO	CA	95357	\$26.00
079-009-053-000	PRAKASH SUSHEEL & DEVI VINITA	3529 BALFOUR LANE	MODESTO	CA	95357	\$26.00
079-009-054-000	OSHANA DOONA	3533 BALFOUR LANE	MODESTO	CA	95357	\$26.00
079-009-055-000	VERSOLA KENNETH & VERSOLA DONNA	3601 BALFOUR LANE	MODESTO	CA	95357	\$26.00
079-009-056-000	MARTINEZ RICHARD A & MARTINEZ MARTHA S	3605 BALFOUR LANE	MODESTO	CA	95357	\$26.00
079-009-057-000	VALADEZ RUBEN & KATHLEEN	3609 BALFOUR LANE	MODESTO	CA	95357	\$26.00
079-009-058-000	HEDRICK KENNETH L & HEDRICK MARGIE	3613 BALFOUR LANE	MODESTO	CA	95357	\$26.00
079-009-059-000	WASPE LAWRENCE E MD	3617 BALFOUR LANE	MODESTO	CA	95357	\$26.00
079-009-060-000	RODRIGUEZ MARIO & RODRIGUEZ SONIA	3621 BALFOUR LANE	MODESTO	CA	95357	\$26.00
079-009-061-000	CISNEROS STEVE P & CISNEROS ELVIRA	3625 BALFOUR LANE	MODESTO	CA	95357	\$26.00
079-009-062-000	MARXMILLER RONALD & MARILEE	3633 ARDIA AVENUE	MODESTO	CA	95357	\$26.00
079-010-001-000	CASTELLANOS ROBERT & MARIA	609 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-010-002-000	CICERO EDWARD FRANCIS JR TR	613 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-010-003-000	RIVERA JESUS & HERMINA	617 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-010-004-000	LEWIS LA VONA L	621 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-010-005-000	MALDONADO LUIS & MALDONADO ERENDIRA	625 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-010-006-000	BETTENCOURT JOHN C ET AL TRS ET AL	629 WADDELL WAY	MODESTO	CA	95351	\$26.00
079-010-007-000	AISPURO ROSALVA P	633 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-010-008-000	HERNANDEZ PONCIANO & CALDERON MARIA	637 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-010-009-000	PRASAD BINESARI & SATYA W	3700 CREEDMOOR AVENUE	MODESTO	CA	95357	\$26.00
079-010-010-000	LERINDEGUI JOYCE C ET AL	3704 CREEDMOOR AVENUE	MODESTO	CA	95357	\$26.00
079-010-011-000	TRIO DONNA M	3708 CREEDMOOR AVENUE	MODESTO	CA	95357	\$26.00
079-010-012-000	PRASAD RAKESH	3712 CREEDMOOR AVENUE	MODESTO	CA	95357	\$26.00
079-010-013-000	ANTONIO MARIA ET AL	3716 CREEDMOOR AVENUE	MODESTO	CA	95357	\$26.00
079-010-014-000	STOCKAND MIMI M	3720 CREEDMOOR AVENUE	MODESTO	CA	95357	\$26.00
079-010-015-000	WATSON THOMAS R & SHARON M	3724 CREEDMOOR AVENUE	MODESTO	CA	95357	\$26.00
079-010-016-000	MAO LEANG & TANG CHIENG ENG	3728 CREEDMOOR AVENUE	MODESTO	CA	95357	\$26.00
079-010-017-000	NELSON RONALD J	3732 CREEDMOOR AVENUE	MODESTO	CA	95357	\$26.00
079-010-018-000	RAMIREZ GABRIELA	3736 CREEDMOOR AVENUE	MODESTO	CA	95357	\$26.00
079-010-019-000	CHESLEY JENNIFER V	3800 CREEDMOOR AVENUE	MODESTO	CA	95357	\$26.00
079-010-020-000	AU-YEUNG CHI & AU-YEUNG TZE HING LAM	3804 CREEDMOOR AVENUE	MODESTO	CA	95357	\$26.00
079-010-021-000	SALDANA BENJAMIN	3808 CREEDMOOR AVENUE	MODESTO	CA	95357	\$26.00
079-010-022-000	VELAZQUEZ RAUL & VELAZQUEZ MARIBEL	3812 CREEDMOOR AVENUE	MODESTO	CA	95357	\$26.00

ATTACHMENT 2

APN	Owner Name	Property Address	City	State	Zip	2012-2013 Assessment
079-010-023-000	HURLEY TERRENCE & PAMELA S	3816 CREEDMOOR AVENUE	MODESTO	CA	95357	\$26.00
079-010-024-000	STEWART ALLAN HENRY ET AL TRS	3900 CREEDMOOR AVENUE	MODESTO	CA	95357	\$26.00
079-010-025-000	JAMES GLORIA R ET AL	3904 CREEDMOOR AVENUE	MODESTO	CA	95357	\$26.00
079-010-026-000	TOOMBS ROBERT D & TOOMBS KIM	3908 CREEDMOOR AVENUE	MODESTO	CA	95357	\$26.00
079-010-027-000	KUMAR ABINESH	3912 CREEDMOOR AVENUE	MODESTO	CA	95357	\$26.00
079-010-028-000	BENNETT DANNY T	3916 CREEDMOOR AVENUE	MODESTO	CA	95357	\$26.00
079-010-029-000	DYRCZ JEFFREY LEE	636 CODINGTON WAY	MODESTO	CA	95357	\$26.00
079-010-030-000	GALIOTO-FISHER LISA M	632 CODINGTON WAY	MODESTO	CA	95357	\$26.00
079-010-031-000	SMITH JUSTIN KEITH	628 CODINGTON WAY	MODESTO	CA	95357	\$26.00
079-010-032-000	LAURANCE MICHAEL E & DEBRA	624 CODINGTON WAY	MODESTO	CA	95357	\$26.00
079-010-033-000	LONERO CHARLES & LONERO ANNA M	620 CODINGTON WAY	MODESTO	CA	95357	\$26.00
079-010-034-000	LOVEALL DENNIS J & TANG JANNY LUJ	3925 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-010-035-000	HALE DENNA M	3921 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-010-036-000	CHARLES TIMOTHY M & CHARLES LISA A	3917 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-010-037-000	GALLEGOS ELIDIA	3913 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-010-038-000	RAMIREZ JUAN J & RAQUEL COSIO	3909 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-010-039-000	PABLA HARJEET SINGH & PABLA JASBEER	3905 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-010-040-000	VHAN SUNILA TR	3901 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-010-041-000	PERA ADRIAN	3825 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-010-042-000	BRESHEARS DONALD K	3821 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-010-043-000	DELGADO MIGUEL	3817 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-010-044-000	HERNANDEZ DANNI LEE	3813 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-010-045-000	HO TONY K & HO CLAIRE	3809 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-010-046-000	CUEVAS JOSE C ET AL	3805 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-010-047-000	ALBARRAN ARUTRO S & ALBARRAN CELIA P	3801 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-010-048-000	GALLO MARTIN & GALLO BEATRIZ	3725 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-010-049-000	SANTOS LUZ MARIA	3721 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-010-050-000	PEREZ JOSE P & ROSA M	3717 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-010-051-000	KUMAR ASHOK	3713 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-010-052-000	MADRIGAL ROBERT	3709 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-010-053-000	GARDALI CHARLES J TR	3705 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-010-054-000	DENEAU JASON & KIMBERLY	3701 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-011-001-000	ADAMS DONALD KENT & HOLLY B	3700 DILLINGHAM AVENUE	MODESTO	CA	95354	\$26.00
079-011-002-000	VARGAS RACHELLE E & VARGAS EDWARD J	3704 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-011-003-000	LIANG JIN & CEN CHUNYAN	3708 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-011-004-000	KOOCHOU NINOUS & DOMARINA	3712 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-011-005-000	YOUNAN MARIAM	3716 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-011-006-000	RODRIGUEZ MARCELINO & RODRIGUEZ ELENA	3720 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-011-007-000	CHUANGS INVESTMENT INC	3724 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-011-008-000	ALVES JASON L	3800 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-011-009-000	WONG SHERRE L TR	3804 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-011-010-000	SAMO LUAY	3808 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-011-011-000	KINGSLEY BRANDON K & AMBER N	3812 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-011-012-000	STILLWELL VINCE & ESCOBAR EVELYN	3816 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-011-013-000	ROWE DANIEL V & ROWE MICHELLE R	3820 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-011-014-000	LOBAO THOMAS A & LOBAO LISA	3824 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-011-015-000	COUTO MANUEL	3900 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-011-016-000	CONTRERAS JAVIER	3904 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-011-017-000	BAKER HAROLD & MELVIARENNA	3908 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-011-018-000	VASQUEZ ROSA & PEDRO	3912 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-011-019-000	BAXTER RACHEL	3916 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-011-020-000	MENDEZ JOSE ALVAREZ & TERESA JESUS	3920 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-011-021-000	SAENGSOORY TONY & SAENGSOORY MARY	3924 DILLINGHAM AVENUE	MODESTO	CA	95357	\$26.00
079-011-022-000	MARQUEZ ELIZABETH K & MARQUEZ RICHARD	616 CODINGTON WAY	MODESTO	CA	95357	\$26.00
079-011-023-000	HAMILTON ROBERT A & HAMILTON KATHLEEN	612 CODINGTON WAY	MODESTO	CA	95357	\$26.00

ATTACHMENT 2

APN	Owner Name	Property Address	City	State	Zip	2012-2013 Assessment
079-011-024-000	REGALADO JUAN ET AL	608 CODINGTON WAY	MODESTO	CA	95357	\$26.00
079-011-025-000	CEJA MIGUEL Y & BEATRICE	604 CODINGTON WAY	MODESTO	CA	95357	\$26.00
079-011-026-000	MORALES STACIE A & KENNETH	600 CODINGTON WAY	MODESTO	CA	95357	\$26.00
079-011-027-000	LEBON FRANCIS LOUIS	3925 ELLENBORO AVENUE	MODESTO	CA	95357	\$26.00
079-011-028-000	NAVARRETE RAY JR	3921 ELLENBORO AVENUE	MODESTO	CA	95357	\$26.00
079-011-029-000	KLINGENBERG E W & KLINGENBERG TERRIE R	3917 ELLENBORO AVENUE-	MODESTO	CA	95357	\$26.00
079-011-030-000	MC KAY JAMES A & MC KAY MARY L	3913 ELLENBORO AVENUE	MODESTO	CA	95357	\$26.00
079-011-031-000	FERNANDEZ ELMA ET AL	3909 ELLENBORO AVENUE	MODESTO	CA	95351	\$26.00
079-011-032-000	BAILEY ELIZABETH M & BAILEY STEVEN R	3905 ELLENBORO AVENUE	MODESTO	CA	95357	\$26.00
079-011-033-000	MANI GYANESH & SHAKUNTALA	3901 ELLENBORO AVENUE	MODESTO	CA	95357	\$26.00
079-011-034-000	LOVE JAMES H & LOVE BRENDA W	3825 ELLENBORO AVENUE	MODESTO	CA	95357	\$26.00
079-011-035-000	LEVCHENKO LAURIE	3821 ELLENBORO AVENUE	MODESTO	CA	95357	\$26.00
079-011-036-000	KIRKBRIDE CHRISTOPHER C ET AL	3817 ELLENBORO AVENUE	MODESTO	CA	95357	\$26.00
079-011-037-000	GARRISON JAMES A TR	3813 ELLENBORO AVENUE	MODESTO	CA	95357	\$26.00
079-011-038-000	GUTIERREZ JOSE E	3809 ELLENBORO AVENUE	MODESTO	CA	95357	\$26.00
079-011-039-000	SLONIKER MARLENE	3805 ELLENBORO AVENUE	MODESTO	CA	95357	\$26.00
079-011-040-000	BANKS TONYA	3801 ELLENBORO AVENUE	MODESTO	CA	95357	\$26.00
079-011-041-000	SANCHEZ DAVID & JENNIFER	3725 ELLENBORO AVENUE	MODESTO	CA	95357	\$26.00
079-011-042-000	MORRIS SAMUEL DAVID ET AL	3721 ELLENBORO AVENUE	MODESTO	CA	95357	\$26.00
079-011-043-000	LOPEZ DIANA MORENO ET AL	3717 ELLENBORO AVENUE	MODESTO	CA	95357	\$26.00
079-011-044-000	KEYGHALDI KARNAVAL & ESTER	3713 ELLENBORO AVENUE	MODESTO	CA	95351	\$26.00
079-011-045-000	COSTA WILMA D	3709 ELLENBORO AVENUE	MODESTO	CA	95357	\$26.00
079-011-046-000	WRUCK JAMES A TR	3705 ELLENBORO AVENUE	MODESTO	CA	95357	\$26.00
079-011-047-000	CHIHIL JOSEPHINE U TR	3701 ELLENBORO AVENUE	MODESTO	CA	95357	\$26.00
079-012-001-000	HONBERGER ROBERT & HONBERGER LISA	541 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-012-002-000	BETYAGHOUB VILHAM & BETYAGHOUB LINDA	545 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-012-003-000	WONG SAI YING & LIXIAN KUANG TRS	549 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-012-004-000	YU BETTY	553 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-012-005-000	CHAND ATISH & REENA	557 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-012-006-000	POULUS MARGARET S ET AL	601 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-012-007-000	MILLER JOSEPH D	3700 ELLENBORO AVENUE	MODESTO	CA	95357	\$26.00
079-012-008-000	DSJM LLC	3704 ELLENBORO AVENUE	MODESTO	CA	95357	\$26.00
079-012-009-000	MATOS BRUNO O & MICHELLE N	3708 ELLENBORO AVENUE	MODESTO	CA	95357	\$26.00
079-012-010-000	KIDD BRIAN & KIDD KIMBERLY	3712 ELLENBORO AVENUE	MODESTO	CA	95357	\$26.00
079-012-011-000	ESTRADA JOSE & ALICIA	3716 ELLENBORO AVENUE	MODESTO	CA	95357	\$26.00
079-012-012-000	SERRANO GUADALUPE & MARIA ELENA	3720 ELLENBORO AVENUE	MODESTO	CA	95357	\$26.00
079-012-013-000	VALENCIA-BOSTIC D NELLY	3724 ELLENBORO AVENUE	MODESTO	CA	95357	\$26.00
079-012-014-000	HUDOCK TERRY J	3800 ELLENBORO AVENUE	MODESTO	CA	95357	\$26.00
079-012-015-000	BLUE MOUNTAIN HOMES LLC	3804 ELLENBORO AVENUE	MODESTO	CA	95357	\$26.00
079-012-016-000	NABER BLAIR ALAN & NABER JUDY LYNN	3808 ELLENBORO AVENUE	MODESTO	CA	95357	\$26.00
079-012-017-000	CHUANG TINA Y	3812 ELLENBORO AVENUE	MODESTO	CA	95357	\$26.00
079-012-018-000	AGAS JANELYN R	3816 ELLENBORO AVENUE	MODESTO	CA	95357	\$26.00
079-012-019-000	MADEROS KATHLEEN J	3820 ELLENBORO AVENUE	MODESTO	CA	95357	\$26.00
079-012-020-000	BRITZKE GARY T & BRITZKE PATRICIA L	3824 ELLENBORO AVENUE	MODESTO	CA	95357	\$26.00
079-012-021-000	PENA BERNIE & PENNA TREANNA	3900 ELLENBORO AVENUE	MODESTO	CA	95357	\$26.00
079-012-022-000	BETTENCOURT JOHN C TRS ET AL	3904 ELLENBORO AVENUE	MODESTO	CA	95357	\$26.00
079-012-023-000	SOLOMON LLOYD R & SOLOMON JEAN M	3908 ELLENBORO AVENUE	MODESTO	CA	95357	\$26.00
079-012-024-000	DILLON JOHN E & CAMMY A	3912 ELLENBORO AVENUE	MODESTO	CA	95357	\$26.00
079-012-025-000	RODRIGUEZ ALFONSO	3916 ELLENBORO AVENUE	MODESTO	CA	95357	\$26.00
079-012-026-000	FILICELLI ANTHONY J & FILICELLI ELIZABETH	3920 ELLENBORO AVENUE	MODESTO	CA	95357	\$26.00
079-012-027-000	MATA JUAN W ETA L	3924 ELLENBORO AVENUE	MODESTO	CA	95357	\$26.00
079-012-028-000	ROACH ERIC M & ROACH NANETTE C	556 CODINGTON WAY	MODESTO	CA	95357	\$26.00
079-012-029-000	AUSTIN BEVERLY	552 CODINGTON WAY	MODESTO	CA	95357	\$26.00
079-012-030-000	MCE VENTURES LLC	548 CODINGTON WAY	MODESTO	CA	95350	\$26.00
079-012-031-000	ADNEY TAMMY M	544 CODINGTON WAY	MODESTO	CA	95357	\$26.00

ATTACHMENT 2

APN	Owner Name	Property Address	City	State	Zip	2012-2013 Assessment
079-012-032-000	KHAMPHILAVONG VILAYPHONE ET AL	540 CODINGTON WAY	MODESTO	CA	95357	\$26.00
079-012-033-000	HEWITT RACHEL TR	3925 GATESVILLE AVENUE	MODESTO	CA	95357	\$26.00
079-012-034-000	TAYLOR ANTHONY M & TAYLOR MARY L	3921 GATESVILLE AVENUE	MODESTO	CA	95354	\$26.00
079-012-035-000	RATANA KAM & RATANA TIMOTHY	3917 GATESVILLE AVENUE	MODESTO	CA	95357	\$26.00
079-012-036-000	SORIA RUBEN & SORIA GLORIA L	3913 GATESVILLE AVENUE	MODESTO	CA	95357	\$26.00
079-012-037-000	CHENG WILLIAM D	3909 GATESVILLE AVENUE	MODESTO	CA	95357	\$26.00
079-012-038-000	TORRES VICOTR MANUEL & PANTOJA MARIA	3905 GATESVILLE AVENUE	MODESTO	CA	95357	\$26.00
079-012-039-000	PARSONS NANCY M	3901 GATESVILLE AVENUE	MODESTO	CA	95357	\$26.00
079-012-040-000	VOQUY HIEP & PHAN LIEN TRS	3825 GATESVILLE AVENUE	MODESTO	CA	95357	\$26.00
079-012-041-000	TUERS TERRY B & TUERS LENORE L	3821 GATESVILLE AVENUE	MODESTO	CA	95357	\$26.00
079-012-042-000	KINNE DONNELLY & SUSAN N TRS	3817 GATESVILLE AVENUE	MODESTO	CA	95357	\$26.00
079-012-043-000	CAMPIOTTI EDWARD L & CAMPIOTTI DIANA L	3813 GATESVILLE AVENUE	MODESTO	CA	95357	\$26.00
079-012-044-000	BUSH CHARLES F & BUSH DONNA L	3809 GATESVILLE AVENUE	MODESTO	CA	95357	\$26.00
079-012-045-000	NYGAARD LEROY A TRS & NYGAARD VERNA F	3805 GATESVILLE AVENUE	MODESTO	CA	95357	\$26.00
079-012-046-000	ODISHO CATHERINE	3801 GATESVILLE AVENUE	MODESTO	CA	95357	\$26.00
079-012-047-000	SHEPHERD JUSTIN	3725 GATESVILLE AVENUE	MODESTO	CA	95357	\$26.00
079-012-048-000	BARTHOLOMEW RUSSELL RAY	3721 GATESVILLE AVENUE	MODESTO	CA	95357	\$26.00
079-012-049-000	RUSSELL GARRICK	3717 GATESVILLE AVENUE	MODESTO	CA	95357	\$26.00
079-012-050-000	JENSEN STEVEN H & TONJA R	3713 GATESVILLE AVENUE	MODESTO	CA	95357	\$26.00
079-012-051-000	PATEL JAGUBHAI & PATEL GANGABEN	3709 GATESVILLE AVENUE	MODESTO	CA	95357	\$26.00
079-012-052-000	NELSON LESTER J & NELSON CRESENCIA	3705 GATESVILLE AVENUE	MODESTO	CA	95326	\$26.00
079-012-053-000	MUTOZA CRAIG J	3701 GATESVILLE AVENUE	MODESTO	CA	95357	\$26.00
079-013-001-000	DAVIS KURT ROBERT	521 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-013-002-000	VARGAS EDWARD & VARGAS RACHELLE	525 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-013-003-000	ROCHA JOHN DANIEL & ROCHA DIANNE MARIE	529 WADDELL WAY	MODESTO	CA	95354	\$26.00
079-013-004-000	VANDERHEIDEN ROBIN	533 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-013-005-000	CORREA ARMANDO JR	537 WADDELL WAY	MODESTO	CA	95356	\$26.00
079-013-006-000	VALLADOLID YESENIA	3700 GATESVILLE AVENUE	MODESTO	CA	95357	\$26.00
079-013-007-000	FORD MARK T & FORD DEBORAH E	3704 GATESVILLE AVENUE	MODESTO	CA	95357	\$26.00
079-013-008-000	GOUVEIA JOHN E & GOUVEIA TERRE L	3708 GATESVILLE AVENUE	MODESTO	CA	95357	\$26.00
079-013-009-000	DELEMOS ALBINA	3712 GATESVILLE AVENUE	MODESTO	CA	95357	\$26.00
079-013-010-000	NEPTUNE DENNIS W & NEPTUNE KATHERINE	3716 GATESVILLE AVENUE	MODESTO	CA	95357	\$26.00
079-013-011-000	AYALA DIEGO ADRIAN ET AL	3720 GATESVILLE AVENUE	MODESTO	CA	95357	\$26.00
079-013-012-000	ASHFORD PATRICIA JOANN TR	3724 GATESVILLE AVENUE	MODESTO	CA	95357	\$26.00
079-013-013-000	MARTINEZ PEDRO & IRMA	3800 GATESVILLE AVENUE	MODESTO	CA	95357	\$26.00
079-013-014-000	CURTIS ROCHELLE	3804 GATESVILLE AVENUE	MODESTO	CA	95357	\$26.00
079-013-015-000	HAYNES ERIC L	3808 GATESVILLE AVENUE	MODESTO	CA	95357	\$26.00
079-013-016-000	PARKINSON MARK & DIANE	3812 GATESVILLE AVENUE	MODESTO	CA	95357	\$26.00
079-013-017-000	BROWN WILLIAM K & BROWN SHAMIRAN	3816 GATESVILLE AVENUE	MODESTO	CA	95357	\$26.00
079-013-018-000	OXFORD DAVID C JR & JUDY D	3820 GATESVILLE AVENUE	MODESTO	CA	95357	\$26.00
079-013-019-000	YANG VANG Y	3824 GATESVILLE AVENUE	MODESTO	CA	95357	\$26.00
079-013-020-000	ASCH ALEXIS	3900 GATESVILLE AVENUE	MODESTO	CA	95357	\$26.00
079-013-021-000	ROUNGREUANG BOUNLONG	3904 GATESVILLE AVENUE	MODESTO	CA	95357	\$26.00
079-013-022-000	GRISHAM KEVIN ET AL	3908 GATESVILLE AVENUE	MODESTO	CA	95357	\$26.00
079-013-023-000	MENDEZ HECTOR & ALBA C	3912 GATESVILLE AVENUE	MODESTO	CA	95357	\$26.00
079-013-024-000	JOLLIFF GARTH & KATHERINE	3916 GATESVILLE AVENUE	MODESTO	CA	95357	\$26.00
079-013-025-000	BAXTER RACHEL A	3920 GATESVILLE AVENUE	MODESTO	CA	95357	\$26.00
079-013-026-000	SAMI PRANESH	3924 GATESVILLE AVENUE	MODESTO	CA	95357	\$26.00
079-013-027-000	RODRIGUEZ REYES & MARIA C	536 CODINGTON WAY	MODESTO	CA	95357	\$26.00
079-013-028-000	USSERY CAROL D	532 CODINGTON WAY	MODESTO	CA	95350	\$26.00
079-013-029-000	ZAVALA CLEMENTE JR & ZAVALA IRMA	528 CODINGTON WAY	MODESTO	CA	95357	\$26.00
079-013-030-000	SERRANO GUILLERMO C	524 CODINGTON WAY	MODESTO	CA	95357	\$26.00
079-013-031-000	MIRANDA SERGIO	520 CODINGTON WAY	MODESTO	CA	95357	\$26.00
079-013-032-000	ORTIZ-EDWARDS SARAH	3925 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00
079-013-033-000	CAMPBELL LISA R	3921 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00

ATTACHMENT 2

APN	Owner Name	Property Address	City	State	Zip	2012-2013 Assessment
079-013-034-000	RODRIGUEZ MANUEL & MARIA E TRS	3917 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00
079-013-035-000	BASYE JONATHAN M & PAMELA LYN	3913 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00
079-013-036-000	SUPNET BRANDI	3909 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00
079-013-037-000	SHAMESALDIN JOHNNY K & MUNA M	3905 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00
079-013-038-000	JOSEPHSON JOSEPH A & JOSEPHSON STACEY	3901 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00
079-013-039-000	RAMIREZ JACOB & ARACELI	3825 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00
079-013-040-000	PENN KRYSSTLE	3821 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00
079-013-041-000	HERNANDEZ SALVADOR M & NILDA M	3817 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00
079-013-042-000	WHITEAKER JEREMY STEPHEN & APRIL MARIA	3813 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00
079-013-043-000	DASHER LLC	3809 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00
079-013-044-000	ATHNEIL GEORGE K & ATHNEIL INAAM M	3805 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00
079-013-045-000	FEDERAL NATIONAL MORTGAGE ASSN	3801 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00
079-013-046-000	DUNN JAY ALAN	3725 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00
079-013-047-000	HENRY JILL	3721 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00
079-013-048-000	TAYLOR CHRIS B	3717 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00
079-013-049-000	SABINIANO MARLON N ET AL	3713 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00
079-013-050-000	CAPUTO DONALD E & LYNDA BINGHAM TRS	3709 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00
079-013-051-000	SMITH STEVEN J & SMITH AIDA L	3705 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00
079-013-052-000	LOPEZ MARIO & LUZ ELVIRA	3701 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00
079-014-001-000	GARCIA MIGUEL & GARCIA MARIA	449 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-014-002-000	PHONGPHAYCHIT BANDITH	501 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-014-003-000	OSHANA OSHANA & OSHANA MARGRIT	505 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-014-004-000	WILSON KELLIE & RYAN CHRISTOPHER	509 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-014-005-000	NOUN SAMNANG	513 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-014-006-000	BAILEY DOROTHY E TR	517 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-014-007-000	AUSTIN CATHERINE A	3700 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00
079-014-008-000	HEATH DOUGLAS M & LE-HEATH TRANG T	3704 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00
079-014-009-000	MILTON JEANNIE	3708 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00
079-014-010-000	CASTRO GREGORY ALAN & BARBARA LYNN TRS	3712 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00
079-014-011-000	DIXON GARY W	3716 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00
079-014-012-000	MCE VENTURES LLC	3720 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00
079-014-013-000	WARNER JO ANNE	3724 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00
079-014-014-000	GARCIA THERESA L	3800 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00
079-014-015-000	NUNEZ CLAUDIA	3804 LAURENBURG AVENUE	MODESTO	CA	95354	\$26.00
079-014-016-000	LORUSSO DION RAMON & OLIVERA TRS	3808 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00
079-014-017-000	FIELD JAMES D & FIELD ALICIA L	3812 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00
079-014-018-000	RIVERA DAFNI M	3816 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00
079-014-019-000	HUYNH NGOC D	3820 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00
079-014-020-000	CASTANEDA JOSE J & MARGARET	3824 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00
079-014-021-000	GUZMAN MIRIAM & FLORES MARTIN	3900 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00
079-014-022-000	GANN CHRISTOPHER	3904 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00
079-014-023-000	TORRES JOSE DE JESUS & TORRES MARIA	3908 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00
079-014-024-000	HO KAI-YIN	3912 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00
079-014-025-000	SINHA NAVIN & SINGH PRITI P	3916 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00
079-014-026-000	CHRISTIAN RICHARD D & DIANE L TRS	3920 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00
079-014-027-000	MATA JOHN & BACA CHRISTINA TRS	3924 LAURENBURG AVENUE	MODESTO	CA	95357	\$26.00
079-014-028-000	PIERCE FRANKLIN C & JODI L	516 CODINGTON WAY	MODESTO	CA	95357	\$26.00
079-014-029-000	PRASAD SURESH & PRASAD MUNI L	512 CODINGTON WAY	MODESTO	CA	95357	\$26.00
079-014-030-000	CASTELLANOS RIGOBERTO	508 CODINGTON WAY	MODESTO	CA	95357	\$26.00
079-014-031-000	MILLER NATHALIE	504 CODINGTON WAY	MODESTO	CA	95357	\$26.00
079-014-032-000	ROCHA SERAPIO & MARIA	500 CODINGTON WAY	MODESTO	CA	95357	\$26.00
079-014-033-000	ATWOOD BOBBY D	3925 WILKESBORO AVENUE	MODESTO	CA	95357	\$26.00
079-014-034-000	BEST JERROLIN E	3921 WILKESBORO AVENUE	MODESTO	CA	95357	\$26.00
079-014-035-000	WELDON AMBERLY B	3917 WILKESBORO AVENUE	MODESTO	CA	95357	\$26.00
079-014-036-000	KRAUT JOSHUA J ET AL	3913 WILKESBORO AVENUE	MODESTO	CA	95357	\$26.00

ATTACHMENT 2

APN	Owner Name	Property Address	City	State	Zip	2012-2013 Assessment
079-014-037-000	COX KATHERINE & ADAMS JOSH	3909 WILKESBORO AVENUE	MODESTO	CA	95357	\$26.00
079-014-038-000	TRAN TRUNG V ET AL	3905 WILKESBORO AVENUE	MODESTO	CA	95357	\$26.00
079-014-039-000	ZIA JOHNNY B & MARGRAIT S TRS	3901 WILKESBORO AVENUE	MODESTO	CA	95357	\$26.00
079-014-040-000	YOUNG HOLLY M ET AL	3825 WILKESBORO AVENUE	MODESTO	CA	95357	\$26.00
079-014-041-000	FAMA JOSELITO & FAMA DORDTEA	3821 WILKESBORO AVENUE	MODESTO	CA	95357	\$26.00
079-014-042-000	CICERO THEODORE JR & CAROL	3817 WILKESBORO AVENUE	MODESTO	CA	95357	\$26.00
079-014-043-000	CABRERA THOMAS & CABRERA JANET S L	3813 WILKESBORO AVENUE	MODESTO	CA	95357	\$26.00
079-014-044-000	RIVERA LOUIS S & LOUELLA J TRS	3809 WILKESBORO AVENUE	MODESTO	CA	95357	\$26.00
079-014-045-000	WASHBURN JUSTIN ET AL	3805 WILKESBORO AVENUE	MODESTO	CA	95357	\$26.00
079-014-046-000	MCNARRY MICHAEL P & ASHLEY A	3801 WILKESBORO AVENUE	MODESTO	CA	95357	\$26.00
079-014-047-000	SKARIA JOSEPH & JOSEPHINE	3725 WILKESBORO AVENUE	MODESTO	CA	95357	\$26.00
079-014-048-000	BAINS SARVSATINDER ET AL	3721 WILKESBORO AVENUE	MODESTO	CA	95357	\$26.00
079-014-049-000	BOUCHER GARY C & BOUCHER DENISE K	3717 WILKESBORO AVENUE	MODESTO	CA	95357	\$26.00
079-014-050-000	POWLEY ANAMARIA	3713 WILKESBORO AVENUE	MODESTO	CA	95357	\$26.00
079-014-051-000	PRASAD GEORGE & PRASAD LALITA	3709 WILKESBORO AVENUE	MODESTO	CA	95357	\$26.00
079-014-052-000	FOSTER JAMES R	3705 WILKESBORO AVENUE	MODESTO	CA	95357	\$26.00
079-014-053-000	BENJAMIN LINDA & EUGENE	3701 WILKESBORO AVENUE	MODESTO	CA	95357	\$26.00
079-015-001-000	EMPIRE UNION SCHOOL DISTRICT	512 N. MC CLURE ROAD	MODESTO	CA	95357	\$0.00
079-015-002-000	CITY OF MODESTO	MECHALYS WAY	MODESTO	CA	95353	\$0.00
079-016-001-000	MY COMMUNITY LLC ET AL	440 WADDELL WAY	MODESTO	CA	95357	\$26.00
079-016-002-000	WELLS FARGO BANK NA TRUSTEE	3704 WILKESBORO AVENUE	MODESTO	CA	95357	\$26.00
079-016-003-000	BARNES REECE WAYNE	3708 WILKESBORO AVENUE	MODESTO	CA	95357	\$26.00
079-016-004-000	BIERMAN ALLEN	3712 WILKESBORO AVENUE	MODESTO	CA	95357	\$26.00
079-016-005-000	PRASAD VIJAY	3716 WILKESBORO AVENUE	MODESTO	CA	95357	\$26.00
079-016-006-000	GONZALEZ JOSE	3720 WILKESBORO AVENUE	MODESTO	CA	95357	\$26.00
079-016-007-000	YUMANG ELADIO M JR	3800 WILKESBORO AVENUE	MODESTO	CA	95357	\$26.00
079-016-008-000	HOECHSTENBACH DONALD E	3804 WILKESBORO AVENUE	MODESTO	CA	95357	\$26.00
079-016-009-000	CANCINO DANIEL DISU & FEDERICA BERNARTE	3808 WILKESBORO AVENUE	MODESTO	CA	95354	\$26.00
079-016-010-000	ROSALES JOSE L & FRANCO MARIA T	3812 WILKESBORO AVENUE	MODESTO	CA	95357	\$26.00
079-016-011-000	STINHILVER WILLARD & STINHILVER MARLENE	3816 WILKESBORO AVENUE	MODESTO	CA	95357	\$26.00
079-016-012-000	MAREK BETTY J ET AL	3820 WILKESBORO AVENUE	MODESTO	CA	95357	\$26.00
079-016-013-000	DALMACEDA MAJORIE	3824 WILKESBORO AVENUE	MODESTO	CA	95357	\$26.00
079-016-014-000	HSBC BANK USA N A TRUSTEE	3900 WILKESBORO AVENUE	MODESTO	CA	95357	\$26.00
079-016-015-000	OU KANG YE & LIANG LIZHEN	3904 WILKESBORO AVENUE	MODESTO	CA	95354	\$26.00
079-016-016-000	REED EARNEST JR	3908 WILKESBORO AVENUE	MODESTO	CA	95357	\$26.00
079-016-017-000	MANSOUR ALEN M	3912 WILKESBORO AVENUE	MODESTO	CA	95357	\$26.00
079-016-018-000	EASTHAM GLENDA S	3916 WILKESBORO AVENUE	MODESTO	CA	95357	\$26.00
079-016-019-000	GERSON COREY	3920 WILKESBORO AVENUE	MODESTO	CA	95357	\$26.00
079-016-020-000	SOLORIO SAMMY & MARIA L	3924 WILKESBORO AVENUE	MODESTO	CA	95357	\$26.00
079-016-021-000	SINGH AACHAL & AJESH	440 CODINGTON WAY	MODESTO	CA	95357	\$26.00
079-016-022-000	LOPEZ ADRIAN	436 CODINGTON WAY	MODESTO	CA	95357	\$26.00

THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-317**

A RESOLUTION CONFIRMING THE FISCAL YEAR 2012-2013 DIAGRAM AND ASSESSMENT, AND ORDERING THE LEVY AND COLLECTION OF CHARGES WITHIN LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 7-10, CREEKWOOD MEADOWS SUBDIVISION AND YOSEMITE MEADOWS SUBDIVISION UNITS 1 & 2

WHEREAS, on June 12, 2012, the City Council, by Resolution No. 2012-230, declared its intent to levy charges or assessments for the purpose of administering the maintenance of landscaping in the public right-of-way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 7-10, Creekwood Meadows Subdivisions, and Yosemite Meadows Subdivision Units 1 and 2 under the provisions of California Streets and Highways Code Sections 22500 through 22679, more commonly known as the Landscape and Lighting Act of 1972, and

WHEREAS, the charges against the real property are not levied with regard to property values but rather by allocated cost reports prepared by the Engineer of Work, and

WHEREAS, the City of Modesto has determined and certifies that the charges are either exempt from or in compliance with all the provisions of Proposition 218, which was passed by the voters in November 1996. The City of Modesto has further determined the charges are in compliance with all laws pertaining to the levy of such charges,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby orders the levy and collection of such charges within City of Modesto Landscape Maintenance Assessment District No. 2 for Dry Creek Meadows Subdivisions

Nos. 7-10, Creekwood Meadows Subdivisions, and Yosemite Meadows Subdivision Units 1 and 2 for Fiscal Year 2012-2013, and in each subsequent fiscal year in which the charges may validly be levied.

BE IT FURTHER RESOLVED that a certified copy of this resolution and **attached** documentation shall be delivered to the Auditor-Controller of the County of Stanislaus for placement of such charges on the 2012-2013 County Tax Roll, and in each subsequent fiscal year in which the charges may validly be levied.

BE IT FURTHER RESOLVED that the diagram of said assessment district and amount of levy thereon is hereby confirmed.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Modesto held on the 8th day of August, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

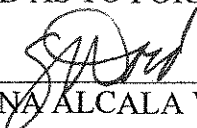
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney



MODESTO
CALIFORNIA

City of Modesto
LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT No. 2

◆ DRY CREEK MEADOWS SUBDIVISIONS Nos. 7 through 10 ◆

◆ CREEKWOOD MEADOWS SUBDIVISION ◆

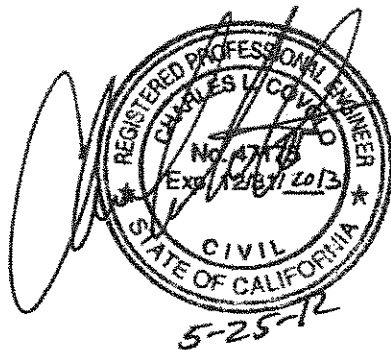
◆ YOSEMITE MEADOWS SUBDIVISION UNITS 1 & 2 ◆

*A Landscape Maintenance Assessment District pursuant
to the Landscape and Lighting Act of 1972*

ENGINEER'S ANNUAL REPORT

FISCAL YEAR

JULY 1, 2012 - JUNE 30, 2013



Prepared By:

Tina Rocha, IFP Administrator

Certified By:

Charles Covolo, Senior Civil Engineer

Accepted By Motion:

Modesto City Council -

ATTACHMENT 2

TABLE OF CONTENTS

<u>SECTION</u>	<u>TITLE</u>
I.	History
II.	Annual Assessment Review & Summary
III.	Financials – Annual Assessment Revenue & Maintenance Expense Projections
IV.	Maintenance & Plan Specifications
V.	Annual Assessment District Diagram
VI.	Annual Assessment List by Parcel & Property Owner

SECTION I HISTORY

On April 4, 1989, Landscape Maintenance Assessment District No. 2 ("LMAD No. 2") was formed in accordance with the Landscape and Lighting Act of 1972 (California Streets and Highway Code §22500 through §22679) ("the Act") to administer the maintenance of landscaping in the public right-of-way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 7-10, Creekwood Meadows Subdivision, and Yosemite Meadows Subdivision Units 1 and 2. All costs for the LMAD No. 2 are funded by the annual assessments levied on each property within the district. The Act requires several courses of action on the part of City staff and City Council prior to August 10th of each year.

The Act initially requires the City Council to order, prepare, and file an Engineer's Annual Report for the City Council. This report is prepared for the purpose of detailing the plans and specifications for the maintenance of work, the estimates of costs for landscape maintenance performed by the City Contractor, utility service charges, City street tree pruning costs, City staff time to administer the maintenance contract, and additional work to be performed by the City Contractor at the request of the City.

Prompted by negative reserve balances in LMAD No. 2, staff successfully completed a Proposition 218 ballot in June 2000. This ballot added an annual cost of living increase based on the Building Cost Index ("BCI"). As a result of this ballot, the approved "inflater" adjusts each year's assessment. California Government Code §54954.6(a) and (c) requires that a notice be mailed no less than 45 days in advance of the public hearing to all property owners if costs will increase.

Upon City Council's approval of the Engineer's Annual Report, the City Council adopts a resolution declaring its intent to levy and collect assessments within LMAD No. 2 for the following fiscal year and schedules a public hearing. This public hearing and proposed resolution levying the proposed assessments is in accordance with the annual assessment procedures.

Finally, in compliance with the Act, the City Council conducts the public hearing and adopts certain resolutions in accordance with the California Streets and Highways Code §22625 through 22641. The City Clerk is required to give the Modesto Bee notice of the public hearing no less than 10 days prior to the scheduled hearing date. All interested persons are afforded the opportunity to be heard during the public hearing. Should there be any protests, whether written or oral, the City Council may choose to continue the hearing to a later date and/or may change any part of the Engineer's Annual Report to address the concerns of the property owner(s). The adopted resolution is then forwarded to the Auditor-Controller of the County of Stanislaus for placement of such charges on the upcoming year's County Tax Roll.

ATTACHMENT 2

Proposed Changes for Fiscal Year 2012-2013:

The proposed budget for fiscal year 2012-2013 is based on the revenue that is currently able to be generated within LMAD No. 2. These expenditures do not represent the actual amount needed for a good service level within LMAD No. 2. City staff has heard from many area residents that they desire a higher level maintenance than is currently provided. The City contracted with Willdan Financial Services, Inc. ("Willdan") to perform a thorough evaluation of both LMAD No. 2 and neighboring Landscape and Maintenance Assessment District No. 1. For economy and efficiency reasons, Willdan has recommended and the City has pursued consolidation of the LMADs. Additionally, Willdan has developed a budget option that provides the residents of both LMADs an opportunity to vote on combining the LMADS and increasing their annual assessments. The increased annual assessments will allow a higher maintenance standard to be provided.

A separate City Council action is being processed concurrently to move forward with consolidation of the LMADs and allows the residents to vote on the consolidation and increase in the annual assessment. In the event the consolidation and increase are defeated, the existing LMAD assessments, as determined in this report, will be levied and current maintenance levels will continue.

SECTION II ANNUAL ASSESSMENT REVIEW AND SUMMARY

A. PARCEL REVIEW

Total Acreage:	135.20 Acres
Total Assessed Acreage	134.173 Acres
1. Single-Family Residential:	116.073 acres (590 Parcels)
2. Commercial	18.100 acres(18 Parcels)
3. Publicly- Owned	1.027 acres (2 Parcels)
a) One (1) parcel owned by the City of Modesto (0.03 acres) which is utilized as a traffic island.	
b) One (1) parcel owned by the Empire School District (1.0 acres) which is utilized as its District Offices.	

According to the Section 22663 of the California Streets and Highways Code, public property owned by any public agency and in use in the performance of a public function shall not be subject to assessment.

B. ANNUAL ASSESSMENTS

Each parcel receives equal benefits from LMAD No. 2. The annual assessment levied is calculated by dividing the total cost estimate by the total number of acres.

1. The single-family residential properties are levied on a flat rate, which is calculated by dividing the total cost estimate by the number of residential acres and subsequently by the total number of residential parcels.
2. Commercial properties are levied based on actual acreage.

The annual assessment is adjusted annually according to the BCI for the San Francisco Bay Area, as reported in the Engineer News Record the first week of March. The inflationary adjustment is applied when the district has minimal or negative reserves to offset the total cost estimates for the upcoming fiscal year. The increase for fiscal year 2012-2013 is 2.69263015% (March 12, 2012 BCI = 5144.49 divided by March 7, 2011 BCI = 5009.6). It should be noted that due to the unavailability of the BCI for the first week of March 2012, the second week reporting (March 12, 2012) was utilized.

ATTACHMENT 2

The total annual assessment for LMAD No. 2 for Fiscal Year 2012-2013 is \$18,746.70. (Fiscal Year 2011-2012 assessment \$18,255.16 x.69263015%).

C. PROJECTED ANNUAL ASSESSMENT SUMMARY

1. Single-Family Residential Annual Assessment – 590 Parcels

\$18,746.70	Annual Assessment for fiscal year 2012-2013
÷ 134.173	Total assessed acres
\$139.72	Annual assessment per acre
\$139.72	Annual assessment per Acre
x 116.073	Residential acres
\$16,217.72	Total residential annual assessment
\$16,217.72	Total residential annual assessment
÷ 590	# Parcels
\$27.48766*	Total residential annual assessment/parcel

* For levying purposes, the total annual assessment has been rounded down to \$27.48 per residential parcel for a total annual residential assessment of \$16,213.20

2. Commercial Annual Assessment – 18 Parcels

APN	Acres	\$/Acre	Fiscal Year 2012-2013 Annual Assessment*
079-025-005	0.495	\$139.72	\$69.86
079-025-011	1.370	\$139.72	\$191.42
079-025-015	0.011	\$139.72	\$1.56
079-025-017	0.630	\$139.72	\$88.04
079-025-018	0.530	\$139.72	\$74.08
079-025-019	0.660	\$139.72	\$92.24
079-025-020	2.620	\$139.72	\$366.06
079-026-005	0.595	\$139.72	\$83.84
079-026-006	0.215	\$139.72	\$30.74
079-026-007	0.195	\$139.72	\$27.94
079-026-008	1.538	\$139.72	\$214.90
079-026-009	0.251	\$139.72	\$35.06
079-026-010	0.275	\$139.72	\$38.42
079-026-011	0.298	\$139.72	\$41.64
079-026-012	0.289	\$139.72	\$40.38
079-026-013	6.270	\$139.72	\$876.04
079-026-014	1.360	\$139.72	\$190.02
079-027-097	0.498	\$139.72	\$69.86

* For levying purposes, the total annual assessment for all eighteen (18) commercial parcels has been rounded up slightly from \$2,528.93 to \$2,533.50. The \$4.57 difference has been allocated to the commercial parcels.

ATTACHMENT 2

D. COMPARISON TO PREVIOUS FISCAL YEAR

The proposed 2012-2013 annual assessment for single-family residential parcels has increased from \$26.72 to \$27.48 per parcel. The proposed 2012-2013 annual assessment for commercial parcels has increased from \$136.05 to \$139.72 per acre.

ATTACHMENT 2

SECTION 3 FINANCIALS – ANNUAL ASSESSMENT REVENUE & EXPENSE PROJECTIONS

LMAD #2 Fund 6490		Estimated FY 2011-12 ¹	Proposed FY 2012-13 ²
Beginning Fund Balance		\$ 15,242	\$ 4,959
Revenue (Cost Center 80020)			
Special Assessments		\$ 17,770	\$ 18,747
Interest		\$ 15	\$ -
Total Revenue		\$ 17,785	\$ 18,747
Expenses (Cost Center 80020)			
<i>Operating Budget</i>			
	Account		
Postage	52025	\$ -	\$ (200)
Water Utility Expenses	53043	\$ (1,563)	\$ (2,800)
Rental of Photocopy Service Supply	53073	\$ -	\$ (50)
Repair and Maintenance Services	53165	\$ (11,939)	\$ (13,000)
Professional Services	53300	\$ (4,250)	\$ (2,500)
Services City Forces	54500	\$ (2,136)	\$ (4,000)
Miscellaneous Services	54900	\$ (30)	
ISF - Mail Services - Inside	58010	\$ (400)	\$ (342)
<i>Estimated - Water Utility Expenses</i>	53043	\$ (250)	
<i>Estimated - Repair and Maintenance Services</i>	53165	\$ (3,000)	
<i>Estimated - Professional Services</i>	53300	\$ (4,000)	
<i>Estimated - Services City Forces</i>	54500	\$ (500)	
Total Expenses		\$ (28,068)	\$ (22,892)
Ending Fund Balance		\$ 4,959	\$ 813

Footnotes:

¹The estimated amount shows what has been expended as of 05-22-2012. There will be more expenses through the end of the fiscal year (June); these are shown as Estimated.

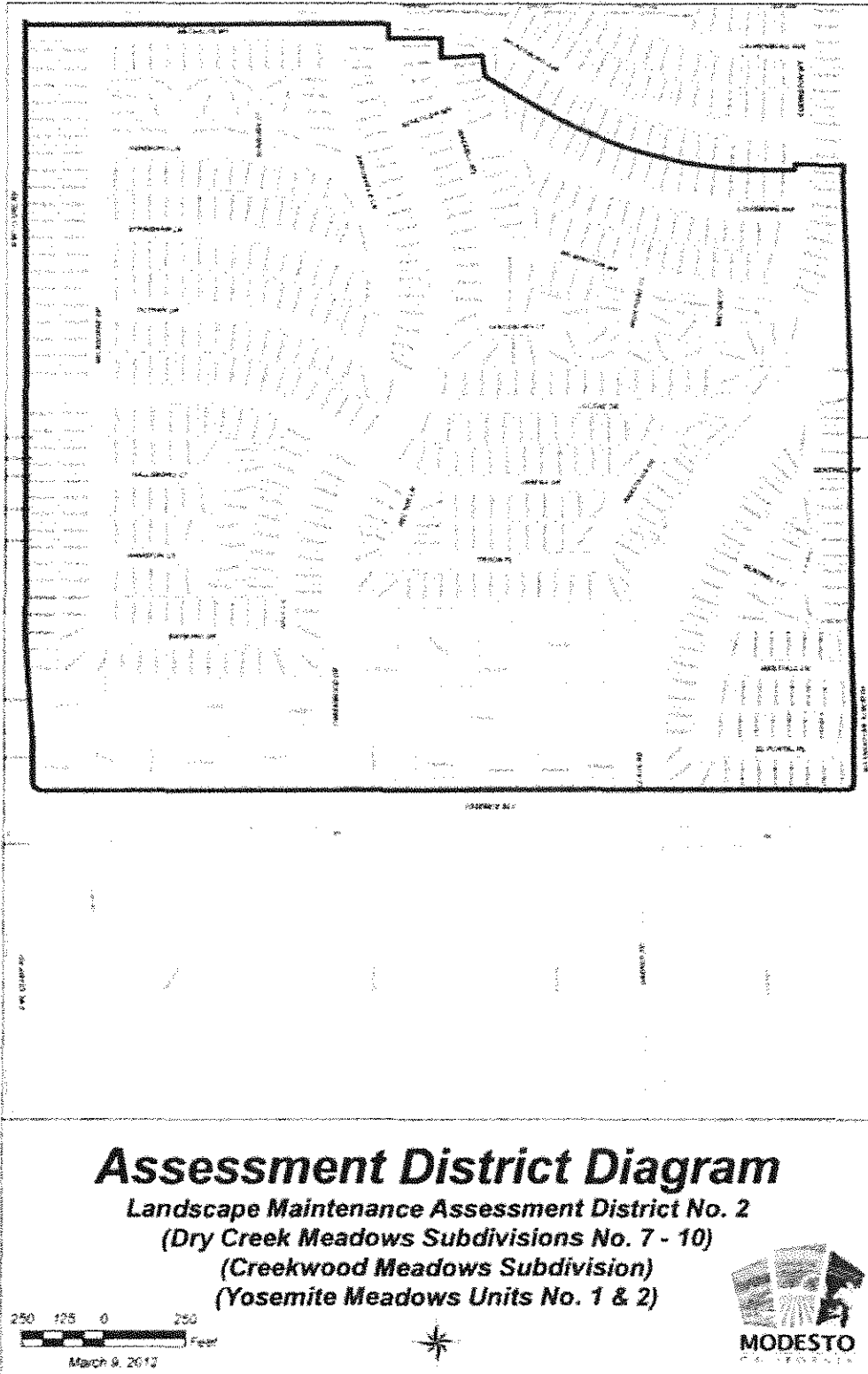
²The estimated expenditures for FY 2012-13 are based on the revenue that is currently able to be generated within LMAD #2. The City has initiated the process of consolidating LMAD #1 & #2 into one district and increasing the assessment in the new district adequate to provide good level of service. A Proposition 218 election will occur in early August, 2012.

ATTACHMENT 2

SECTION IV MAINTENANCE & PLAN SPECIFICATIONS

Plans and specifications are available for review in the Parks, Recreation, and Neighborhoods Department, located at 512 Jefferson Street, Modesto, CA. For more information, contact Kelly Gallagher, Parks Operations Supervisor at (209) 524-2330.

SECTION V ANNUAL ASSESSMENT DISTRICT DIAGRAM



ATTACHMENT 2

SECTION VI ANNUAL ASSESSMENT LIST BY PARCEL & PROPERTY OWNER

APN	Owner	Property Address	City	State	Zip	2012-2013 Assessment
079-016-023-000	MARTINEZ MARIA R LEON	432 CODINGTON WAY	MODESTO	CA	95357	\$27.48
079-016-024-000	GARCIA BERTHA	428 CODINGTON WAY	MODESTO	CA	95357	\$27.48
079-016-025-000	SWARTZ SHERYL R	424 CODINGTON WAY	MODESTO	CA	95357	\$27.48
079-016-026-000	SARHAD WILSON	3921 LOUISBURG AVENUE	MODESTO	CA	95357	\$27.48
079-016-027-000	TAN LIVIA O	3917 LOUISBURG AVENUE	MODESTO	CA	95357	\$27.48
079-016-028-000	FREDDIE MICHAEL J & FREDDIE SCARLETT M	3913 LOUISBURG AVENUE	MODESTO	CA	95357	\$27.48
079-016-029-000	AGUIRRE EDWARD JR & AGUIRRE ANGELICA	3909 LOUISBURG AVENUE	MODESTO	CA	95357	\$27.48
079-016-030-000	LE BLANC HEIDI M	3905 LOUISBURG AVENUE	MODESTO	CA	95357	\$27.48
079-016-031-000	JACKSON TOMMIE JR & JACKSON CHARLOTTE B	3901 LOUISBURG AVENUE	MODESTO	CA	95357	\$27.48
079-016-032-000	WATKINS ANTHONY ET AL	3825 LOUISBURG AVENUE	MODESTO	CA	95357	\$27.48
079-016-033-000	OBERLANDER MARK ET AL	3821 LOUISBURG AVENUE	MODESTO	CA	95357	\$27.48
079-016-034-000	LOPEZ ARNULFO & ANA M	3817 LOUISBURG AVENUE	MODESTO	CA	95357	\$27.48
079-016-035-000	POOLE ROLAND J & POOLE CHERYL S	3813 LOUISBURG AVENUE	MODESTO	CA	95357	\$27.48
079-016-036-000	JIMENEZ GERARDO & CYNTHIA B	3809 LOUISBURG AVENUE	MODESTO	CA	95357	\$27.48
079-016-037-000	ARNOLD JASON DEAN	3805 LOUISBURG AVENUE	MODESTO	CA	95357	\$27.48
079-016-038-000	NEFF MICHAEL K	3801 LOUISBURG AVENUE	MODESTO	CA	95357	\$27.48
079-016-039-000	CAMPIOTTI EDWARD L & CAMPIOTTI DIANA L	3721 LOUISBURG AVENUE	MODESTO	CA	95357	\$27.48
079-016-040-000	VAN DEELEN DARCY J	3717 LOUISBURG AVENUE	MODESTO	CA	95357	\$27.48
079-016-041-000	CHEN CHAO YING	3713 LOUISBURG AVENUE	MODESTO	CA	95357	\$27.48
079-016-042-000	GONCHAR RONALD S	3709 LOUISBURG AVENUE	MODESTO	CA	95357	\$27.48
079-016-043-000	JOST DAVID L & LYNDA J	3705 LOUISBURG AVENUE	MODESTO	CA	95357	\$27.48
079-016-044-000	GRAY HELEN A TR	424 WADDELL WAY	MODESTO	CA	95357	\$27.48
079-016-045-000	SMITH OLIVER	428 WADDELL WAY	MODESTO	CA	95357	\$27.48
079-016-046-000	JOHNSON GHARETT W ET AL	432 WADDELL WAY	MODESTO	CA	95357	\$27.48
079-016-047-000	ANDRADE GERMAN DIAZ	436 WADDELL WAY	MODESTO	CA	95357	\$27.48
079-016-048-000	HALL MICHAEL J & HALL ROBIN M	445 WADDELL WAY	MODESTO	CA	95357	\$27.48
079-016-049-000	MARTINEZ SHIRLEY F	441 WADDELL WAY	MODESTO	CA	95357	\$27.48
079-016-050-000	PULIDO OLGA A	437 WADDELL WAY	MODESTO	CA	95357	\$27.48
079-016-051-000	MALDONADO LUIS M & ERENDIRA	433 WADDELL WAY	MODESTO	CA	95357	\$27.48
079-017-001-000	MEN CHHADAVY TR	428 N. MC CLURE ROAD	MODESTO	CA	95357	\$27.48
079-017-002-000	SANCHEZ YOVANIA M OCHOA	432 N. MC CLURE ROAD	MODESTO	CA	95357	\$27.48
079-017-003-000	DALL-ANGELO DONALD C	436 N. MC CLURE ROAD	MODESTO	CA	95357	\$27.48
079-017-004-000	KHOSHABA TERESA I TR	440 N. MC CLURE ROAD	MODESTO	CA	95357	\$27.48
079-017-005-000	MONACO DONALD F & GLORIA TRS	444 N. MC CLURE ROAD	MODESTO	CA	95357	\$27.48
079-017-006-000	ANDRADE JOSE C & ANDRADE MARIA N	448 N. MC CLURE ROAD	MODESTO	CA	95357	\$27.48
079-017-007-000	RODENBURG ROBERT & RODENBURG PAIGE	441 MELBOURNE DRIVE	MODESTO	CA	95357	\$27.48
079-017-008-000	CRAWFORD EDWARD A & CRAWFORD SUSAN E	437 MELBOURNE DRIVE	MODESTO	CA	95357	\$27.48
079-017-009-000	YOUNG MICHAEL E & YOUNG DOROTHULA M	433 MELBOURNE DRIVE	MODESTO	CA	95357	\$27.48
079-017-010-000	DI GINO DOROTHY S	429 MELBOURNE DRIVE	MODESTO	CA	95357	\$27.48
079-017-011-000	AAZ PROPERTIES LLC	425 MELBOURNE DRIVE	MODESTO	CA	95357	\$27.48
079-017-012-000	HARDMAN SHAWN K	421 MELBOURNE DRIVE	MODESTO	CA	95357	\$27.48
079-017-013-000	CAMARENA JESUS JR & CAMARENA ESTHER	420 MELBOURNE DRIVE	MODESTO	CA	95357	\$27.48
079-017-014-000	FLAKE MYRALENE	424 MELBOURNE DRIVE	MODESTO	CA	95357	\$27.48
079-017-015-000	CHAN CORINA	428 MELBOURNE DRIVE	MODESTO	CA	95357	\$27.48
079-017-016-000	BERLIN GARY R JR & CHRISTIE	432 MELBOURNE DRIVE	MODESTO	CA	95357	\$27.48
079-017-017-000	VALDEZ ARTHUR DAVID TRS & VALDEZ ANGELINE	3512 MECHALYS WAY	MODESTO	CA	95357	\$27.48
079-017-018-000	HOBBS MICHAEL J & BRODIGAN RACHELLE L	3516 MECHALYS WAY	MODESTO	CA	95357	\$27.48
079-017-019-000	SOLORZA JUAN M LOPEZ & LOPEZ BRENDA C TRS	3520 MECHALYS WAY	MODESTO	CA	95357	\$27.48
079-017-020-000	XAVIER BURT & XAVIER CATHY	3524 MECHALYS WAY	MODESTO	CA	95357	\$27.48
079-017-021-000	CAMARENA CLAUDIA DIAZ ET AL	3528 MECHALYS WAY	MODESTO	CA	95357	\$27.48
079-017-022-000	SHERGILL SUKHVIR S & GURBAX K	3532 MECHALYS WAY	MODESTO	CA	95357	\$27.48
079-017-023-000	HOLDER SHERRI L & CLARK R	3600 MECHALYS WAY	MODESTO	CA	95357	\$27.48
079-017-024-000	KEYS SANDY M	3604 MECHALYS WAY	MODESTO	CA	95357	\$27.48
079-017-025-000	YOUNAN GILBERT & YOUNAN IMAN	3608 MECHALYS WAY	MODESTO	CA	95357	\$27.48
079-017-026-000	NAMMACHANTHY KERK ET AL	3612 MECHALYS WAY	MODESTO	CA	95357	\$27.48
079-017-027-000	OROZCO LEOBARDO & OROZCO YESSENIA	3616 MECHALYS WAY	MODESTO	CA	95357	\$27.48

ATTACHMENT 2

APN	Owner	Property Address	City	State	Zip	2012-2013 Assessment
079-017-028-000	ROXAS ROMAN G	3620 MECHALYS WAY	MODESTO	CA	95357	\$27.48
079-017-029-000	JACKSON DAVE P & JACKSON MARIA	3624 MECHALYS WAY	MODESTO	CA	95357	\$27.48
079-017-030-000	GRANTHAM LINDA	449 ANSONVILLE LANE	MODESTO	CA	95357	\$27.48
079-017-031-000	MOJADDEDI SADIQA	445 ANSONVILLE LANE	MODESTO	CA	95357	\$27.48
079-017-032-000	BLAIR JOHNNY B ET AL	441 ANSONVILLE LANE	MODESTO	CA	95357	\$27.48
079-017-033-000	FRICK WADE L	437 ANSONVILLE LANE	MODESTO	CA	95357	\$27.48
079-017-034-000	ROMERO ROBERT R & MARITZA	3613 ASHEBORO LANE	MODESTO	CA	95357	\$27.48
079-017-035-000	WILLIAMS JEFF & LAURA L	420 SUNBURY COURT	MODESTO	CA	95357	\$27.48
079-017-036-000	PALLAN LUCAS	424 SUNBURY COURT	MODESTO	CA	95357	\$27.48
079-017-037-000	COOK ERIC A & JULIE A	428 SUNBURY COURT	MODESTO	CA	95357	\$27.48
079-017-038-000	BROWN ELIZABETH	429 SUNBURY COURT	MODESTO	CA	95357	\$27.48
079-017-039-000	GIRON MICHAEL ANTHONY	425 SUNBURY COURT	MODESTO	CA	95357	\$27.48
079-017-040-000	HAMILTON JASON	3541 ASHEBORO LANE	MODESTO	CA	95357	\$27.48
079-017-041-000	HAMILTON STEVEN D & HAMILTON BRIGITTE	3533 ASHEBORO LANE	MODESTO	CA	95357	\$27.48
079-017-042-000	TOUMA EMMANUEL & TOLIMA SHOSHAN	424 BEUFORT COURT	MODESTO	CA	95357	\$27.48
079-017-043-000	SEMONE JEREMY D & KIMBERLY	428 BEUFORT COURT	MODESTO	CA	95357	\$27.48
079-017-044-000	ROCHA JUAN C & SAN JUANA	429 BEUFORT COURT	MODESTO	CA	95357	\$27.48
079-017-045-000	SMITH JOAN MADELINE TR	425 BEUFORT COURT	MODESTO	CA	95357	\$27.48
079-017-046-000	ARMSTRONG JASON R & JENNIFER L	3521 ASHEBORO LANE	MODESTO	CA	95357	\$27.48
079-017-047-000	CARREIRO BRUCE R & CARREIRO EDYTHE	424 ANSONVILLE LANE	MODESTO	CA	95357	\$27.48
079-017-048-000	ROBLES PEDRO ET AL	428 ANSONVILLE LANE	MODESTO	CA	95357	\$27.48
079-017-049-000	ORAHA NUHA ET AL	432 ANSONVILLE LANE	MODESTO	CA	95357	\$27.48
079-017-050-000	NGUYEN KHANH NGOC	436 ANSONVILLE LANE	MODESTO	CA	95357	\$27.48
079-017-051-000	GUTIERREZ MIKE G	440 ANSONVILLE LANE	MODESTO	CA	95357	\$27.48
079-017-052-000	RUIZ OLIVIA ET AL	444 ANSONVILLE LANE	MODESTO	CA	95357	\$27.48
079-017-053-000	KLOMP ERICA E ET AL	448 ANSONVILLE LANE	MODESTO	CA	95357	\$27.48
079-017-054-000	PAL SALILA TR	452 ANSONVILLE LANE	MODESTO	CA	95357	\$27.48
079-018-001-000	PALMERIN LUCIO C & LIDIA	424 N. MC CLURE ROAD	MODESTO	CA	95357	\$27.48
079-018-002-000	PEREZ FERNANDO H & VILLARRUEL MARIA	420 N. MC CLURE ROAD	MODESTO	CA	95357	\$27.48
079-018-003-000	WONG FAT SHING & WONG LINDA T	416 N. MC CLURE ROAD	MODESTO	CA	95357	\$27.48
079-018-004-000	AU-YEUNG WAI & AU-YEUNG AMELA	412 N. MC CLURE ROAD	MODESTO	CA	95357	\$27.48
079-018-005-000	AU-YEUNG PIK KWAN	408 N. MC CLURE ROAD	MODESTO	CA	95357	\$27.48
079-018-006-000	KOKOLOGIANNAKIS NICK	401 MELBOURNE DRIVE	MODESTO	CA	95357	\$27.48
079-018-007-000	BARDONNER STEVEN E	405 MELBOURNE DRIVE	MODESTO	CA	95357	\$27.48
079-018-008-000	LOPEZ IVAN A	409 MELBOURNE DRIVE	MODESTO	CA	95357	\$27.48
079-018-009-000	JACOB DIGOL B & ALGANTINA M	413 MELBOURNE DRIVE	MODESTO	CA	95357	\$27.48
079-018-010-000	HOLMBERG KRISTEN	417 MELBOURNE DRIVE	MODESTO	CA	95357	\$27.48
079-018-011-000	AGHASSI SARAH J	3512 ASHEBORO LANE	MODESTO	CA	95357	\$27.48
079-018-012-000	STEVENS JAKE L & STEVENS GAIL M	3516 ASHEBORO LANE	MODESTO	CA	95357	\$27.48
079-018-013-000	HUTCHENS WILLIAM A ET AL	3520 ASHEBORO LANE	MODESTO	CA	95357	\$27.48
079-018-014-000	MEY ANDREW S & KIMLORINA	3524 ASHEBORO LANE	MODESTO	CA	95357	\$27.48
079-018-015-000	SMITH MILLER VELTRENA	3528 ASHEBORO LANE	MODESTO	CA	95357	\$27.48
079-018-016-000	TAYLOR RICHARD N & JILL B	3532 ASHEBORO LANE	MODESTO	CA	95357	\$27.48
079-018-017-000	CUMMINGS ANNIE	3536 ASHEBORO LANE	MODESTO	CA	95357	\$27.48
079-018-018-000	LA CROSS NANCY R	3540 ASHEBORO LANE	MODESTO	CA	95357	\$27.48
079-018-019-000	ATTA DAVID Z	3544 ASHEBORO LANE	MODESTO	CA	95357	\$27.48
079-018-020-000	GOMEZ ALICIA TR	3600 ASHEBORO LANE	MODESTO	CA	95357	\$27.48
079-018-021-000	SHAVER JACQUELYN M	3604 ASHEBORO LANE	MODESTO	CA	95357	\$27.48
079-018-022-000	MURCH PAUL WILLIAM & JENNIFER LYNN	3608 ASHEBORO LANE	MODESTO	CA	95357	\$27.48
079-018-023-000	WENGER DEBORAH J & WENGER DAVID C	3612 ASHEBORO LANE	MODESTO	CA	95357	\$27.48
079-018-024-000	MADAYAG CATANA TR	3616 ASHEBORO LANE	MODESTO	CA	95357	\$27.48
079-018-025-000	PLAUGHER PRESTON SCOTT ET AL	3620 ASHEBORO LANE	MODESTO	CA	95357	\$27.48
079-018-026-000	CHILDRESS JANET	420 ANSONVILLE LANE	MODESTO	CA	95357	\$27.48
079-018-027-000	KEM SOKHOM & VANHA TRS	416 ANSONVILLE LANE	MODESTO	CA	95357	\$27.48
079-018-028-000	ROMASANTA CHRISTINE M ET AL	412 ANSONVILLE LANE	MODESTO	CA	95357	\$27.48
079-018-029-000	DALBURG HOWARD ET AL	408 ANSONVILLE LANE	MODESTO	CA	95357	\$27.48
079-018-030-000	PIERCE CHARLES L & PIERCE VALERIE A	404 ANSONVILLE LANE	MODESTO	CA	95357	\$27.48
079-018-031-000	PANG SUN KIM & LIEV MENG HU TRS	400 ANSONVILLE LANE	MODESTO	CA	95357	\$27.48
079-018-032-000	MC MILLAN J HELIA TR	409 ANSONVILLE LANE	MODESTO	CA	95357	\$27.48
079-018-033-000	GOODWIN BEVERLY	3629 EFFINGHAM LANE	MODESTO	CA	95357	\$27.48
079-018-034-000	STECKMAN CHRIS D & STECKMAN SHARON A	3625 EFFINGHAM LANE	MODESTO	CA	95357	\$27.48
079-018-035-000	NICHOLS KATHRYN M	3621 EFFINGHAM LANE	MODESTO	CA	95357	\$27.48

ATTACHMENT 2

APN	Owner	Property Address	City	State	Zip	2012-2013 Assessment
079-018-036-000	WALZ CHRISTOPHER P	3517 EFFINGHAM LANE	MODESTO	CA	95357	\$27.48
079-018-037-000	ROUCHECK BELINDA	3613 EFFINGHAM LANE	MODESTO	CA	95357	\$27.48
079-018-038-000	BRITT SCOTT ALAN	3609 EFFINGHAM LANE	MODESTO	CA	95357	\$27.48
079-018-039-000	MALIK MOHAMMAD ZAHOR & NUSRAT NASIM	3605 EFFINGHAM LANE	MODESTO	CA	95357	\$27.48
079-018-040-000	FEDERAL NATIONAL MORTGAGE ASSN	3601 EFFINGHAM LANE	MODESTO	CA	95357	\$27.48
079-018-041-000	EDENS JOHN L & CARYN E	3537 EFFINGHAM LANE	MODESTO	CA	95357	\$27.48
079-018-042-000	CAMPBELL KIMBERLY	3533 EFFINGHAM LANE	MODESTO	CA	95357	\$27.48
079-018-043-000	TORRES GINGER LEE & JAVIER V	3529 EFFINGHAM LANE	MODESTO	CA	95357	\$27.48
079-018-044-000	PEREZ ABEL CUEVAS & CANO KLEDY	3525 EFFINGHAM LANE	MODESTO	CA	95357	\$27.48
079-018-045-000	PLACINTAR MARINELA	3521 EFFINGHAM LANE	MODESTO	CA	95357	\$27.48
079-018-046-000	CASTILLO ISMAEL ET AL	3517 EFFINGHAM LANE	MODESTO	CA	95357	\$27.48
079-018-047-000	MARTINEZ FRANCISCO	3513 EFFINGHAM LANE	MODESTO	CA	95357	\$27.48
079-019-001-000	ROMERO ALEJANDRO & ROMERO ALICIA B	425 WADDELL WAY	MODESTO	CA	95357	\$27.48
079-019-002-000	SOUZA ROBERT D & SAMANTHA D	421 WADDELL WAY	MODESTO	CA	95357	\$27.48
079-019-003-000	REISDRFF HELEN	417 WADDELL WAY	MODESTO	CA	95357	\$27.48
079-019-004-000	PEREZ WILLIAM MEZQUITA ET AL	413 WADDELL WAY	MODESTO	CA	95357	\$27.48
079-019-005-000	COFFEY STEVE R & COFFEY ANNE LEE	409 WADDELL WAY	MODESTO	CA	95357	\$27.48
079-019-006-000	GALLO JOSE & GALLO ROSALIA	405 WADDELL WAY	MODESTO	CA	95357	\$27.48
079-019-007-000	YAU KING PO & SU AI CENG	401 WADDELL WAY	MODESTO	CA	95357	\$27.48
079-019-008-000	SINGH GURLAL	400 WADDELL WAY	MODESTO	CA	95357	\$27.48
079-019-009-000	CARRASCO GONZALO C & CARRASCO TERESA V	404 WADDELL WAY	MODESTO	CA	95357	\$27.48
079-019-010-000	GAYLOR MATTHEW	408 WADDELL WAY	MODESTO	CA	95357	\$27.48
079-019-011-000	GMAC MORTGAGE LLC	412 WADDELL WAY	MODESTO	CA	95357	\$27.48
079-019-012-000	MORALES RODOLFO ET AL	416 WADDELL WAY	MODESTO	CA	95357	\$27.48
079-019-013-000	CASTELLO RICHARD M	3712 LOUISBURG AVENUE	MODESTO	CA	95357	\$27.48
079-019-014-000	JOTIKA PRIYA ET AL	3716 LOUISBURG AVENUE	MODESTO	CA	95357	\$27.48
079-019-015-000	LAMBERT STEVEN T & RENATA W	3720 LOUISBURG AVENUE	MODESTO	CA	95357	\$27.48
079-019-016-000	DAVIS JAY N JR & DAVIS KIM M	3800 LOUISBURG AVENUE	MODESTO	CA	95357	\$27.48
079-019-017-000	GRUENHAGEN ASHLEY N ET AL	3804 LOUISBURG AVENUE	MODESTO	CA	95357	\$27.48
079-019-018-000	GALVAN SALVADOR R	3808 LOUISBURG AVENUE	MODESTO	CA	95357	\$27.48
079-019-019-000	ENGLEMAN ALEXANDER C ET AL TRS	3812 LOUISBURG AVENUE	MODESTO	CA	95357	\$27.48
079-019-020-000	ZARAGOSA ZACK MARTIN & ELIZABETH	3816 LOUISBURG AVENUE	MODESTO	CA	95357	\$27.48
079-019-021-000	KIMBROUGH JOANNE M	3820 LOUISBURG AVENUE	MODESTO	CA	95357	\$27.48
079-019-022-000	MICO RICARDO G & MARIA REGINA L	3824 LOUISBURG AVENUE	MODESTO	CA	95357	\$27.48
079-019-023-000	RAMIREZ STANLEY D ET AL	3900 LOUISBURG AVENUE	MODESTO	CA	95357	\$27.48
079-019-024-000	LOUCKS DAVID GEORGE & JOSEFA M TRS	3904 LOUISBURG AVENUE	MODESTO	CA	95357	\$27.48
079-019-025-000	SENGSOURNTH PENG & INTHAVONG CHANPHENG	3908 LOUISBURG AVENUE	MODESTO	CA	95357	\$27.48
079-019-026-000	DHIR SUNIL & ASHIKA	3912 LOUISBURG AVENUE	MODESTO	CA	95357	\$27.48
079-019-027-000	NAVARRO NAPOLEON & NAVARRO MARIA CHERYL	3916 LOUISBURG AVENUE	MODESTO	CA	95357	\$27.48
079-019-028-000	WALKER KINDRA K & MC COY BRUCE	3920 LOUISBURG AVENUE	MODESTO	CA	95357	\$27.48
079-019-029-000	TRAWICK VERNON R & CLAUDETTE	420 CODINGTON WAY	MODESTO	CA	95357	\$27.48
079-019-030-000	LA PLACA SONDRAL ET AL	416 CODINGTON WAY	MODESTO	CA	95357	\$27.48
079-019-031-000	GALVAN DIEGO	412 CODINGTON WAY	MODESTO	CA	95357	\$27.48
079-019-032-000	MCNEELY JOSEPH	408 CODINGTON WAY	MODESTO	CA	95357	\$27.48
079-019-033-000	NAVARRO FERNANDO	3909 WILMINGTON WAY	MODESTO	CA	95357	\$27.48
079-019-034-000	DSHANA ASNAT	3905 WILMINGTON WAY	MODESTO	CA	95357	\$27.48
079-019-035-000	ALVIZO LETICIA	3901 WILMINGTON WAY	MODESTO	CA	95357	\$27.48
079-019-036-000	PHANOUVONG ALEXANDER	3817 WILMINGTON WAY	MODESTO	CA	95357	\$27.48
079-019-037-000	GRIFFITH JACK E & GRIFFITH MELINDA D	3813 WILMINGTON WAY	MODESTO	CA	95357	\$27.48
079-019-038-000	BARAJAS GABRIEL	3809 WILMINGTON WAY	MODESTO	CA	95357	\$27.48
079-019-039-000	KARRAS CHRISTINA CATHLEEN	3805 WILMINGTON WAY	MODESTO	CA	95357	\$27.48
079-019-040-000	APPLEBY DOMINIC M & CANDI C	3801 WILMINGTON WAY	MODESTO	CA	95357	\$27.48
079-019-041-000	RODRIGUES SILVINO J ET AL	3729 WILMINGTON WAY	MODESTO	CA	95357	\$27.48
079-019-042-000	WILLIAMS MICHAEL & SARIAH	3725 WILMINGTON WAY	MODESTO	CA	95357	\$27.48
079-019-043-000	LEFEVRE PETER A TR	3721 WILMINGTON WAY	MODESTO	CA	95357	\$27.48
079-019-044-000	RUTSCHOW PHILIP Z & JOAN A TRS	3717 WILMINGTON WAY	MODESTO	CA	95357	\$27.48
079-019-045-000	URIBE IRENE	3713 WILMINGTON WAY	MODESTO	CA	95357	\$27.48
079-019-046-000	ENRIQUEZ JOHANNA	3709 WILMINGTON WAY	MODESTO	CA	95357	\$27.48
079-019-047-000	FICHTENHOLZ ZINOVY TR ET AL	3705 WILMINGTON WAY	MODESTO	CA	95357	\$27.48
079-020-001-000	GONZALES GABRIEL D & GONZALES SHARON	341 WADDELL WAY	MODESTO	CA	95357	\$27.48
079-020-002-000	PRASAD KAMLESH ET AL	337 WADDELL WAY	MODESTO	CA	95357	\$27.48
079-020-003-000	MORONES MICHAEL O & MORONES CONSUELO M	333 WADDELL WAY	MODESTO	CA	95357	\$27.48

ATTACHMENT 2

APN	Owner	Property Address	City	State	Zip	2012-2013 Assessment
079-020-004-000	OVERWEG DAVID A & OVERWEG CATHIE	329 WADDELL WAY	MODESTO	CA	95357	\$27.48
079-020-005-000	MCE VENTURES LLC	325 WADDELL WAY	MODESTO	CA	95357	\$27.48
079-020-006-000	RODRIGUEZ RUBEN G & RODRIGUEZ ROSEMARY	321 WADDELL WAY	MODESTO	CA	95357	\$27.48
079-020-007-000	MONSON STEPHEN	3700 VANCEBORO COURT	MODESTO	CA	95357	\$27.48
079-020-008-000	JOHNSON JAYNE MARIE & LEONARD TEED	3704 VANCEBORO COURT	MODESTO	CA	95357	\$27.48
079-020-009-000	BETTENCORT JOHN C TRS ET AL	3708 VANCEBORO COURT	MODESTO	CA	95357	\$27.48
079-020-010-000	HULA DAVID W	3712 VANCEBORO COURT	MODESTO	CA	95357	\$27.48
079-020-011-000	RUIZ NEMORIO & LIDUVINA	3716 VANCEBORO COURT	MODESTO	CA	95357	\$27.48
079-020-012-000	THORNTON LAWRENCE R & JUDITH A	3717 VANCEBORO COURT	MODESTO	CA	95357	\$27.48
079-020-013-000	DEUTSCHE BANK NATIONAL TRUST CO TRUSTEE	3713 VANCEBORO COURT	MODESTO	CA	95357	\$27.48
079-020-014-000	FLICE KAREN T	3709 VANCEBORO COURT	MODESTO	CA	95357	\$27.48
079-020-015-000	MORI HOWARD & MORI KELLI B	3705 VANCEBORO COURT	MODESTO	CA	95357	\$27.48
079-020-016-000	BRAVO GONZALO & MARIA	3700 WILMINGTON WAY	MODESTO	CA	95357	\$27.48
079-020-017-000	ORTIZ LUCILA MORALES	3704 WILMINGTON WAY	MODESTO	CA	95357	\$27.48
079-020-018-000	HORSTMAN DAVID	3708 WILMINGTON WAY	MODESTO	CA	95357	\$27.48
079-020-019-000	EGBIKUADJE JOHN N & EGBIKUADJE LUCKY E	3712 WILMINGTON WAY	MODESTO	CA	95357	\$27.48
079-020-020-000	CHAND PREM & CHAND BINDRA MATI	3716 WILMINGTON WAY	MODESTO	CA	95357	\$27.48
079-020-021-000	GONZALEZ JAVIER & JOSEFINA	329 HIGH POINT COURT	MODESTO	CA	95357	\$27.48
079-020-022-000	GARCIA JOSE H & MARTHA J	325 HIGH POINT COURT	MODESTO	CA	95357	\$27.48
079-020-023-000	VAN TREASE ROBERT & VAN TREASE PATRICIA K	321 HIGH POINT COURT	MODESTO	CA	95357	\$27.48
079-020-024-000	SCOTT JOSHUA THOMAS	317 HIGH POINT COURT	MODESTO	CA	95357	\$27.48
079-020-025-000	MARKS STEVEN R	316 HIGH POINT COURT	MODESTO	CA	95357	\$27.48
079-020-026-000	WATSON GAYLE	320 HIGH POINT COURT	MODESTO	CA	95357	\$27.48
079-020-027-000	JOHNSON ERMA	324 HIGH POINT COURT	MODESTO	CA	95357	\$27.48
079-020-028-000	GANJEH JANET TR	328 HIGH POINT COURT	MODESTO	CA	95357	\$27.48
079-020-029-000	TERESI GUIDO PETER	329 MACON COURT	MODESTO	CA	95357	\$27.48
079-020-030-000	MATHMANY BOUNETEU	325 MACON COURT	MODESTO	CA	95357	\$27.48
079-020-031-000	HSBC BANK USA NATIONAL ASSOCIATION	321 MACON COURT	MODESTO	CA	95357	\$27.48
079-020-032-000	GIRARD THOMAS F & GIRARD CATRINA	320 MACON COURT	MODESTO	CA	95357	\$27.48
079-020-033-000	ESCAMILLA AUGUSTIN JR & ESCAMILLA LISA A	324 MACON COURT	MODESTO	CA	95357	\$27.48
079-020-034-000	MALLULIN TERESITA M	328 MACON COURT	MODESTO	CA	95357	\$27.48
079-020-035-000	IBARRA LOUIE JR & IBARRA KRISTY	3908 WILMINGTON WAY	MODESTO	CA	95357	\$27.48
079-020-036-000	CORTEZ JOSE DE JESUS & HIDALGO ESMERALDA	400 CODINGTON WAY	MODESTO	CA	95357	\$27.48
079-020-037-000	CASTELLANOS RIGOBERTO & MARIA	404 CODINGTON WAY	MODESTO	CA	95357	\$27.48
079-021-001-000	GANN PROPERTIES LP	404 N. MC CLURE ROAD	MODESTO	CA	95357	\$27.48
079-021-002-000	SINGH KRISHAN	400 N. MC CLURE ROAD	MODESTO	CA	95357	\$27.48
079-021-003-000	LOGAN MERCY ET AL	328 N. MC CLURE ROAD	MODESTO	CA	95357	\$27.48
079-021-004-000	GREEN JIM	342 N. MC CLURE ROAD	MODESTO	CA	95357	\$27.48
079-021-005-000	KEM SOKHOM	320 N. MC CLURE ROAD	MODESTO	CA	95357	\$27.48
079-021-006-000	RODERICK GARY A & LOREAN L	317 MELBOURNE DRIVE	MODESTO	CA	95357	\$27.48
079-021-007-000	TACKETT MICHAEL DEON & GWENDOLYN SUE TRS	321 MELBOURNE DRIVE	MODESTO	CA	95357	\$27.48
079-021-008-000	GARCIA GUILLERMO & GARCIA MARIA	325 MELBOURNE DRIVE	MODESTO	CA	95357	\$27.48
079-021-009-000	AMANT DARCY & KYLE C	329 MELBOURNE DRIVE	MODESTO	CA	95357	\$27.48
079-021-010-000	YAU KING PO & SU AI	333 MELBOURNE DRIVE	MODESTO	CA	95357	\$27.48
079-021-011-000	LASITER LINDSEY & PAMELA	3512 EFFINGHAM LANE	MODESTO	CA	95357	\$27.48
079-021-012-000	GONZALES JOHN V & JEANETTE D	3516 EFFINGHAM LANE	MODESTO	CA	95357	\$27.48
079-021-013-000	ROYSDON JASON J & ANGELA D	3520 EFFINGHAM LANE	MODESTO	CA	95357	\$27.48
079-021-014-000	MCGILL RICKY	3524 EFFINGHAM LANE	MODESTO	CA	95357	\$27.48
079-021-015-000	PRASAD JAG & LITIA	3528 EFFINGHAM LANE	MODESTO	CA	95357	\$27.48
079-021-016-000	BECERRA JACINTO & BECERRA MARIA	3532 EFFINGHAM LANE	MODESTO	CA	95357	\$27.48
079-021-017-000	TOVAR JESSE A & TOVAR TERESA M	3536 EFFINGHAM LANE	MODESTO	CA	95357	\$27.48
079-021-018-000	BOUATHONG BOUNPHENG & KHAMKEO	3600 EFFINGHAM LANE	MODESTO	CA	95357	\$27.48
079-021-019-000	CASTRO JESUS R & CASTRO ESTHER M	3604 EFFINGHAM LANE	MODESTO	CA	95357	\$27.48
079-021-020-000	HERNANDEZ ROBERTO & CARMEN C	3608 EFFINGHAM LANE	MODESTO	CA	95357	\$27.48
079-021-021-000	TELO SAJMIR & KRISTINA CREEL	3612 EFFINGHAM LANE	MODESTO	CA	95357	\$27.48
079-021-022-000	FOUNTAIN DEBORAH A TR	3616 EFFINGHAM LANE	MODESTO	CA	95357	\$27.48
079-021-023-000	KHATRI BROS PARTNERSHIP	3620 EFFINGHAM LANE	MODESTO	CA	95357	\$27.48
079-021-024-000	LOPEZ JOSE & SYLVIA	3624 EFFINGHAM LANE	MODESTO	CA	95357	\$27.48
079-021-025-000	LARSON SIMON A & JEANNIE L TRS	3628 EFFINGHAM LANE	MODESTO	CA	95357	\$27.48
079-021-026-000	WILLIAMS RENEE E	3632 EFFINGHAM LANE	MODESTO	CA	95357	\$27.48
079-021-027-000	GOMEZ ALICIA TR	336 ANSONVILLE LANE	MODESTO	CA	95357	\$27.48
079-021-028-000	GARCIA LUIZ JOE SR & LUPE ANN TRS	332 ANSONVILLE LANE	MODESTO	CA	95357	\$27.48

ATTACHMENT 2

APN	Owner	Property Address	City	State	Zip	2012-2013 Assessment
079-021-029-000	HARRIS SHAUN N	328 ANSONVILLE LANE	MODESTO	CA	95357	\$27.48
079-021-030-000	TOWNLEY PERRY & BRENDA	324 ANSONVILLE LANE	MODESTO	CA	95357	\$27.48
079-021-031-000	MILLER JOSEPH R ET AL	320 ANSONVILLE LANE	MODESTO	CA	95357	\$27.48
079-021-032-000	ZOKARI MOHAMMED & TINA	3633 DOTHAN DRIVE	MODESTO	CA	95357	\$27.48
079-021-033-000	COX BERNICE U TR	3629 DOTHAN DRIVE	MODESTO	CA	95357	\$27.48
079-021-034-000	COULIBALY LLC	3625 DOTHAN DRIVE	MODESTO	CA	95357	\$27.48
079-021-035-000	MORRELL ERNEST DAVIS & MORRELL KATHERINE	3621 DOTHAN DRIVE	MODESTO	CA	95357	\$27.48
079-021-036-000	LYTEL-STARKS THOMAS	3617 DOTHAN DRIVE	MODESTO	CA	95357	\$27.48
079-021-037-000	VALLÉS RAMON & CARMEN	3613 DOTHAN DRIVE	MODESTO	CA	95357	\$27.48
079-021-038-000	BEE TAO-CHING & BEE SUE CHEN	3609 DOTHAN DRIVE	MODESTO	CA	95357	\$27.48
079-021-039-000	MANGAL SHIU PRASAD ET AL	3605 DOTHAN DRIVE	MODESTO	CA	95357	\$27.48
079-021-040-000	HARLESS KEVIN	3601 DOTHAN DRIVE	MODESTO	CA	95357	\$27.48
079-021-041-000	WILLIAMS ROGER K & LOUISE G TRS	3537 DOTHAN DRIVE	MODESTO	CA	95357	\$27.48
079-021-042-000	OLIVAREZ ARNOLD & OLIVAREZ DARLENE	3533 DOTHAN DRIVE	MODESTO	CA	95357	\$27.48
079-021-043-000	MUSE MARTIN D & OWENS OLIVIA	3529 DOTHAN DRIVE	MODESTO	CA	95357	\$27.48
079-021-044-000	CAPPS FRANKLIN J & SUSANN J TRS	3525 DOTHAN DRIVE	MODESTO	CA	95357	\$27.48
079-021-045-000	RUIZ CARLA P	3521 DOTHAN DRIVE	MODESTO	CA	95357	\$27.48
079-021-046-000	AHLSTRAND GARY J SR & PAMELA M TRS	3517 DOTHAN DRIVE	MODESTO	CA	95357	\$27.48
079-021-047-000	AHLSTRAND GARY J SR & PAMELA M TRS	3513 DOTHAN DRIVE	MODESTO	CA	95357	\$27.48
079-022-001-000	WELLS FARGO BANK N A	316 N. MC CLURE ROAD	MODESTO	CA	95357	\$27.48
079-022-002-000	MEDEIROS DOROTHY JEANNINE TR	312 N. MC CLURE ROAD	MODESTO	CA	95357	\$27.48
079-022-003-000	RODRIGUEZ ELENA	308 N. MC CLURE ROAD	MODESTO	CA	95357	\$27.48
079-022-004-000	ARTEAGA RAUL A ET AL	304 N. MC CLURE ROAD	MODESTO	CA	95357	\$27.48
079-022-005-000	MARTIN RONALD L & MARTIN FAITH A	301 MELBOURNE DRIVE	MODESTO	CA	95357	\$27.48
079-022-006-000	ARROYO MARGARITA	305 MELBOURNE DRIVE	MODESTO	CA	95357	\$27.48
079-022-007-000	RADLOFF HAROLD TRS & RADLOFF M KATHLEEN	309 MELBOURNE DRIVE	MODESTO	CA	95357	\$27.48
079-022-008-000	CRANE CHARLIE	313 MELBOURNE DRIVE	MODESTO	CA	95357	\$27.48
079-022-009-000	LOBAUGH DUANE	3512 DOTHAN DRIVE	MODESTO	CA	95357	\$27.48
079-022-010-000	TORRES ALFREDO & TORRES RAQUEL	3516 DOTHAN DRIVE	MODESTO	CA	95357	\$27.48
079-022-011-000	PAL PARBIN & ROSHNI	3520 DOTHAN DRIVE	MODESTO	CA	95357	\$27.48
079-022-012-000	JAUREGUI PEDRO A & GUADALUPE V TRS	3524 DOTHAN DRIVE	MODESTO	CA	95357	\$27.48
079-022-013-000	CASTRO DAVID & ANGELA	3528 DOTHAN DRIVE	MODESTO	CA	95357	\$27.48
079-022-014-000	BRITTON KONYNENBURG PARTNERS	3532 DOTHAN DRIVE	MODESTO	CA	95357	\$27.48
079-022-015-000	LOURENCO ASHLI	3536 DOTHAN DRIVE	MODESTO	CA	95357	\$27.48
079-022-016-000	GILL SUKNDDEV SINGH & DAVINDERJEET K	3600 DOTHAN DRIVE	MODESTO	CA	95357	\$27.48
079-022-017-000	HORNE RICHARD R & KATHY J	3604 DOTHAN DRIVE	MODESTO	CA	95357	\$27.48
079-022-018-000	CHAND ROVINESH ET AL	3608 DOTHAN DRIVE	MODESTO	CA	95357	\$27.48
079-022-019-000	CARLSON JOHN HENRY & GAYLEN TRS	3612 DOTHAN DRIVE	MODESTO	CA	95357	\$27.48
079-022-020-000	MANZO TERESA & ENRIQUE	3616 DOTHAN DRIVE	MODESTO	CA	95357	\$27.48
079-022-021-000	CANELA FRANCISCO J	3620 DOTHAN DRIVE	MODESTO	CA	95357	\$27.48
079-022-022-000	JAUREGUI GRISELDA	3624 DOTHAN DRIVE	MODESTO	CA	95357	\$27.48
079-022-023-000	TACKETT MICHAEL DEON & GWENDOLYN SUE TRS	3628 DOTHAN DRIVE	MODESTO	CA	95357	\$27.48
079-022-024-000	HERNANDEZ ARMANDO & ANALIA	3632 DOTHAN DRIVE	MODESTO	CA	95357	\$27.48
079-022-025-000	NOLL KARL P & NOLL GYDA J	312 ANSONVILLE LANE	MODESTO	CA	95357	\$27.48
079-022-026-000	LOPEZ DAVID & LOPEZ IRMA	316 ANSONVILLE LANE	MODESTO	CA	95357	\$27.48
079-022-029-000	CABELLO FRANCISCO A & CABELLO KAREN	3629 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-022-030-000	QUACH CAM ET AL	3625 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-022-031-000	CAMARENA JESUS D & ESTHER	3621 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-022-032-000	SUN HAILI	3617 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-022-033-000	SANDOVAL IRMA	3613 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-022-034-000	VILLARREAL JOE & VIRGIE	3609 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-022-035-000	FORD WINSTON L & FORD SHEILA	3605 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-022-036-000	GONZALEZ GUADALUPE & GONZALEZ ESPERANZA	3601 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-022-037-000	BOUNPHENG KHAMPHANH ET AL	3537 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-022-038-000	YU JOSEPHINE	3533 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-022-039-000	FLORES DANIEL C & DONNA N	3529 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-022-040-000	BERTOLOTTI GUSTAVO	3525 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-022-041-000	WANG CHAO SHENG & WANG CHIEN LAN	3521 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-022-042-000	GRAY SHERRIE W	3517 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-022-043-000	SANCHEZ ZENAIDA	3513 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-022-045-000	MAHARAJ PRADEP & SUBHASANI	3633 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-022-046-000	PRASAD SUDESH ET AL	3633 JARENA DRIVE	MODESTO	CA	95357	\$27.48

ATTACHMENT 2

APN	Owner	Property Address	City	State	Zip	2012-2013 Assessment
079-023-001-000	KIRK LINDSAY	248 N. MC CLURE ROAD	MODESTO	CA	95357	\$27.48
079-023-002-000	KHAN SHAH N	244 N. MC CLURE ROAD	MODESTO	CA	95357	\$27.48
079-023-003-000	SANTOS FLORENTINO C & MARIA A	240 N. MC CLURE ROAD	MODESTO	CA	95357	\$27.48
079-023-004-000	CAMARENA JOSE R & CAMARENA ISABEL C	236 N. MC CLURE ROAD	MODESTO	CA	95357	\$27.48
079-023-005-000	SIGHTS KURT H	232 N. MC CLURE ROAD	MODESTO	CA	95357	\$27.48
079-023-006-000	LOPEZ DORA	228 N. MC CLURE ROAD	MODESTO	CA	95357	\$27.48
079-023-007-000	WATSON ALFRIEDA & CORNELL	224 N. MC CLURE ROAD	MODESTO	CA	95357	\$27.48
079-023-008-000	YATES MICHAEL R & YATES MARGIE M	220 N. MC CLURE ROAD	MODESTO	CA	95357	\$27.48
079-023-009-000	CUTLER DAVID J & CUTLER JUDITH A	216 N. MC CLURE ROAD	MODESTO	CA	95357	\$27.48
079-023-010-000	CRISP JEFF C & CRISP DORTHY	221 MELBOURNE DRIVE	MODESTO	CA	95357	\$27.48
079-023-011-000	GRANT RYAN M & ANNE P	225 MELBOURNE DRIVE	MODESTO	CA	95357	\$27.48
079-023-012-000	SON DARA	229 MELBOURNE DRIVE	MODESTO	CA	95357	\$27.48
079-023-013-000	ALIABADI REBKA SHARLOU	233 MELBOURNE DRIVE	MODESTO	CA	95357	\$27.48
079-023-014-000	HERNANDEZ JORGE MURILLO & MURILLO ANA P	237 MELBOURNE DRIVE	MODESTO	CA	95357	\$27.48
079-023-015-000	CABAGNOT DOLORES & FLYNN G	241 MELBOURNE DRIVE	MODESTO	CA	95357	\$27.48
079-023-016-000	ALVARADO J JESUS E & GUTIERREZ MARIA	245 MELBOURNE DRIVE	MODESTO	CA	95357	\$27.48
079-023-017-000	LEW KERN YUEN	249 MELBOURNE DRIVE	MODESTO	CA	95357	\$27.48
079-023-018-000	YU LENA XIAO ET AL	253 MELBOURNE DRIVE	MODESTO	CA	95357	\$27.48
079-023-019-000	ESPINOZA MIGUEL	3512 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-023-020-000	GRANT CURTIS R TRS & GRANT NANCY E	3516 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-023-021-000	WEDEL JERRY L & LINDA L	3520 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-023-022-000	RODRIGUEZ MAURILIO MONTANEZ	3524 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-023-023-000	DYK JANET D	3528 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-023-024-000	ENOS JEREMY	3532 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-023-025-000	VICTORIA ROBERTO	3500 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-023-026-000	ALONSO MIGUEL	3604 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-023-027-000	GALLO SANTOS & GALLO FELIPA	3608 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-023-028-000	HALL SHARON	3612 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-023-029-000	DE GUZMAN PEPITO V & RAQUEZA S TRS	245 GELF LANE	MODESTO	CA	95357	\$27.48
079-023-030-000	PRASAD NILESH	241 GELF LANE	MODESTO	CA	95357	\$27.48
079-023-031-000	BANUELOS MARTHA A	237 GELF LANE	MODESTO	CA	95357	\$27.48
079-023-032-000	SILVA RICK A	233 GELF LANE	MODESTO	CA	95357	\$27.48
079-023-033-000	NEWMAN SUSAN ET AL	229 GELF LANE	MODESTO	CA	95357	\$27.48
079-023-034-000	WARDA JENNIFER & BEN	225 GELF LANE	MODESTO	CA	95357	\$27.48
079-023-035-000	ACOSTA GARY SIMON TRS & ACOSTA SYLVIA ANN	221 GELF LANE	MODESTO	CA	95357	\$27.48
079-023-036-000	ESTRADA RICHARD & SBANTI-ESTRADA JOANNE	217 GELF LANE	MODESTO	CA	95357	\$27.48
079-023-039-000	AGUAYO ROBERTO U & GRACIELA	3529 ANNISTON COURT	MODESTO	CA	95357	\$27.48
079-023-040-000	MARTINEZ DAVID & MORENO MARISSA	3525 ANNISTON COURT	MODESTO	CA	95357	\$27.48
079-023-041-000	PONTE JOSEPH JOAQUIN JR & PONTE VIRGINIA R	3521 ANNISTON COURT	MODESTO	CA	95357	\$27.48
079-023-042-000	TOWNSEND DONALD K & JOYCE A TRS	3517 ANNISTON COURT	MODESTO	CA	95357	\$27.48
079-023-043-000	FAGUNDES ANTONIO L & HAIR JACQUELINE K	3513 ANNISTON COURT	MODESTO	CA	95357	\$27.48
079-023-044-000	TOWNSEND DONALD K & JOYCE A TRS	3512 HALLSBORO COURT	MODESTO	CA	95357	\$27.48
079-023-045-000	IMMEDIATO KEITH A ET AL	3516 HALLSBORO COURT	MODESTO	CA	95357	\$27.48
079-023-046-000	LOBATO JOSE B ET AL	3520 HALLSBORO COURT	MODESTO	CA	95357	\$27.48
079-023-047-000	PRASAD CHANDRA SEN & DAYA WATI TRS	3524 HALLSBORO COURT	MODESTO	CA	95357	\$27.48
079-023-048-000	PINEDA MARIBEL	3528 HALLSBORO COURT	MODESTO	CA	95357	\$27.48
079-023-049-000	COCHRAN PAT	3532 HALLSBORO COURT	MODESTO	CA	95357	\$27.48
079-023-055-000	BUCK NICOLE R	3529 HALLSBORO COURT	MODESTO	CA	95357	\$27.48
079-023-056-000	BORK VIRGINIA L & BORK RICHARD D	3525 HALLSBORO COURT	MODESTO	CA	95357	\$27.48
079-023-057-000	JOHNSON JEFFREY T & JOHNSON SUZANNE T	3521 HALLSBORO COURT	MODESTO	CA	95357	\$27.48
079-023-058-000	GONZALES DANIEL J	3517 HALLSBORO COURT	MODESTO	CA	95357	\$27.48
079-023-059-000	CAGUIAT RICALYN T	3513 HALLSBORO COURT	MODESTO	CA	95357	\$27.48
079-023-060-000	SELLERS SHERRY L	240 GELF LANE	MODESTO	CA	95357	\$27.48
079-023-061-000	FLORES CRISTIAN A	236 GELF LANE	MODESTO	CA	95357	\$27.48
079-023-062-000	MORA DELMA & MIGUEL	232 GELF LANE	MODESTO	CA	95357	\$27.48
079-023-063-000	VYBORNEY VERNON E & VYBORNEY VIRGINIA C	228 GELF LANE	MODESTO	CA	95357	\$27.48
079-023-064-000	SAALWAECHTER JENNIFER PATRICIA ET AL	224 GELF LANE	MODESTO	CA	95357	\$27.48
079-023-065-000	LAL NEALE K	220 GELF LANE	MODESTO	CA	95357	\$27.48
079-023-066-000	VANDER HEIDE RALPH P JR & KATHRYN N	216 GELF LANE	MODESTO	CA	95357	\$27.48
079-023-067-000	RODRIGUEZ MELCHOR M ET AL	3533 ANNISTON COURT	MODESTO	CA	95357	\$27.48
079-023-068-000	KNOEPFLE RACHEL RENEE	3537 ANNISTON COURT	MODESTO	CA	95357	\$27.48
079-023-069-000	HENRY JILL	3536 HALLSBORO COURT	MODESTO	CA	95357	\$27.48

ATTACHMENT 2

APN	Owner	Property Address	City	State	Zip	2012-2013 Assessment
079-023-070-000	SIMMALY NICK & KEOSOUKANANH AM	3540 HALLSBORO COURT	MODESTO	CA	95357	\$27.48
079-023-071-000	BRYANT TODD A	3541 HALLSBORO COURT	MODESTO	CA	95357	\$27.48
079-023-073-000	BOTELLO ALMA C	3533 HALLSBORO COURT	MODESTO	CA	95357	\$27.48
079-023-075-000	DOW STEPHEN C	3537 HALLSBORO COURT	MODESTO	CA	95357	\$27.48
079-024-001-000	LYEK LYSIRI & MIN DAISY	128 N. MC CLURE	MODESTO	CA	95357	\$27.48
079-024-002-000	PEREIRA JENNIFER A	132 N. MC CLURE	MODESTO	CA	95357	\$27.48
079-024-003-000	GARCIA DWAYNE & KRISTI	136 N. MC CLURE	MODESTO	CA	95357	\$27.48
079-024-004-000	FAULKNER JAMES & SHARON D	200 N. MC CLURE	MODESTO	CA	95357	\$27.48
079-024-005-000	ARMSTRONG CHESTER A TR	204 N. MC CLURE	MODESTO	CA	95357	\$27.48
079-024-006-000	SIDHU BALDEV S & MANMOHAN K TRS	208 N. MC CLURE	MODESTO	CA	95357	\$27.48
079-024-007-000	SOUKHAMTHATH ALAN	212 N. MC CLURE	MODESTO	CA	95357	\$27.48
079-024-008-000	FULLER JAMES L JR & FULLER TRACI J	217 MELBOURNE DRIVE	MODESTO	CA	95357	\$27.48
079-024-009-000	PEREZ CARMEN	213 MELBOURNE DRIVE	MODESTO	CA	95357	\$27.48
079-024-010-000	VANN SOCHENDA	209 MELBOURNE DRIVE	MODESTO	CA	95357	\$27.48
079-024-011-000	GRANT ERIC A & GRANT KAMERA L	205 MELBOURNE DRIVE	MODESTO	CA	95357	\$27.48
079-024-012-000	GALAS VINCE N	201 MELBOURNE DRIVE	MODESTO	CA	95357	\$27.48
079-024-013-000	MCE VENTURES LLC	3508 BAYBORO DRIVE	MODESTO	CA	95357	\$27.48
079-024-014-000	ZAMORA VICTOR & ZAMORA VERONICA	3512 BAYBORO DRIVE	MODESTO	CA	95357	\$27.48
079-024-015-000	GONZALEZ ANDRES & ESPERANZA	3516 BAYBORO DRIVE	MODESTO	CA	95357	\$27.48
079-024-016-000	JORGENSEN FRANK E & MIRIAM M	3520 BAYBORO DRIVE	MODESTO	CA	95357	\$27.48
079-024-017-000	GRANT JEFF	3524 BAYBORO DRIVE	MODESTO	CA	95357	\$27.48
079-024-018-000	ESTRADA FRANCISCO & ESTRADA JULIA	3528 BAYBORO DRIVE	MODESTO	CA	95357	\$27.48
079-024-019-000	CREE DEBORAH J	3600 BAYBORO DRIVE	MODESTO	CA	95357	\$27.48
079-024-020-000	COLWELL DONALD SR & COLWELL JO ANN	3604 BAYBORO DRIVE	MODESTO	CA	95357	\$27.48
079-024-021-000	DAOUD OLGA P	3608 BAYBORO DRIVE	MODESTO	CA	95357	\$27.48
079-024-022-000	WEISS JULIE GRANT	3612 BAYBORO DRIVE	MODESTO	CA	95357	\$27.48
079-024-023-000	MCE VENTURES LLC	3616 BAYBORO DRIVE	MODESTO	CA	95357	\$27.48
079-024-024-000	BROOKS TODD	3620 BAYBORO DRIVE	MODESTO	CA	95357	\$27.48
079-024-025-000	BORRELLI MICHAEL J	3624 BAYBORO DRIVE	MODESTO	CA	95357	\$27.48
079-024-026-000	KEENE EDWARD L & KEENE SUSAN G	200 GELF LANE	MODESTO	CA	95357	\$27.48
079-024-027-000	GONSALVES MATTHEW M	204 GELF LANE	MODESTO	CA	95357	\$27.48
079-024-028-000	FELT STACY L & MAILE V	208 GELF LANE	MODESTO	CA	95357	\$27.48
079-024-029-000	KARELIN ZENA M	212 GELF LANE	MODESTO	CA	95357	\$27.48
079-024-030-000	FLORES CESAR J & MAYRA	213 GELF LANE	MODESTO	CA	95357	\$27.48
079-024-031-000	NGEN STEVEN KORB & MELONEY SALEM LEN	209 GELF LANE	MODESTO	CA	95357	\$27.48
079-024-032-000	MOU CHRISTINA	3617 BAYBORO DRIVE	MODESTO	CA	95357	\$27.48
079-024-033-000	WEAVER BETTY J TRS ET AL	3613 BAYBORO DRIVE	MODESTO	CA	95357	\$27.48
079-024-034-000	CASTILLO TARA L ET AL	3609 BAYBORO DRIVE	MODESTO	CA	95357	\$27.48
079-024-035-000	WEAVER KRISTEN ELIZABETH TR	3605 BAYBORO DRIVE	MODESTO	CA	95357	\$27.48
079-024-036-000	BEE TAO CHING & SUE CHEN	3601 BAYBORO DRIVE	MODESTO	CA	95357	\$27.48
079-024-037-000	PAL REENA D	3529 BAYBORO DRIVE	MODESTO	CA	95357	\$27.48
079-024-038-000	VALDEZ ARTHUR DAVID TRS & VALDEZ ANGELINE	3525 BAYBORO DRIVE	MODESTO	CA	95357	\$27.48
079-024-039-000	MCE VENTURES LLC	3521 BAYBORO DRIVE	MODESTO	CA	95357	\$27.48
079-024-040-000	GALLARDO LYDIA	3517 BAYBORO DRIVE	MODESTO	CA	95357	\$27.48
079-024-041-000	KIST DAVID L & PADILLA YVETTE M	3513 BAYBORO DRIVE	MODESTO	CA	95357	\$27.48
079-024-042-000	SAMUEL MICHAEL & NIRONA	3512 ANNISTON COURT	MODESTO	CA	95357	\$27.48
079-024-043-000	HAMILTON EILEEN M TR	3516 ANNISTON COURT	MODESTO	CA	95357	\$27.48
079-024-044-000	VELASCO GONZALO R	3520 ANNISTON COURT	MODESTO	CA	95357	\$27.48
079-024-045-000	JK VALLEY PROPERTIES LLC	3524 ANNISTON COURT	MODESTO	CA	95357	\$27.48
079-024-046-000	SOUZA JASON S & TABITHA I	3528 ANNISTON COURT	MODESTO	CA	95357	\$27.48
079-024-049-000	FEDERAL NATIONAL MORTGAGE ASSN	3532 ANNISTON COURT	MODESTO	CA	95357	\$27.48
079-024-050-000	KNOEPFLE RONALD L & KNOEPFLE LORRAINE M	3536 ANNISTON COURT	MODESTO	CA	95357	\$27.48
079-025-003-000	EMPIRE UNION SCHOOL DISTRICT	116 N. MC CLURE ROAD	MODESTO	CA	95357	\$0.00
079-025-005-000	WHITE ALAN WAYNE SR & EVELYN KAY TRS	3501 YOSEMITE BLVD	MODESTO	CA	95357	\$69.86
079-025-017-000	BEARDEN FAMILY LTD PRTNSHP	3513 YOSEMITE BLVD	MODESTO	CA	95357	\$88.04
079-025-018-000	BEARDEN FAMILY LTD PRTNSHP	0 YOSEMITE BLVD	MODESTO	CA	95357	\$74.08
079-025-019-000	DJJI LLC	0 YOSEMITE BLVD	MODESTO	CA	95357	\$92.24
079-025-011-000	YOSEMITE AND CREEKWOOD INC	3621 YOSEMITE BLVD	MODESTO	CA	95357	\$191.42
079-025-015-000	CYPRESS EQUITIES GROUP III LP	0 CREEKWOOD DRIVE	MODESTO	CA	95357	\$1.56
079-025-020-000	CYPRESS EQUITIES GROUP III LP	117 CREEKWOOD DRIVE	MODESTO	CA	95357	\$366.06
079-026-005-000	MC DONALDS CORP	3801 YOSEMITE BLVD	MODESTO	CA	95357	\$83.84
079-026-006-000	LEONG JICK C TRS & LEONG ALICE NG	YOSEMITE BLVD	MODESTO	CA	95357	\$30.74

ATTACHMENT 2

APN	Owner	Property Address	City	State	Zip	2012-2013 Assessment
079-026-007-000	LEONG JACK C TRS & LEONG ALICE NG	YOSEMITE BLVD	MODESTO	CA	95357	\$27.94
079-026-008-000	CREEKWOOD PLAZA LLC	YOSEMITE BLVD	MODESTO	CA	95357	\$214.90
079-026-009-000	CREEKWOOD PLAZA LLC	YOSEMITE BLVD	MODESTO	CA	95357	\$35.06
079-026-010-000	CREEKWOOD PLAZA LLC	YOSEMITE BLVD	MODESTO	CA	95357	\$38.42
079-026-011-000	CREEKWOOD PLAZA LLC	3801 YOSEMITE BLVD	MODESTO	CA	95357	\$41.64
079-026-012-000	CREEKWOOD PLAZA LLC	YOSEMITE BLVD	MODESTO	CA	95357	\$40.38
079-026-013-000	CREEKWOOD PLAZA LLC	3801 YOSEMITE BLVD	MODESTO	CA	95357	\$876.04
079-026-014-000	PALLIOS ENTERPRISES	3801 YOSEMITE BLVD	MODESTO	CA	95357	\$191.42
079-027-001-000	ESPINOZA EVERADO & MARIA LUZ	3701 JULENE DRIVE	MODESTO	CA	95357	\$27.48
079-027-002-000	BERGSTROM ROBERT E & LINDA R TRS	3705 JULENE DRIVE	MODESTO	CA	95357	\$27.48
079-027-003-000	GILBERT LYNETTE & LANCE	3709 JULENE DRIVE	MODESTO	CA	95357	\$27.48
079-027-004-000	GRUWAL MANMEET & JASKIRAN	3713 JULENE DRIVE	MODESTO	CA	95357	\$27.48
079-027-005-000	VILLALPANDO HERIBERTO & ROSA	3717 JULENE DRIVE	MODESTO	CA	95357	\$27.48
079-027-006-000	GALLO JOE & ROSALIA	3721 JULENE DRIVE	MODESTO	CA	95357	\$27.48
079-027-007-000	FLORES VANESSA	3725 JULENE DRIVE	MODESTO	CA	95357	\$27.48
079-027-008-000	ORTIZ ALEJANDRA	3801 JULENE DRIVE	MODESTO	CA	95357	\$27.48
079-027-009-000	ADAIR KENNETH L	3805 JULENE DRIVE	MODESTO	CA	95357	\$27.48
079-027-010-000	MAKASYUK GUADALUPE	3809 JULENE DRIVE	MODESTO	CA	95357	\$27.48
079-027-011-000	HIATT RALPH W TR	3813 JULENE DRIVE	MODESTO	CA	95357	\$27.48
079-027-012-000	GIRTON BROOKS C	3817 JULENE DRIVE	MODESTO	CA	95357	\$27.48
079-027-013-000	TERRA MATTHEW ET AL	3821 JULENE DRIVE	MODESTO	CA	95357	\$27.48
079-027-014-000	CASTILLO ANGELICA ET AL	3825 JULENE DRIVE	MODESTO	CA	95357	\$27.48
079-027-015-000	DARPINIAN JANE LEE	3901 JULENE DRIVE	MODESTO	CA	95357	\$27.48
079-027-016-000	AWARD PROPERTIES	3905 JULENE DRIVE	MODESTO	CA	95357	\$27.48
079-027-017-000	GUPTILL CAROLYN S	3909 JULENE DRIVE	MODESTO	CA	95357	\$27.48
079-027-018-000	YOUNAN ALBERT M ET AL	3913 JULENE DRIVE	MODESTO	CA	95357	\$27.48
079-027-019-000	AMADOR GREG	3908 JULENE DRIVE	MODESTO	CA	95357	\$27.48
079-027-020-000	KANNO JANET	3900 JULENE DRIVE	MODESTO	CA	95357	\$27.48
079-027-021-000	BELTRAN RAMON F	232 ANASTASIA DRIVE	MODESTO	CA	95357	\$27.48
079-027-022-000	URY TRACY L	228 ANASTASIA DRIVE	MODESTO	CA	95357	\$27.48
079-027-023-000	NIELSEN MARK C	224 ANASTASIA DRIVE	MODESTO	CA	95357	\$27.48
079-027-024-000	TINOCO REBECCA K	220 ANASTASIA DRIVE	MODESTO	CA	95357	\$27.48
079-027-025-000	STRAIT AARON D	216 ANASTASIA DRIVE	MODESTO	CA	95357	\$27.48
079-027-026-000	AQUINO NESTOR JOSE P & AQUINO LUCILLE J	212 ANASTASIA DRIVE	MODESTO	CA	95357	\$27.48
079-027-027-000	SZCZYGIEL ROGER JOSEPH & SZCZYGIEL MONICA R	208 ANASTASIA DRIVE	MODESTO	CA	95357	\$27.48
079-027-028-000	ANDREINI CHRIS PAUL & VICKY ANN TRS	204 ANASTASIA DRIVE	MODESTO	CA	95357	\$27.48
079-027-029-000	LINDSAY STANLEY & MICHELE	200 ANASTASIA DRIVE	MODESTO	CA	95357	\$27.48
079-027-030-000	M & M PROPERTIES INC	3824 TROON PLACE	MODESTO	CA	95357	\$27.48
079-027-031-000	TOOMEY MICHAEL & WANDA	3820 TROON PLACE	MODESTO	CA	95357	\$27.48
079-027-032-000	NAIDU LATCHMI & NAIDU KRISHNA	3816 TROON PLACE	MODESTO	CA	95357	\$27.48
079-027-033-000	FEDERAL NATL MORTGAGE ASSOC	3812 TROON PLACE	MODESTO	CA	95357	\$27.48
079-027-034-000	OROZCO EDUARDO & LOPEZ CELIA HURTADO	3808 TROON PLACE	MODESTO	CA	95357	\$27.48
079-027-035-000	AGUINIGA LINDA L ET AL	3804 TROON PLACE	MODESTO	CA	95357	\$27.48
079-027-036-000	HENRY JILL A	3800 TROON PLACE	MODESTO	CA	95357	\$27.48
079-027-037-000	VALDEZ ARTHUR DAVID TRS & VALDEZ ANGELINE	3724 TROON PLACE	MODESTO	CA	95357	\$27.48
079-027-038-000	SIDHU BALDEV S & MANMOHAN K TRS	3720 TROON PLACE	MODESTO	CA	95357	\$27.48
079-027-039-000	VEGA JUAN MANUEL & MARIA A	3716 TROON PLACE	MODESTO	CA	95357	\$27.48
079-027-040-000	CAVAZOS HENRY J JR	3712 TROON PLACE	MODESTO	CA	95357	\$27.48
079-027-041-000	SANCHEZ NOEMI	3708 TROON PLACE	MODESTO	CA	95357	\$27.48
079-027-042-000	GOMEZ PATRICIA & FRANCISCO JAVIER	3704 TROON PLACE	MODESTO	CA	95357	\$27.48
079-027-043-000	GARRISON JAMES R & STACY L	3700 TROON PLACE	MODESTO	CA	95357	\$27.48
079-027-044-000	NAIR RAJESH & UMA	201 RECTOR LANE	MODESTO	CA	95357	\$27.48
079-027-045-000	SCHIED MICHAEL D & SCHEID MARILYN J	205 RECTOR LANE	MODESTO	CA	95357	\$27.48
079-027-046-000	JAMES CATHERINE M	209 RECTOR LANE	MODESTO	CA	95357	\$27.48
079-027-047-000	HOLLAND DARRELL	213 RECTOR LANE	MODESTO	CA	95357	\$27.48
079-027-048-000	MUIR LARRY R & LESLIE A	217 RECTOR LANE	MODESTO	CA	95357	\$27.48
079-027-049-000	AGHASSI JOESPH TR	221 RECTOR LANE	MODESTO	CA	95357	\$27.48
079-027-050-000	SABINIANO MARION N	3700 JULENE DRIVE	MODESTO	CA	95357	\$27.48
079-027-051-000	VIGIL CELSO & NATIVIDAD	3704 JULENE DRIVE	MODESTO	CA	95357	\$27.48
079-027-052-000	CHAND ATISH & REENA D	3708 JULENE DRIVE	MODESTO	CA	95357	\$27.48
079-027-053-000	WALDMAN MIKE & MARTHA	3712 JULENE DRIVE	MODESTO	CA	95357	\$27.48
079-027-054-000	MIRANDA CARMEN ET AL	3716 JULENE DRIVE	MODESTO	CA	95357	\$27.48

ATTACHMENT 2

APN	Owner	Property Address	City	State	Zip	2012-2013 Assessment
079-027-055-000	CHANHMISAY KEVIN & TIFFANY	3720 JULENE DRIVE	MODESTO	CA	95357	\$27.48
079-027-056-000	DOUGLAS MARY G	3724 JULENE DRIVE	MODESTO	CA	95357	\$27.48
079-027-057-000	ANAYA FERNANDEZ & FERNANDEZ ANJELITA	3800 JULENE DRIVE	MODESTO	CA	95357	\$27.48
079-027-058-000	GALLO SANTOS & GALLO FELIPA A	3804 JULENE DRIVE	MODESTO	CA	95357	\$27.48
079-027-059-000	O BRIEN JON L	3808 JULENE DRIVE	MODESTO	CA	95357	\$27.48
079-027-060-000	BLANAS FRANK G	3812 JULENE DRIVE	MODESTO	CA	95357	\$27.48
079-027-061-000	HEISER BRENDA M ET AL	3816 JULENE DRIVE	MODESTO	CA	95357	\$27.48
079-027-062-000	ROSE EUGENE L & TAMARA L	3820 JULENE DRIVE	MODESTO	CA	95357	\$27.48
079-027-063-000	MALDONADO JUAN G & VERONICA A	3825 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-027-064-000	RAYGOZA JOSE JR	3821 JARENA DRIVE-	MODESTO	CA	95357	\$27.48
079-027-065-000	DHESI PARVINDER & KIRANJIT	3817 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-027-066-000	HAMMONDS THEDFORD J	3813 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-027-067-000	FRIEDE SUKANTLA	3809 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-027-068-000	GUERRERO ANTHONY & GUERRERO DEBORAH	3805 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-027-069-000	CUEVAS TOMAS & BRACAMONTES MARIA CUEVAS	3801 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-027-070-000	CHAND ATISH & CHAND REENA	3725 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-027-071-000	HAMILTON DAWN J	3721 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-027-072-000	CHETTY JAI N & PADMANI	3717 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-027-073-000	NAVA MARGARITA ET AL	3713 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-027-074-000	CHAND RAJ RATTAN	3709 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-027-075-000	GALLO SANTOS & FELIPA A	3705 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-027-076-000	KOMMAVONG BOUNKONG & PHILAVONG ALING	3701 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-027-077-000	BRUHN JULEE	213 ANASTASIA DRIVE	MODESTO	CA	95357	\$27.48
079-027-078-000	BUER TYLER A	3812 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-027-079-000	SIERRA JOSE M & RIOS LUSILA	3808 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-027-080-000	BAC HOME LOANS SERVICING LP	3804 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-027-081-000	LOPEZ LISANDRIVEO ET AL	3800 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-027-082-000	CARDOZA RICHARD ALAN	3724 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-027-083-000	BURKE JOHN D & BURKE AMY E	3720 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-027-084-000	KNAUS SVETLANA	3716 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-027-085-000	KISARA SRINIVAS	3712 JARENA DRIVE	MODESTO	CA	95357	\$27.48
079-027-086-000	DOYLE CATHY M	220 RECTOR LANE	MODESTO	CA	95357	\$27.48
079-027-087-000	BAILEY GUY E & BAILEY DONNA M	212 RECTOR LANE	MODESTO	CA	95357	\$27.48
079-027-088-000	WHEELER AMANDA ET AL	208 RECTOR LANE	MODESTO	CA	95357	\$27.48
079-027-089-000	MESSER KEVIN & KAREN	3717 TROON PLACE	MODESTO	CA	95357	\$27.48
079-027-090-000	DE JESUS MARIO C & DE JESUS ARLENE M	3721 TROON PLACE	MODESTO	CA	95357	\$27.48
079-027-091-000	LEONARD MICHAEL & PATRICIA	3725 TROON PLACE	MODESTO	CA	95357	\$27.48
079-027-092-000	GARCIA JUAN & CARMEN A	3801 TROON PLACE	MODESTO	CA	95357	\$27.48
079-027-093-000	JONES JANE K	3805 TROON PLACE	MODESTO	CA	95357	\$27.48
079-027-094-000	HENRY JILL A	3809 TROON PLACE	MODESTO	CA	95357	\$27.48
079-027-095-000	MEES SEAN	3813 TROON PLACE	MODESTO	CA	95357	\$27.48
079-027-096-000	BAKUS LAUREN N	3817 TROON PLACE	MODESTO	CA	95357	\$27.48
079-027-097-000	CREEKWOOD MEADOWS INVESTORS	CREEKWOOD DRIVE	MODESTO	CA	95357	\$69.86
079-028-001-000	PERVERE BRYAN & PERVERE GAIL M	205 SENTINEL DRIVE	MODESTO	CA	95357	\$27.48
079-028-002-000	TEIXEIRA TERRY J	201 SENTINEL DRIVE	MODESTO	CA	95357	\$27.48
079-028-003-000	BARRAGAN BENJAMIN M & BARRAGAN IMELDA R	121 SENTINEL DRIVE	MODESTO	CA	95357	\$27.48
079-028-004-000	AWARD PROPERTIES LLC	117 SENTINEL DRIVE	MODESTO	CA	95357	\$27.48
079-028-005-000	PERRY JAMES B & PERRY DIANA C	113 SENTINEL DRIVE	MODESTO	CA	95357	\$27.48
079-028-006-000	FARNON AARON D & FARNON LINDA M	109 SENTINEL DRIVE	MODESTO	CA	95357	\$27.48
079-028-007-000	NAVA BALTAZAR & NAVA YOLANDA GALLO	105 SENTINEL DRIVE	MODESTO	CA	95357	\$27.48
079-028-008-000	MACIEL LAVINIA	101 SENTINEL DRIVE	MODESTO	CA	95357	\$27.48
079-028-009-000	MORA MACLOVIA & DAVID MEDINA	3900 EL PORTAL PLACE	MODESTO	CA	95357	\$27.48
079-028-010-000	ROCHA JOSE	3904 EL PORTAL PLACE	MODESTO	CA	95357	\$27.48
079-028-011-000	PONS-LANGLOT ALFRED	3908 EL PORTAL PLACE	MODESTO	CA	95357	\$27.48
079-028-012-000	MISSION HOUSING DEVELOPMENT CORPORATION	3912 EL PORTAL PLACE	MODESTO	CA	95357	\$27.48
079-028-013-000	DEL VALLE MARIA R	3916 EL PORTAL PLACE	MODESTO	CA	95357	\$27.48
079-028-014-000	HUIHUI JOSEPH FREDERICK	3920 EL PORTAL PLACE	MODESTO	CA	95357	\$27.48
079-028-015-000	DURAN ROBERT JR & MELANIE JT	3924 EL PORTAL PLACE	MODESTO	CA	95357	\$27.48
079-028-016-000	BURCIU VASILE & TABITA	3928 EL PORTAL PLACE	MODESTO	CA	95357	\$27.48
079-028-017-000	WONG LIL S ET AL	3932 EL PORTAL PLACE	MODESTO	CA	95357	\$27.48
079-028-018-000	SIKES JAMES R TR	3933 EL PORTAL PLACE	MODESTO	CA	95357	\$27.48
079-028-019-000	FRITCHARD INVESTMENTS LLC	3929 EL PORTAL PLACE	MODESTO	CA	95357	\$27.48

ATTACHMENT 2

APN	Owner	Property Address	City	State	Zip	2012-2013 Assessment
079-028-020-000	FEDERAL NATIONAL MORTGAGE ASSN	3925 EL PORTAL PLACE	MODESTO	CA	95357	\$27.48
079-028-021-000	MADRIVEIGAL JOSE A	3921 EL PORTAL PLACE	MODESTO	CA	95357	\$27.48
079-028-022-000	BOULTON BILL G	3917 EL PORTAL PLACE	MODESTO	CA	95357	\$27.48
079-028-023-000	MARTIN JEFFREY	3913 EL PORTAL PLACE	MODESTO	CA	95357	\$27.48
079-028-024-000	REED NANCY R & JOHNNY E	3909 EL PORTAL PLACE	MODESTO	CA	95357	\$27.48
079-028-025-000	CICERO EDWARD FRANCIS JR TR	3900 WESTFALL LANE	MODESTO	CA	95357	\$27.48
079-028-026-000	TANNER TOMMIE G & TANNER GARCIE L	3904 WESTFALL LANE	MODESTO	CA	95357	\$27.48
079-028-027-000	CAMPOS MARTIN	3908 WESTFALL LANE	MODESTO	CA	95357	\$27.48
079-028-028-000	SOUPHAVONG BOUATHONG	3912 WESTFALL LANE	MODESTO	CA	95357	\$27.48
079-028-029-000	WU WAN BEN	3916 WESTFALL LANE	MODESTO	CA	95357	\$27.48
079-028-030-000	YOUNAN LINARD & YOUNAN NEDHAL	3920 WESTFALL LANE	MODESTO	CA	95357	\$27.48
079-028-031-000	CAPISTRAN JUAN & BARRAGAN ELISA	3924 WESTFALL LANE	MODESTO	CA	95357	\$27.48
079-028-032-000	YOUNGER ROGER	3925 WESTFALL LANE	MODESTO	CA	95357	\$27.48
079-028-033-000	HOUSE DENNIS L & BONITA E TRS	3921 WESTFALL LANE	MODESTO	CA	95357	\$27.48
079-028-034-000	PRASAD RESHMI D	3917 WESTFALL LANE	MODESTO	CA	95357	\$27.48
079-028-035-000	HUEY JAMES W ET AL	3913 WESTFALL LANE	MODESTO	CA	95357	\$27.48
079-028-036-000	BARRAGAN JESSE & BARRAGAN OLIVIA T	3909 WESTFALL LANE	MODESTO	CA	95357	\$27.48
079-028-037-000	OCHOA PAULO & MENDOZA MARIA DE JESUS	3901 WESTFALL LANE	MODESTO	CA	95357	\$27.48
079-028-040-000	LITTLE EULALIA S	3936 EL PORTAL PLACE	MODESTO	CA	95357	\$27.48
079-028-041-000	MOORE JOHNATHAN & DEBRA	257 SENTINEL DRIVE	MODESTO	CA	95357	\$27.48
079-028-042-000	BUSTAMANTE GONZALO & BUSTAMANTE LUZ	253 SENTINEL DRIVE	MODESTO	CA	95357	\$27.48
079-028-043-000	VICTORINO CHRISTOPHER J & KRISTI M	249 SENTINEL DRIVE	MODESTO	CA	95357	\$27.48
079-028-044-000	TAYLOR JIMMY R & SHEILA W	245 SENTINEL DRIVE	MODESTO	CA	95357	\$27.48
079-028-045-000	SANDOVAL JUAN E & ANA LIDIA ACEVEDO DE	241 SENTINEL DRIVE	MODESTO	CA	95357	\$27.48
079-028-046-000	MCE VENTURES LLC	237 SENTINEL DRIVE	MODESTO	CA	95357	\$27.48
079-028-047-000	ALBERTO SILVIA	233 SENTINEL DRIVE	MODESTO	CA	95357	\$27.48
079-028-048-000	YOUNGER RONALD & YOUNGER LYDIA	229 SENTINEL DRIVE	MODESTO	CA	95357	\$27.48
079-028-049-000	PORRES MARIA	225 SENTINEL DRIVE	MODESTO	CA	95357	\$27.48
079-028-050-000	ATKINS DEBRA MICHELLE	221 SENTINEL DRIVE	MODESTO	CA	95357	\$27.48
079-028-051-000	HINISH LONNIE O & PAMELA K TRS	217 SENTINEL DRIVE	MODESTO	CA	95357	\$27.48
079-028-052-000	HOOK JEFFREY ALLEN & HOOK KIMBERLY ANN	213 SENTINEL DRIVE	MODESTO	CA	95357	\$27.48
079-028-053-000	ZAMORA ANTONIO S & ZAMORA MARIA A	209 SENTINEL DRIVE	MODESTO	CA	95357	\$27.48
079-028-054-000	TANNER NICHELLE N	212 SENTINEL DRIVE	MODESTO	CA	95357	\$27.48
079-028-055-000	COSTA JOE & COSTA MARY	216 SENTINEL DRIVE	MODESTO	CA	95357	\$27.48
079-028-056-000	MOREIRA ADRIVEIANA M	228 SENTINEL DRIVE	MODESTO	CA	95357	\$27.48
079-028-057-000	JIMENEZ NARCISO & JIMENEZ ROSA	236 SENTINEL DRIVE	MODESTO	CA	95357	\$27.48
079-028-058-000	DAVIS BARBARA A	240 SENTINEL DRIVE	MODESTO	CA	95357	\$27.48
079-028-059-000	HANNINK DOUG & KATHY TRS	244 SENTINEL DRIVE	MODESTO	CA	95357	\$27.48
079-028-060-000	WATTLE AARON K & JULIE R	3905 SENTINEL COURT	MODESTO	CA	95357	\$27.48
079-028-061-000	NORTON STANLEY W & NORTON LAURIE K	3908 SENTINEL COURT	MODESTO	CA	95357	\$27.48
079-028-062-000	CIBRIAN EFRAIN ET AL	3904 SENTINEL COURT	MODESTO	CA	95357	\$27.48
079-028-065-000	BROWN TANYA M	313 YOSEMITE MEADOWS DRIVE	MODESTO	CA	95357	\$27.48
079-028-066-000	BOSMA KRISTI K & BOSMA STEVEN R	309 YOSEMITE MEADOWS DRIVE	MODESTO	CA	95357	\$27.48
079-028-067-000	RODRIGUEZ ALFRED J & JULIA L	305 YOSEMITE MEADOWS DRIVE	MODESTO	CA	95357	\$27.48
079-028-068-000	CISNEROS HEBER & CISNEROS ROSALINA	301 YOSEMITE MEADOWS DRIVE	MODESTO	CA	95357	\$27.48
079-028-069-000	CITY OF MODESTO	YOSEMITE MEADOWS DRIVE	MODESTO	CA	95357	\$0.00
079-028-070-000	TOMA TITANIA Y	241 YOSEMITE MEADOWS DRIVE	MODESTO	CA	95357	\$27.48
079-028-071-000	HERNANDEZ SALVADOR & BELTRAN MARIA T	237 YOSEMITE MEADOWS DRIVE	MODESTO	CA	95357	\$27.48
079-028-072-000	LAGAN JASON	233 YOSEMITE MEADOWS DRIVE	MODESTO	CA	95357	\$27.48
079-028-073-000	HARDIN MIKE A	229 YOSEMITE MEADOWS DRIVE	MODESTO	CA	95357	\$27.48
079-028-074-000	SANGHA DILBAG SINGH ET AL	225 YOSEMITE MEADOWS DRIVE	MODESTO	CA	95357	\$27.48
079-028-075-000	PADILLA RODRIGO	221 YOSEMITE MEADOWS DRIVE	MODESTO	CA	95357	\$27.48
079-028-076-000	WIKA GARY L & WIKA PEGGY A	217 YOSEMITE MEADOWS DRIVE	MODESTO	CA	95357	\$27.48
079-028-077-000	SOTO GILBERTO & SOTO MARIA	213 YOSEMITE MEADOWS DRIVE	MODESTO	CA	95357	\$27.48
079-028-078-000	PEREZ VALENTINE M ET AL	209 YOSEMITE MEADOWS DRIVE	MODESTO	CA	95357	\$27.48
079-028-079-000	MENDOZA LIBERATO ET AL	3929 WESTFALL LANE	MODESTO	CA	95357	\$27.48
079-028-080-000	SUMTER JASON ET AL	3928 WESTFALL LANE	MODESTO	CA	95357	\$27.48
079-028-081-000	NAVARRO JOSE R	3937 EL PORTAL PLACE	MODESTO	CA	95357	\$27.48

THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-318**

A RESOLUTION CONFIRMING THE FISCAL YEAR 2012-2013 DIAGRAM AND ASSESSMENT, AND ORDERING THE LEVY AND COLLECTION OF CHARGES WITHIN THE SHACKELFORD LANDSCAPE AND LIGHTING DISTRICT

WHEREAS, the City of Modesto has by Resolution No. 2012-224, adopted on June 14, 2012, declared its intent to levy charges or assessments for the purpose of administering the maintenance of seventy-seven 200-watt high pressure sodium street lights in the Shackelford Landscape and Lighting District under the provisions of California Streets and Highways Code Sections 22500 through 22679, more commonly known as the Landscape and Lighting Act of 1972, and

WHEREAS, the charges against the real property are not levied with regard to property values but rather by allocated cost reports prepared by the Engineer of Work, and

WHEREAS, the City of Modesto has determined and certifies that the charges are either exempt from or in compliance with all the provisions of Proposition 218, which was passed by the voters in November 1996. The City of Modesto has further determined the charges are in compliance with all laws pertaining to the levy of such charges,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it orders the levy and collection of such charges within City of Modesto Shackelford Landscape and Lighting District for Fiscal Year 2012-2013, and in each subsequent fiscal year in which the charges may validly be levied; that a certified copy of this resolution and **attached** documentation shall be delivered to the Auditor-Controller of the County of

Stanislaus for placement of such charges on the 2012-2013 County Tax Roll, and in each subsequent fiscal year in which the charges may validly be levied.

BE IT FURTHER RESOLVED that the diagram of said assessment district and amount of levy thereon is hereby confirmed.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Modesto held on the 8th day of August, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**SHACKELFORD LANDSCAPE AND LIGHTING DISTRICT
ANNUAL ENGINEER'S REPORT
REVISED**

FISCAL YEAR 2012-2013

SET HEARING: June 12, 2012
PUBLIC HEARING: August 8, 2012

TABLE OF CONTENTS

ENGINEER'S REPORT AFFIDAVIT	3
INTRODUCTION	4
PART I – PLANS AND SPECIFICATIONS	4
A. DESCRIPTION OF THE SERVICE AREA	4
B. DESCRIPTION OF IMPROVEMENTS AND SERVICES	4
PART II – METHOD OF APPORTIONMENT	5
A. BENEFIT ANALYSIS	5
PART III – BUDGET ANALYSIS	6
A. FUND BALANCE	6
B. BUDGET FORMULA	6
PART IV – SERVICE AREA BUDGET	7
PART V – ASSESSMENTS	8
EXHIBIT A – BOUNDARY/PARCEL MAP	
EXHIBIT B – PARCEL LIST	

ENGINEER'S REPORT AFFIDAVIT

County of Stanislaus, State of California

SHACKELFORD LANDSCAPE AND LIGHTING DISTRICT

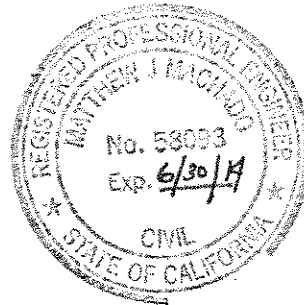
This report describes the District and all relevant zones therein including the budget(s), parcels and assessments to be levied for the Fiscal Year 2012-2013. Reference is hereby made to the Stanislaus County Assessor's maps for a detailed description of the lines and dimensions of parcels within the Shackelford Landscape and Lighting District (LLD).

The undersigned respectfully submits the enclosed report as directed by the Board of Supervisors.

Dated this 23rd day of July, 2012



MATT MACHADO, DIRECTOR, PE
Stanislaus County Department of Public Works



**SHACKELFORD LANDSCAPE AND LIGHTING DISTRICT
ANNUAL ENGINEER'S REPORT
FISCAL YEAR 2012-2013**

INTRODUCTION:

The Shackelford Landscape and Lighting District (hereinafter referred to as "District") was established on June 29, 1999, by Board Resolution No. 1999-528, following a ballot procedure conforming to the requirements of Proposition 218. The District was created to install and maintain streetlights to deter crime, promote traffic safety, and help law enforcement officers. The boundary of the District is shown on Exhibit "A"; attached hereto and made a part of this Engineer's Report.

Streets and Highways Code Sections 22565 through 22574 require that a written report containing a description of each parcel of real property receiving the particular extended service and the amount of the assessment for each parcel be prepared once a year and filed with the Clerk of the Board of Supervisors.

PART I – PLANS AND SPECIFICATIONS

A. Description of the Lighting District

There are 496 Assessor's parcels within the District, unless otherwise determined, and it is assumed each parcel receives equal benefit from the streetlights. The streetlights only provide a special benefit to the parcels within the District; therefore, no general benefit has been assigned. The annual assessment is levied without regard to property valuation. The boundary of the District is shown on Exhibit "A"; attached hereto and made a part of this Engineer's Report. The District is generally located:

- North of Hatch Road
- South of State Highway 99
- East of Crows Landing Road

There are 77 streetlights within the District, which are owned and maintained by Turlock Irrigation District (TID). The streetlights are 200 watt high pressure sodium lights. An anticipated increase of 7.85% in the TID street light rates is expected in February 2013. The 77 lights are projected to cost \$22,500 for Fiscal Year 2012-2013.

B. Description of Improvements and Services

The purpose of this District is to ensure the ongoing maintenance, operation and servicing of the District. The special benefit assessments to be levied for this District are intended to provide a revenue source for all the maintenance, and servicing of the District's improvements including, but not limited to the materials, equipment, labor and administrative expenses. However, the assessments are not intended to fund reconstruction or major renovations of the improvements and facilities.

The following services maintain facilities and improvements provided by the District as a

special benefit to the parcel owners within the District; the cost of the services is paid entirely by the assessments levied by the District:

- Payment to local utility company for monthly power costs of energizing street lights in the District
- Payment to local utility company for maintenance of street lights in the District that the utility company owns (usually those lights that are mounted on wooden poles)
- Maintenance provided by Stanislaus County Public Works for street lights in the District that are owned by Stanislaus County (usually those lights that are mounted on steel poles)

PART II - METHOD OF APPORTIONMENT

A. Benefit Analysis

The method of apportionment described in this report for allocation of special benefit assessments utilizes commonly accepted engineering practices. The formula used for calculating the annual assessment (hereinafter referred to as the "Method"), is the total cost to operate and maintain the street lights (Turlock Irrigation District energy charges, and any charges for the repair and/or replacement of the street lights), plus an amount needed to cover administration costs and to create and maintain an operational reserve (which would be used to pay for unexpected or emergency expenses incurred by the District during the year which were neither contemplated nor estimated as part of the District operation and maintenance costs), divided equally by the number of benefiting parcels within the District. The annual assessment calculated using the Method is proportional to the special benefit derived by each identified parcel in relationship to all of the costs of the services being provided by the District. Unless otherwise determined, it is assumed that each parcel benefits equally by the services provided. Therefore, the total cost to operate the District will be divided equally among all the parcels within the District. The formula used for calculating assessments for the District reflects the composition of the parcels and improvements provided to fairly apportion the costs based on special benefits to each parcel. Furthermore, pursuant to the California Constitution Article XIII D Section 4, a parcel's assessment may not exceed the reasonable cost of the proportional special benefit conferred on that parcel and a parcel may only be assessed for special benefits received.

All the improvements and services associated with the District have been identified as necessary, required and/or desired for the orderly development of the properties within the District to their full potential and consistent with the proposed development plans. As such, these improvements would be necessary and required of individual property owners for the development of such properties and the ongoing operation, servicing and maintenance of the improvements and facilities would be the financial obligation of those properties. Therefore, the District facilities, infrastructure, and the annual costs of ensuring the maintenance and operation of these improvements provide special benefits to the properties within the District.

Each parcel receives equal benefit from the District. The District only provides a special benefit to the parcels within Shackelford Landscape and Lighting District; therefore, no

general benefit has been assigned.

PART III – BUDGET ANALYSIS

A. Fund Balance

It is estimated there will be a fund balance on June 30, 2012, of \$8,819. An amount of \$1,000 will be set aside from fund balance to establish an operational reserve. This reserve will be used to offset unforeseen accident, vandalism or theft costs without affecting the assessment.

The assessment for Fiscal Year 2012-2013 is \$52.28. This is an increase of \$2.92 per EBU (5.9% increase from the prior year's assessment of \$49.36). The increase is due to the TID rate increase for streetlight utilities.

The fiscal year is the 12-month period from July 1st through June 30th of the following year. The assessment is received with property taxes collected in December and April. This means the fiscal year starts July 1st, but the first installment of the assessment is not collected until December, creating a six-month lag in receiving the money necessary to operate and maintain the streetlights. There are insufficient funds available to cover expenditures during this period, therefore; an amount of \$3,431 has been added to the balance to levy in order to rebuild fund balance.

B. Budget Formula

The method that is being used to calculate the assessment is the total cost to operate and maintain the District divided equally by the number of parcels within Shackelford Landscape and Lighting District. The formula can be stated as follows:

Amount of Annual Assessment = (Estimated Operation & Maintenance Costs for Current Year + Administration and Operational Reserve - Fund Balance From Previous Year - Estimated Property Tax Revenue For Current Year) / Number of Benefiting Parcels In District.

PART IV – SERVICE AREA BUDGET
Shackelford

EXPENSE DESCRIPTION	TOTAL BUDGET
ADMINISTRATION	
County Administration	\$500
Miscellaneous/Other Admin Fees	\$0
Total	\$500
PARKS & RECREATION	
Parks Labor	\$0
Parks Utilities	\$0
Parks Other Supplies	\$0
Total	\$0
PUBLIC WORKS	
Lighting Maintenance	\$0
Utilities/Street Lights	\$22,000
Utilities/Landscaping	\$0
Total	\$22,000
Capital Improvement Reserve	\$0
Total Administration, Parks & Rec, Public Works Budget	\$22,500
Fund Balance Information	
Beginning Fund Balance (Estimated for 2012-13)	\$8,819
Operational Reserve (-)	(\$1,000)
Available Fund Balance	\$7,819
Adjustments to Available Fund Balance	
General Fund (or PW) Loan Repayment/Advance (+)	\$0
Other Revenues/General Fund (Contributions i.e. Grants) (+)	\$0
Capital Improvement Expenditure (pumps etc.) (-)	\$0
6 Months Operating Reserve (-)	(\$11,250)
Total Adjustments	(\$11,250)
Remaining Available Fund Balance	(\$3,431)
Total Administration, Parks & Rec, Public Works Budget	\$22,500
Use of Fund Balance (-)	\$3,431
Balance to Levy	\$25,931
District Statistics	
Total Parcels	496
Assessment per Parcel	\$52.28
Reserve Target	\$3,000

PART V - ASSESSMENTS

2012-2013 Assessment = \$25,931 / 496 EBU = \$52.28 per EBU

2011-2012 Assessment = \$24,433 / 496 EBU = \$49.36 per EBU

The proposed annual assessment is an increase of \$2.92 (5.9%) from the Fiscal Year 2011-2012 assessment. The increase is due to the TID rate increase for streetlight utilities.

Because a method for calculating the annual assessment has been approved per Proposition 218, no ballot procedure is necessary to approve the increase. Therefore, the Fiscal Year 2012-2013 assessment is in compliance with Proposition 218.

The parcels subject to the annual assessment are listed on Exhibit "B"; attached hereto and made a part of this Engineer's Report.

EXHIBIT "B"
PARCEL COUNT FOR
SHACKELFORD LANDSCAPE AND LIGHTING DISTRICT
FISCAL YEAR 2012-2013

The Assessor's parcels listed below are subject to the annual assessment:

A.P.N.	ASSESSMENT	EBU	A.P.N.	ASSESSMENT	EBU
	2007-08			2007-08	
038-028-001	\$52.28	1	038-028-034	\$52.28	1
038-028-002	\$52.28	1	038-028-035	\$52.28	1
038-028-003	\$52.28	1	038-028-036	\$52.28	1
038-028-004	\$52.28	1	038-028-037	\$52.28	1
038-028-005	\$52.28	1	038-028-038	\$52.28	1
038-028-006	\$52.28	1	038-028-039	\$52.28	1
038-028-007	\$52.28	1	038-028-040	\$52.28	1
038-028-008	\$52.28	1			
038-028-009	\$52.28	1	038-028-042	\$52.28	1
038-028-010	\$52.28	1			
038-028-011	\$52.28	1	038-028-048	\$52.28	1
038-028-012	\$52.28	1			
038-028-013	\$52.28	1	038-028-051	\$52.28	1
038-028-014	\$52.28	1			
038-028-015	\$52.28	1	TOTAL	\$2,248.04	43
038-028-016	\$52.28	1	038-029-001	\$52.28	1
038-028-017	\$52.28	1	038-029-002	\$52.28	1
038-028-018	\$52.28	1	038-029-003	\$52.28	1
038-028-019	\$52.28	1	038-029-004	\$52.28	1
038-028-020	\$52.28	1	038-029-005	\$52.28	1
038-028-021	\$52.28	1	038-029-006	\$52.28	1
038-028-022	\$52.28	1	038-029-007	\$52.28	1
038-028-023	\$52.28	1	038-029-008	\$52.28	1
038-028-024	\$52.28	1	038-029-009	\$52.28	1
038-028-025	\$52.28	1	038-029-010	\$52.28	1
038-028-026	\$52.28	1	038-029-011	\$52.28	1
038-028-027	\$52.28	1	038-029-012	\$52.28	1
038-028-028	\$52.28	1	038-029-013	\$52.28	1
038-028-029	\$52.28	1	038-029-014	\$52.28	1
038-028-030	\$52.28	1	038-029-015	\$52.28	1
038-028-031	\$52.28	1	038-029-016	\$52.28	1
038-028-032	\$52.28	1	038-029-017	\$52.28	1
038-028-033	\$52.28	1	038-029-018	\$52.28	1
038-029-019	\$52.28	1	038-029-053	\$52.28	1
038-029-020	\$52.28	1	038-029-054	\$52.28	1
038-029-021	\$52.28	1	038-029-055	\$52.28	1
038-029-022	\$52.28	1	038-029-056	\$52.28	1
038-029-023	\$52.28	1	038-029-057	\$52.28	1
038-029-024	\$52.28	1	038-029-058	\$52.28	1
038-029-025	\$52.28	1	038-029-059	\$52.28	1

EXHIBIT "B"
PARCEL COUNT FOR
SHACKELFORD LANDSCAPE AND LIGHTING DISTRICT
FISCAL YEAR 2012-2013

The Assessor's parcels listed below are subject to the annual assessment:

A.P.N.	ASSESSMENT	EBU	A.P.N.	ASSESSMENT	EBU
038-029-026	\$52.28	1	038-029-060	\$52.28	1
038-029-027	\$52.28	1	038-029-061	\$52.28	1
038-029-028	\$52.28	1	038-029-062	\$52.28	1
038-029-029	\$52.28	1	038-029-063	\$52.28	1
038-029-030	\$52.28	1	038-029-064	\$52.28	1
			038-029-065	\$52.28	1
038-029-033	\$52.28	1	038-029-066	\$52.28	1
038-029-034	\$52.28	1	038-029-067	\$52.28	1
038-029-035	\$52.28	1	038-029-068	\$52.28	1
038-029-036	\$52.28	1	038-029-069	\$52.28	1
038-029-037	\$52.28	1	038-029-070	\$52.28	1
038-029-038	\$52.28	1	038-029-071	\$52.28	1
038-029-039	\$52.28	1	038-029-072	\$52.28	1
038-029-040	\$52.28	1	038-029-073	\$52.28	1
038-029-041	\$52.28	1	038-029-074	\$52.28	1
038-029-042	\$52.28	1	038-029-075	\$52.28	1
038-029-043	\$52.28	1	038-029-076	\$52.28	1
038-029-044	\$52.28	1			
038-029-045	\$52.28	1			
038-029-046	\$52.28	1			
038-029-047	\$52.28	1			
038-029-048	\$52.28	1			
038-029-049	\$52.28	1			
038-029-050	\$52.28	1			
038-029-051	\$52.28	1			
038-029-052	\$52.28	1			
038-030-001	\$52.28	1	038-030-035	\$52.28	1
038-030-002	\$52.28	1	038-030-036	\$52.28	1
038-030-003	\$52.28	1	038-030-037	\$52.28	1
038-030-004	\$52.28	1	038-030-038	\$52.28	1
038-030-005	\$52.28	1	038-030-039	\$52.28	1
038-030-006	\$52.28	1	038-030-040	\$52.28	1
038-030-007	\$52.28	1	038-030-041	\$52.28	1
			038-030-042	\$52.28	1
038-030-010	\$52.28	1	038-030-043	\$52.28	1
038-030-011	\$52.28	1	038-030-044	\$52.28	1
038-030-013	\$52.28	1	038-030-046	\$52.28	1
			038-030-047	\$52.28	1
038-030-015	\$52.28	1	038-030-048	\$52.28	1
038-030-016	\$52.28	1	038-030-049	\$52.28	1
			TOTAL	\$3,868.72	74

EXHIBIT "B"
PARCEL COUNT FOR
SHACKELFORD LANDSCAPE AND LIGHTING DISTRICT
FISCAL YEAR 2012-2013

The Assessor's parcels listed below are subject to the annual assessment:

A.P.N.	ASSESSMENT	EBU	A.P.N.	ASSESSMENT	EBU
038-030-017	\$52.28	1	038-030-050	\$52.28	1
038-030-018	\$52.28	1	038-030-051	\$52.28	1
038-030-019	\$52.28	1	038-030-052	\$52.28	1
			TOTAL	\$2,404.88	46
038-030-021	\$52.28	1	038-031-001	\$52.28	1
038-030-022	\$52.28	1	038-031-002	\$52.28	1
038-030-023	\$52.28	1	038-031-003	\$52.28	1
038-030-024	\$52.28	1	038-031-004	\$52.28	1
038-030-025	\$52.28	1	038-031-005	\$52.28	1
038-030-026	\$52.28	1	038-031-006	\$52.28	1
038-030-027	\$52.28	1	038-031-007	\$52.28	1
038-030-028	\$52.28	1	038-031-008	\$52.28	1
038-030-029	\$52.28	1	038-031-009	\$52.28	1
038-030-030	\$52.28	1	038-031-010	\$52.28	1
038-030-031	\$52.28	1			
038-030-032	\$52.28	1	038-031-012	\$52.28	1
038-030-033	\$52.28	1	038-031-013	\$52.28	1
038-030-034	\$52.28	1	038-031-048	\$52.28	1
038-031-014	\$52.28	1	038-031-049	\$52.28	1
038-031-015	\$52.28	1	038-031-050	\$52.28	1
038-031-016	\$52.28	1	038-031-051	\$52.28	1
038-031-017	\$52.28	1	038-031-052	\$52.28	1
038-031-018	\$52.28	1	038-031-053	\$52.28	1
038-031-019	\$52.28	1	038-031-054	\$52.28	1
038-031-020	\$52.28	1	038-031-055	\$52.28	1
038-031-021	\$52.28	1	038-031-056	\$52.28	1
038-031-022	\$52.28	1	038-031-057	\$52.28	1
038-031-023	\$52.28	1	038-031-058	\$52.28	1
038-031-024	\$52.28	1	038-031-059	\$52.28	1
038-031-025	\$52.28	1	038-031-060	\$52.28	1
038-031-026	\$52.28	1	038-031-061	\$52.28	1
038-031-027	\$52.28	1	038-031-062	\$52.28	1
038-031-028	\$52.28	1	038-031-063	\$52.28	1
038-031-029	\$52.28	1	038-031-064	\$52.28	1
038-031-030	\$52.28	1	038-031-065	\$52.28	1
038-031-031	\$52.28	1	038-031-066	\$52.28	1
038-031-032	\$52.28	1	038-031-067	\$52.28	1
038-031-033	\$52.28	1	038-031-068	\$52.28	1
038-031-034	\$52.28	1	038-031-069	\$52.28	1
038-031-035	\$52.28	1	038-031-070	\$52.28	1
038-031-036	\$52.28	1			

EXHIBIT "B"
PARCEL COUNT FOR
SHACKELFORD LANDSCAPE AND LIGHTING DISTRICT
FISCAL YEAR 2012-2013

The Assessor's parcels listed below are subject to the annual assessment:

A.P.N.	ASSESSMENT	EBU	A.P.N.	ASSESSMENT	EBU
038-031-037	\$52.28	1	TOTAL	\$3,502.76	67
038-031-038	\$52.28	1			
038-031-039	\$52.28	1			
038-031-040	\$52.28	1			
038-031-041	\$52.28	1			
038-031-042	\$52.28	1			
038-031-045	\$52.28	1			
038-031-046	\$52.28	1			
038-031-047	\$52.28	1			
038-032-002	\$52.28	1	038-032-036	\$52.28	1
038-032-003	\$52.28	1	038-032-037	\$52.28	1
038-032-004	\$52.28	1			
038-032-006	\$52.28	1	038-032-039	\$52.28	1
038-032-007	\$52.28	1	038-032-040	\$52.28	1
038-032-008	\$52.28	1	TOTAL	\$1,620.68	31
038-032-009	\$52.28	1			
038-032-010	\$52.28	1	038-033-003	\$52.28	1
038-032-011	\$52.28	1	038-033-004	\$52.28	1
038-032-012	\$52.28	1	038-033-005	\$52.28	1
038-032-013	\$52.28	1	038-033-006	\$52.28	1
038-032-014	\$52.28	1	038-033-007	\$52.28	1
038-032-015	\$52.28	1	038-033-008	\$52.28	1
038-032-016	\$52.28	1	038-033-009	\$52.28	1
038-032-018	\$52.28	1			
038-032-019	\$52.28	1	038-033-011	\$52.28	1
038-032-020	\$52.28	1	038-033-012	\$52.28	1
038-032-021	\$52.28	1	TOTAL	\$470.52	9
038-032-022	\$52.28	1			
038-032-023	\$52.28	1			
038-032-024	\$52.28	1			
038-032-027	\$52.28	1			
038-032-028	\$52.28	1			
038-032-031	\$52.28	1			
038-032-032	\$52.28	1			
038-032-033	\$52.28	1			
038-032-034	\$52.28	1			

EXHIBIT "B"
PARCEL COUNT FOR
SHACKELFORD LANDSCAPE AND LIGHTING DISTRICT
FISCAL YEAR 2012-2013

The Assessor's parcels listed below are subject to the annual assessment:

A.P.N.	ASSESSMENT	EBU	A.P.N.	ASSESSMENT	EBU
038-035-002	\$52.28	1	038-035-036	\$52.28	1
038-035-003	\$52.28	1	038-035-037	\$52.28	1
038-035-004	\$52.28	1	038-035-038	\$52.28	1
038-035-005	\$52.28	1	038-035-039	\$52.28	1
038-035-006	\$52.28	1	038-035-040	\$52.28	1
038-035-007	\$52.28	1	038-035-041	\$52.28	1
038-035-008	\$52.28	1	038-035-042	\$52.28	1
038-035-009	\$52.28	1	038-035-043	\$52.28	1
038-035-010	\$52.28	1	038-035-044	\$52.28	1
038-035-011	\$52.28	1	038-035-045	\$52.28	1
038-035-012	\$52.28	1	038-035-046	\$52.28	1
			038-035-047	\$52.28	1
038-035-015	\$52.28	1	038-035-048	\$52.28	1
038-035-016	\$52.28	1	038-035-049	\$52.28	1
038-035-017	\$52.28	1	038-035-050	\$52.28	1
038-035-018	\$52.28	1	038-035-051	\$52.28	1
038-035-019	\$52.28	1	038-035-052	\$52.28	1
038-035-020	\$52.28	1	038-035-053	\$52.28	1
038-035-021	\$52.28	1	038-035-054	\$52.28	1
038-035-022	\$52.28	1	038-035-055	\$52.28	1
038-035-023	\$52.28	1	038-035-056	\$52.28	1
038-035-024	\$52.28	1	038-035-057	\$52.28	1
038-035-025	\$52.28	1	038-035-058	\$52.28	1
038-035-026	\$52.28	1	038-035-059	\$52.28	1
038-035-027	\$52.28	1			
038-035-028	\$52.28	1	038-035-062	\$52.28	1
038-035-029	\$52.28	1	038-035-063	\$52.28	1
038-035-030	\$52.28	1	038-035-064	\$52.28	1
			TOTAL	\$3,032.24	58
038-035-032	\$52.28	1			
038-035-033	\$52.28	1			
038-035-034	\$52.28	1			
038-035-035	\$52.28	1			
038-036-001	\$52.28	1	038-036-034	\$52.28	1
038-036-002	\$52.28	1	038-036-035	\$52.28	1
038-036-003	\$52.28	1	038-036-036	\$52.28	1
038-036-004	\$52.28	1	038-036-037	\$52.28	1
038-036-005	\$52.28	1	038-036-038	\$52.28	1
038-036-006	\$52.28	1	038-036-039	\$52.28	1

EXHIBIT "B"
PARCEL COUNT FOR
SHACKELFORD LANDSCAPE AND LIGHTING DISTRICT
FISCAL YEAR 2012-2013

The Assessor's parcels listed below are subject to the annual assessment:

A.P.N.	ASSESSMENT	EBU	A.P.N.	ASSESSMENT	EBU
038-036-007	\$52.28	1	038-036-040	\$52.28	1
038-036-008	\$52.28	1	038-036-041	\$52.28	1
038-036-009	\$52.28	1	038-036-042	\$52.28	1
038-036-010	\$52.28	1	038-036-043	\$52.28	1
			TOTAL	\$2,195.76	42
038-036-012	\$52.28	1	038-037-001	\$52.28	1
038-036-013	\$52.28	1	038-037-004	\$52.28	1
038-036-014	\$52.28	1	038-037-005	\$52.28	1
038-036-015	\$52.28	1	038-037-006	\$52.28	1
038-036-016	\$52.28	1	038-037-007	\$52.28	1
038-036-017	\$52.28	1	038-037-008	\$52.28	1
038-036-018	\$52.28	1	038-037-009	\$52.28	1
038-036-019	\$52.28	1	038-037-010	\$52.28	1
038-036-020	\$52.28	1	038-037-011	\$52.28	1
038-036-021	\$52.28	1	038-037-012	\$52.28	1
038-036-022	\$52.28	1	038-037-013	\$52.28	1
038-036-023	\$52.28	1	038-037-014	\$52.28	1
038-036-024	\$52.28	1	038-037-015	\$52.28	1
038-036-025	\$52.28	1	038-037-016	\$52.28	1
038-036-026	\$52.28	1	038-037-017	\$52.28	1
038-036-027	\$52.28	1	038-037-018	\$52.28	1
038-036-028	\$52.28	1	038-037-019	\$52.28	1
038-036-029	\$52.28	1	038-037-020	\$52.28	1
038-036-030	\$52.28	1	038-037-021	\$52.28	1
038-036-031	\$52.28	1	038-037-022	\$52.28	1
038-036-032	\$52.28	1	038-037-056	\$52.28	1
038-036-033	\$52.28	1	038-037-057	\$52.28	1
038-037-023	\$52.28	1	038-037-058	\$52.28	1
038-037-024	\$52.28	1	038-037-059	\$52.28	1
038-037-025	\$52.28	1	038-037-060	\$52.28	1
038-037-026	\$52.28	1	038-037-061	\$52.28	1
038-037-027	\$52.28	1	038-037-062	\$52.28	1
038-037-028	\$52.28	1	038-037-063	\$52.28	1
038-037-029	\$52.28	1	038-037-064	\$52.28	1
038-037-032	\$52.28	1	038-037-065	\$52.28	1
038-037-033	\$52.28	1	038-037-066	\$52.28	1
038-037-034	\$52.28	1	038-037-067	\$52.28	1
038-037-035	\$52.28	1	038-037-068	\$52.28	1
038-037-036	\$52.28	1	038-037-069	\$52.28	1
038-037-037	\$52.28	1			

EXHIBIT "B"
PARCEL COUNT FOR
SHACKELFORD LANDSCAPE AND LIGHTING DISTRICT
FISCAL YEAR 2012-2013

The Assessor's parcels listed below are subject to the annual assessment:

A.P.N.	ASSESSMENT	EBU	A.P.N.	ASSESSMENT	EBU
038-037-038	\$52.28	1	038-037-070	\$52.28	1
038-037-039	\$52.28	1	038-037-071	\$52.28	1
038-037-040	\$52.28	1	038-037-072	\$52.28	1
038-037-041	\$52.28	1	038-037-073	\$52.28	1
038-037-042	\$52.28	1	038-037-074	\$52.28	1
038-037-043	\$52.28	1	038-037-075	\$52.28	1
038-037-044	\$52.28	1	038-037-076	\$52.28	1
038-037-045	\$52.28	1	038-037-077	\$52.28	1
038-037-046	\$52.28	1	038-037-078	\$52.28	1
038-037-047	\$52.28	1	038-037-079	\$52.28	1
038-037-048	\$52.28	1	038-037-080	\$52.28	1
038-037-049	\$52.28	1	038-037-081	\$52.28	1
038-037-050	\$52.28	1	038-037-082	\$52.28	1
038-037-051	\$52.28	1	038-037-083	\$52.28	1
038-037-052	\$52.28	1	038-037-084	\$52.28	1
038-037-053	\$52.28	1	038-037-085	\$52.28	1
038-037-054	\$52.28	1	038-037-086	\$52.28	1
038-037-055	\$52.28	1	038-037-087	\$52.28	1
038-037-088	\$52.28	1	038-038-030	\$52.28	1
038-037-089	\$52.28		038-038-031	\$52.28	
TOTAL	\$4,391.52	84	038-038-032	\$52.28	1
038-038-001	\$52.28	1	038-038-033	\$52.28	1
038-038-002	\$52.28	1	038-038-034	\$52.28	1
038-038-003	\$52.28	1	038-038-035	\$52.28	1
038-038-004	\$52.28	1	038-038-036	\$52.28	1
038-038-005	\$52.28	1	038-038-037	\$52.28	1
038-038-006	\$52.28	1	038-038-038	\$52.28	1
038-038-007	\$52.28	1	038-038-039	\$52.28	1
038-038-008	\$52.28	1	038-038-041	\$52.28	1
038-038-009	\$52.28	1	038-038-042	\$52.28	1
038-038-010	\$52.28	1	TOTAL	\$2,143.48	40
038-038-011	\$52.28	1			
038-038-012	\$52.28	1			
038-038-013	\$52.28	1			
038-038-014	\$52.28	1			
038-038-015	\$52.28	1			
038-038-016	\$52.28	1			
038-038-017	\$52.28	1			
038-038-018	\$52.28	1			

EXHIBIT "B"
PARCEL COUNT FOR
SHACKELFORD LANDSCAPE AND LIGHTING DISTRICT
FISCAL YEAR 2012-2013

The Assessor's parcels listed below are subject to the annual assessment:

A.P.N.	ASSESSMENT	EBU		A.P.N.	ASSESSMENT	EBU
038-038-019	\$52.28	1				
038-038-020	\$52.28	1				
038-038-021	\$52.28	1				
038-038-022	\$52.28	1				
038-038-023	\$52.28	1				
038-038-024	\$52.28	1				
038-038-025	\$52.28	1				
038-038-026	\$52.28	1				
038-038-027	\$52.28	1				
038-038-028	\$52.28	1				
038-038-029	\$52.28	1				
				LLD Total	496 \$	24,482.56

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-319**

**A RESOLUTION DIRECTING STAFF TO NEGOTIATE AN AGREEMENT
WITH STANISLAUS COUNTY AND GOODWIN CONSULTING GROUP, INC.
FOR PREPARATION OF A SALIDA ANNEXATION FISCAL IMPACT
ANALYSIS**

WHEREAS, Salida is an unincorporated area within Stanislaus County, and

WHEREAS, there has been considerable discussion of the Salida area incorporating; however, current economic conditions have made incorporation less viable, and

WHEREAS, discussions have turned to the possibility of annexation, and

WHEREAS, the County of Stanislaus and the City of Modesto have agreed to jointly fund an in-depth, financial analysis by an independent consulting firm that will be objective and impartial, and

WHEREAS, both the County of Stanislaus and the City of Modesto have past history and experience with Goodwin Consulting Group, Inc., and

WHEREAS, Goodwin Consulting Group, Inc. was asked to submit a scope and budget for a Salida Annexation Fiscal Impact Analysis, and

WHEREAS, the proposed scope and budget will be the basis of the joint agreement between the City, the County and Goodwin Consulting Group, Inc., and

WHEREAS, the City's share of the Salida Annexation Fiscal Impact Analysis will not exceed \$33,000, and

WHEREAS, the Salida Annexation Fiscal Impact Analysis is intended to review and discuss the impact of annexation so that both policy makers and the impacted communities can make informed decisions about a possible annexation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby directs staff to negotiate an agreement with Stanislaus County and Goodwin Consulting Group, Inc. for preparation of a Salida Annexation Fiscal Impact Analysis.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Modesto held on the 8th day of August, 2012 by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-320**

**RESOLUTION AMENDING THE FISCAL YEAR 2012-2013 OPERATING
BUDGET TO APPROPRIATE \$33,000 IN GENERAL FUND RESERVES TO
FUND A SALIDA ANNEXATION FISCAL IMPACT ANALYSIS**

WHEREAS, Salida is an unincorporated area within Stanislaus County, and

WHEREAS, there has been considerable discussion of the Salida area incorporating; however, current economic conditions have made incorporation less viable, and

WHEREAS, discussions have turned to the possibility of annexation, and

WHEREAS, the County of Stanislaus and the City of Modesto have agreed to jointly fund an in-depth, financial analysis by an independent consulting firm that will be objective and impartial, and

WHEREAS, both the County of Stanislaus and the City of Modesto have past history and experience with Goodwin Consulting Group, Inc., and

WHEREAS, Goodwin Consulting Group, Inc. was asked to submit a scope and budget for a Salida Annexation Fiscal Impact Analysis, and

WHEREAS, the proposed scope and budget will be the basis of the joint agreement between the City, the County and Goodwin Consulting Group, Inc., and

WHEREAS, the City's share of the Salida Annexation Fiscal Impact Analysis will not exceed \$33,000,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes amending the Fiscal Year 2012-2013 Operating Budget as necessary and to appropriate the City's share of the Salida Annexation Fiscal Impact Analysis in an amount not to exceed \$33,000.

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

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Modesto held on the 8th day of August, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-321**

CONSIDER AUTHORIZING THE AWARD OF PROPOSAL AND CONTRACT FOR THE FURNISHING OF UNIFORM AND LAUNDRY SERVICES FOR CITYWIDE USE TO ARAMARK UNIFORM SERVICES, MODESTO, CA, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF \$100,000

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Proposals (RFP) for the furnishing of uniform and laundry services, and

WHEREAS, the Purchasing Division issued RFP No. 1112-26 Uniform and Laundry Services to six (6) prospective proposers, two (2) of which were local vendors, posted the RFP on the City's website and formally advertised as required by law, and

WHEREAS, proposals were formally opened in the City Clerk's Office. Two (2) companies choose to respond, both of which were local vendors. Both companies provided responsive and responsible proposals, and

WHEREAS, an evaluation committee comprised of four (4) City staff members evaluated and graded the proposals, and

WHEREAS, based on being ranked highest in total evaluation criteria the evaluation committee recommends the award of proposal and contract for the furnishing of uniform and laundry services for Citywide use to Aramark Uniform Services, Modesto, CA, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. The award of proposal for the furnishing of uniform and laundry

services to Aramark Uniform Services, Modesto, CA, conforms to the Modesto Municipal Code, and

WHEREAS, funds shall be budgeted for the furnishing of uniform and laundry services in Appropriation Units:

0100-33320-53170, 0100-35010-53170, 0100-35220-53170, 1310-37020-53170, 1370-37030-53170, 1700-14540-53170, 1700-14560-53170, 1700-53130-53170, 1700-53142-53170, 4000-53250-53170, 4100-55050-53170, 4100-55060-53170, 4100-55080-53170, 4100-55090-53170, 4100-55110-53170, 4210-54115-53170, 4210-54117-53170, 4210-54212-53170, 4210-54312-53170, 4210-54313-53170, 4210-54314-53170, 4210-54410-53170, 4310-53312-53170, 4480-53150-53170, 4480-54114-53170, 4540-53244-53170, 4700-34200-53170, 4890-37040-53170, 5110-12530-53170, 5400-53255-53170, 5800-35120-53170, 5800-35130-53170, 6500-80060-53170

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of proposal for the furnishing of uniform and laundry services for Citywide use to Aramark Uniform Services, Modesto, CA.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to issue an agreement for an estimated annual cost of \$100,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-322**

RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE FURNISHING OF SODIUM HYPOCHLORITE FOR THE PUBLIC WORKS DEPARTMENT, WATER DIVISION, TO OLIN CHLOR ALKALI PRODUCTS, TRACY, CA, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE A PURCHASE AGREEMENT FOR AN ESTIMATED ANNUAL COST OF \$75,000

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the furnishing of Sodium Hypochlorite, and

WHEREAS, the City of Modesto operates and maintains one-hundred and fourteen (114) wells and nine (9) tanks. State regulations require the Water Division to disinfect the water to kill or inactivate most microorganisms. Sodium Hypochlorite is used to disinfect the wells throughout the City's water system, and

WHEREAS, the Purchasing Division issued RFB No. 1112-32 Sodium Hypochlorite, to fifteen (15) prospective bidders, posted the bid on the City's website and formally advertised as required by law. There is no local vendor that can provide this type of chemical, and

WHEREAS, bids were formally opened in the City Clerks office. Three (3) companies chose to respond. All three (3) companies provided responsive and responsible bids, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid for the furnishing of Sodium Hypochlorite to Olin Chlor Alkali Products, Tracy, CA. for an estimated annual cost of \$75,000 and over five (5) years of \$375,000, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. The award of bid for the furnishing of Sodium Hypochlorite for the Public Works Department, Water Division, to Olin Chlor Alkali Products, Tracy, CA, conforms to the Modesto Municipal Code, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2012-13 in the following appropriation unit, 4100-55090-52190.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid for the furnishing of Sodium Hypochlorite for the Public Works Department, Water Division, to Olin Chlor Alkali Products, Tracy, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager or his designee to issue a purchase agreement for an estimated annual cost of \$75,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-323**

RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE PURCHASE OF THREE (3) FRONT LOADERS FOR THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT, SOLID WASTE PRUNED REFUSE COLLECTION DIVISION, THROUGH THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, TO PAPE MACHINERY, FRENCH CAMP, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR A TOTAL ESTIMATED COST OF \$281,048

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, throughout FY 11/12 through various competitive processes, with the Purchasing Division coming back to Council for award authorization. The three (3) front loaders were included in the FY 11/12 new vehicles and heavy equipment list authorized by the City Manager, and

WHEREAS, front loaders are used by the Parks, Recreation and Neighborhoods Department, Solid Waste Pruned Refuse Collection Division. The front loaders have been subjected to a thorough evaluation and have met or exceeded the replacement criteria before being placed on the replacement list. The front loaders fall under the City's compliance program, approved by the California Air Resources Board, requiring a progressive program to remove older diesel equipment from service, and

WHEREAS, the Purchasing Division issued RFB No. 1112-36 for the purchase of three (3) front loaders to nine (9) prospective bidders, posted the bid on the City's website and formally advertised as was required by law. There is no local vendor for this type of equipment, and

WHEREAS, RFB's were formally opened in the City Clerk's office. Of the nine (9) prospective bidders, three (3) companies chose to respond. All three (3) companies provided responsive and responsible bids, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid for the purchase of three (3) front loaders to Pape Machinery, French Camp, CA, for an estimated cost of \$281,048, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2012-13 in the following appropriation unit 5410-53241-57003, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. The award of bid for the purchase of three (3) front loaders to Pape Machinery, French Camp, CA for the Parks, Recreation and Neighborhoods Department, Solid Waste Pruned Refuse Collection Division, through the Public Works Department, Fleet Services 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 for the purchase of three (3) front loaders for the Parks, Recreation and Neighborhoods Department, Solid Waste Pruned Refuse Collection Division, through the Public Works Department, Fleet Services Division to Pape Machinery, French Camp, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager or his designee to issue a purchase order for a total estimated cost of \$281,048.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-324**

**RESOLUTION AMENDING THE POSITION CLASSIFICATION PLAN FOR
THE CITY OF MODESTO TO AMEND THE CLASSIFICATION OF CHIEF OF
POLICE**

WHEREAS, a Position Classification Plan for the City of Modesto was adopted by Modesto City Council Resolution No. 2008-681 pursuant to Rule 2.2 of the Personnel Rules and Regulations of the City of Modesto, and

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

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

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

SECTION 1. CLASSIFICATION AMENDED. The Position Classification Plan of the City of Modesto is hereby amended to revise the Chief of Police classification. The Chief of Police job specification is being revised to expand consideration to potential candidates with broad and extensive supervisory experience which does not include experience as a Captain. The revised Chief of Police class specification, as shown in **attached Exhibit "A,"** which is made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after August 14, 2012.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

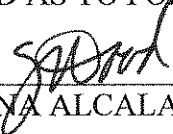
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
NO. 1720

CHIEF OF POLICE

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

DEFINITION

To plan, organize, direct and review the activities and operations of the Police Department including patrol, traffic enforcement, investigation, animal control and administrative support services; to provide leadership to the department and the City organization; to coordinate assigned activities with other City departments and outside agencies; and to provide highly responsible and complex administrative support to the City Manager.

SUPERVISION RECEIVED AND EXERCISED

Receives policy direction from the City Manager and/or Deputy City Manager.

Exercises direct supervision over management, supervisory, sworn, technical and administrative support personnel.

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

Essential Functions:

Develop, plan, and implement Department goals and objectives; recommend and administer policies and procedures.

Coordinate Department activities with those of other departments and outside agencies and organizations; provide staff assistance to the City Manager and City Council; prepare and present staff reports and other necessary correspondence.

Direct, oversee and participate in the development of the Department's work plan; assign work activities, projects and programs; monitor work flow; review and evaluate work products, methods and procedures.

Supervise and participate in the development and administration of the Police Department budget; direct the forecast of additional funds needed for staffing, equipment, materials, and supplies; monitor and approve expenditures; implement mid-year adjustments.

Select, train, motivate and evaluate personnel; provide or coordinate staff training; conduct performance evaluations; implement discipline procedures; maintain discipline and high standards necessary for the efficient and professional operation of the Department.

Essential Functions: (Continued)

Develop and implement long and short-term strategic plans in support of department and City-wide goals and objectives.

Confer with citizens and City officials on law enforcement problems and assist in the development of innovative municipal law enforcement policies.

Ensure responsive, appropriate service delivery by conferring with civic, professional, service, fraternal and other community groups.

Coordinate law enforcement activities with the activities of other City departments and other law enforcement agencies.

Initiate internal investigations when appropriate and provide corrective action as needed.

Represent the Department to outside groups and organizations; participate in outside community and professional groups and committees; provide technical assistance as necessary.

Research, prepare and present technical and administrative reports and studies to Council, commissions and a variety of committees; prepare written correspondence.

Build and maintain positive working relationships with Senior Executive Team, Mayor, City Council, co-workers, other City employees and the public using principles of good customer service.

Marginal Functions

Perform related duties as assigned.

MINIMUM QUALIFICATIONS

Knowledge of:

Principles, practices and techniques of police administration, organization and operation.

Principles and practices of leadership, motivation, team building and conflict resolution.

Use of firearms and other modern police equipment.

Knowledge of: (Continued)

Technical and administrative phases of crime prevention and law enforcement, including investigation and identification, patrol, traffic control, animal control, records management, care and custody of persons and property and environmental protection.

Pertinent local, State and Federal laws, rules and regulations.

Organizational and management practices as applied to the analysis and evaluation of programs.

Principles and practices of organization, administration and personnel management.

Principles and practices of budget preparation and administration.

Ability to:

Plan, direct and control the administration and operations of the Police Department.

Prepare and administer department budgets.

Develop and implement department policies and procedures.

Supervise, train and evaluate assigned personnel.

Gain cooperation through discussion and persuasion.

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

Interpret and apply Federal, State, local and department policies, procedures, laws and regulations.

Meet the physical requirements necessary to safely and effectively perform the assigned duties.

Act quickly and calmly in emergencies.

Identify and respond to public and City Council issues and concerns.

Ability to: (Continued)

Communicate clearly and concisely, both orally and in writing.

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

Experience and Training Guidelines

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

Experience:

Seven years of broad and extensive supervisory experience in municipal police work, ~~including three years as a Captain.~~

Training:

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

License or Certificate:

Possession of, or ability to obtain, an appropriate, valid California driver's license.

Possession of a P.O.S.T. Basic Certification within two years of appointment.

PHYSICAL AND MENTAL REQUIREMENTS

Mobility: frequent use of keyboard; frequent sitting for long periods of time; occasional bending or squatting. **Lifting:** frequently up to 10 pounds; occasionally up to 25 pounds. **Vision:** constant use of overall vision; frequent reading and close-up work; occasional color and depth vision. **Dexterity:** frequent repetitive motion; frequent writing; frequent grasping, holding, and reaching. **Hearing/Talking:** frequent hearing and talking, in person and on the phone. **Emotional/Psychological:** frequent decision-making and concentration; frequent public and/or coworker contact; occasional working alone. **Environmental:** frequent exposure to noise.

WORKING CONDITIONS

Work is performed in a typical temperature controlled office environment subject to typical office noise and environment. Positions require regular overtime or weekend work and the ability to travel.

Individuals appointed into positions in this classification after February 5, 2008 are in the Unclassified Service and serve at the will of the City Manager.

<i>Class Spec History</i>	
Adopted	4/88
Revised	12/08
BU	Exec Mgt

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-325**

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE “EMPIRE AVENUE STREET IMPROVEMENTS FROM HILLSIDE DRIVE TO MONTEREY AVENUE” PROJECT, ACCEPTING THE BID, AND APPROVING A CONTRACT WITH KNIFE RIVER CONSTRUCTION OF STOCKTON, CA, IN THE AMOUNT OF \$395,783.30; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE , TO EXECUTE THE CONTRACT

WHEREAS, the “Empire Avenue Street Improvements from Hillside Drive to Monterey Avenue” Project is located within the Airport Neighborhood which is designated as a Neighborhood Revitalization Strategy area, and

WHEREAS, plans and specifications have been prepared for the Project, and

WHEREAS, the bids received for the project were opened on July 10, 2012, and later tabulated by the Director of the Parks, Recreation & Neighborhoods Department for Council consideration, and

WHEREAS, staff recommends the bid of \$395,783.30 received from Knife River Construction be accepted as the lowest responsible bid and the contract be awarded to Knife River Construction,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the “Empire Avenue Street Improvements from Hillside Drive to Monterey Avenue” Project, accepts the bid of Knife River Construction in the amount of \$395,783.30, and awards Knife River Construction the contract.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-326**

**RESOLUTION REJECTING ALL BIDS FOR THE AIRPORT
NEIGHBORHOOD COMMUNITY CENTER PROJECT, AND AUTHORIZING
STAFF TO RE-ADVERTISE THE PROJECT**

WHEREAS, the bids received for project 100698 Airport Neighborhood Community Center were opened at 11:00 a.m. on July 26, 2012, and later tabulated by the Director of Parks Recreation & Neighborhoods Department for the consideration of the Council, and

WHEREAS, City staff have reviewed all information and has determined it is in the best interest of the City to recommend that all bids be rejected, and

WHEREAS, City staff will discuss with the Consultant potential revisions in the project scope for the Airport Neighborhood Community Center Project that may result in lower bids, and

WHEREAS, City staff recommends re-advertising the project for the Airport Neighborhood Community Center with revisions to the project scope,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby rejects all bids received for Project 100698 the Airport Neighborhood Community Center.

BE IT FURTHER RESOLVED that staff is hereby authorized to re-advertise the project for the Airport Neighborhood Community Center with revisions to the project scope.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA-WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-327**

RESOLUTION APPROVING AN AGREEMENT WITH RECLAMATION DISTRICT 2091 FOR THE ANNUAL MAINTENANCE OF THE DISTRICT'S LEVEE SYSTEM LOCATED AT THE JENNINGS WASTEWATER TREATMENT PLANT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Reclamation District 2091 (District) was established on January 12, 1959, for the purpose of maintaining 7.59 miles of levee on the San Joaquin River, and

WHEREAS, the District is made up of 26 landowners who represent approximately 7,015 acres located at and near the Jennings Wastewater Treatment Plant (Jennings), and

WHEREAS, the City owns approximately 4,500 acres of the 7,015 acres along the levee, and

WHEREAS, the Wastewater maintenance section at Jennings has maintained the levee on this property at no charge to District, and

WHEREAS, on August 10, 2010, the City sent a letter to the District notifying them that a levee maintenance agreement must be established to relieve the City of any liability, and to equitably distribute the cost of levee maintenance amongst the landowners, and

WHEREAS, the cost to maintain the levee is \$38,771 per year, and

WHEREAS, this agreement will allow the City to continue to maintain the levee for the District, as well as authorize the City to do any emergency maintenance, repairs, and/or projects, and to also apply for any grants and reimbursements available to fund levee work,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with Reclamation District 2091 for the annual maintenance of the District's levee system located at the Jennings Wastewater Treatment Plant.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-328**

**A RESOLUTION APPROVING A ONE-TIME, NON-PRECEDENT SETTING
WAIVER OF WASTEWATER CAPACITY CHARGES TO SQUAB
PRODUCERS IN THE AMOUNT OF \$198,753**

WHEREAS, Infrastructure for wastewater capacity is funded by growth or new development, and

WHEREAS, on May 8, 2007, City Council, by Resolution 2007-287, established wastewater capacity charges, and

WHEREAS, on July 10, 2007, City Council, by Resolution 2007-422, implemented the principles regarding capacity charges to industrial users, including when a user is required to purchase additional wastewater capacity, and

WHEREAS, between 2008 and 2011 Squab Producers (Squab) exceeded its allocated discharge capacity granted in 2007, and

WHEREAS, this triggered the need to purchase additional wastewater capacity in the amount of \$198,753, and

WHEREAS, in 2011, Squab lost significant business due to the economic downturn and no longer needs the additional capacity, and

WHEREAS, Resolution No. 2007-422 has no provisions for waiving capacity charges when capacity is no longer required, and

WHEREAS, Resolution No. 2007-422 requires the City to charge a capacity charge if the allocated capacity is exceeded by more than 10 percent for two consecutive years or three years in a five-year period, and

WHEREAS, while Squab's wastewater needs triggered this requirement, its current needs are well below the threshold and there is no expectation that they will need additional capacity in the near future, and

WHEREAS, Squab will be subject to all the terms in Resolution No. 2007-422 should it need additional capacity at some point in the future,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a one-time, non-precedent setting waiver of wastewater capacity charges to Squab Producers in the amount of \$198,753.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-329**

RESOLUTION ACCEPTING A FEDERAL AIRPORT IMPROVEMENT PROGRAM GRANT OFFER FROM THE FEDERAL AVIATION ADMINISTRATION (FAA) FOR UP TO \$183,250.80, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO ACCEPT THE GRANT OFFER

WHEREAS, Modesto City-County Airport is a commercial service airport that is a part of the federal airport system and is eligible for federal funding, and

WHEREAS, as airport sponsor, the City is eligible each year for entitlement and discretionary funds from the Airport Improvement Program (AIP) in order to execute FAA- approved airport projects or improvements, and

WHEREAS, the Federal Aviation Administration (FAA) requests that the City submit a new funding application annually for Modesto City-County Airport capital expense funding, and

WHEREAS, the City submitted a Grant Application to the FAA on July 23, 2012, requesting funding for CEQA/NEPA Environmental Studies totaling \$203,612, and

WHEREAS, these studies are in support of FAA mandated tree trimming and removal adjacent to the Airport, and

WHEREAS, the local 10% match (\$20,361.20) required for this grant offer will be paid from future Passenger Facility Charges (PFCs) collected by the airlines from enplaning passengers,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the acceptance of a Federal Airport Improvement Program (AIP) Grant Offer for up to \$183,250.80 from the Federal Aviation Administration.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-330**

RESOLUTION ACCEPTING THE WORK BY VALLEY SLURRY SEAL FOR THE “ARRA of 2009 FUNDED CAPE AND SLURRY SEAL – VARIOUS STREETS” PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER UPON RECEIPT OF APPROVED WARRANTY BOND, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING \$2,181,372.54

WHEREAS, a report has been filed by the Acting Director of Utility Planning and Projects that the ARRA of 2009 Funded Cape and Slurry Seal – Various Streets project has been completed by Valley Slurry Seal, in accordance with the contract agreement dated April 13, 2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the ARRA of 2009 Funded Cape and Slurry Seal – Various Streets project is hereby accepted as complete from said contractor, Valley Slurry Seal, that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder upon receipt of approved Warranty Bond, and that payment of amounts totaling \$2,181,372.54 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 14th day of August, 2012, by Councilmember Burnside, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill, Lopez, Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-331**

**RESOLUTION ACCEPTING THE WORK BY HANSEN ELECTRIC FOR THE
“DALE ROAD CCTV AND CCTV SYSTEM UPGRADE” PROJECT AS
COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF
COMPLETION WITH THE STANISLAUS COUNTY RECORDER UPON
RECEIPT OF APPROVED WARRANTY BOND, AND AUTHORIZING
PAYMENT OF AMOUNTS TOTALING \$260,633.38**

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the Dale Road CCTV and CCTV System Upgrade project has been completed by Hansen Electric in accordance with the contract agreement dated August 3, 2011,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Dale Road CCTV and CCTV System Upgrade project is hereby accepted as complete from said contractor Hansen Electric, that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder upon receipt of approved Warranty Bond, and that payment of amounts totaling \$260,633.38 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 14th day of August, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-332**

**A RESOLUTION AUTHORIZING CHANGE ORDERS FOR THE PROJECT
TITLED, "DALE ROAD CCTV AND CCTV SYSTEM UPGRADE" IN THE
AMOUNT OF \$24,446.00**

WHEREAS, on August 3, 2011, the City Council, by Resolution No. 2011-290, awarded a \$214,800.00 contract to Hansen Electric to construct the Dale Road CCTV and CCTV System Upgrade project, and

WHEREAS, additional work not included in the original bid needed to be added to the Project to allow for completion of the Project, and

WHEREAS, the cost of the extra work has been estimated to be \$24,446.00, an amount which exceeds the Director's authority for the Project as established by the "Change Order Approval Policy" approved by the City Council on July 19, 1994, by Resolution No. 94-443, and

WHEREAS, the Director of Utility Planning and Projects currently has authority to approve change orders up to a cumulative amount of \$25,000,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes change orders in the amount of \$24,446.00 for the Dale Road CCTV and CCTV System Upgrade Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-333**

RESOLUTION ACCEPTING THE WORK BY DANS WATER WELL & PUMP SERVICE, INC., FOR THE "HICKMAN TEST WELL" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER UPON RECEIPT OF APPROVED WARRANTY BOND, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING \$146,366

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the Hickman Test Well project has been completed by Dan's Water Well & Pump Service, Inc., in accordance with the contract agreement dated January 24, 2012,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Hickman Test Well project is hereby accepted as complete from said contractor Dan's Water Well & Pump Service, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder upon receipt of approved Warranty Bond, and that payment of amounts totaling \$146,366 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 14th day of August, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

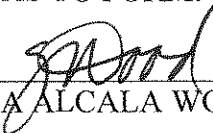
NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-334**

RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT WITH HARRIS & ASSOCIATES, INC. FOR CONSTRUCTION MANAGEMENT SERVICES FOR THE CARPENTER ROAD BRIDGE SEISMIC RETROFIT PROJECT AT NO ADDITIONAL COST TO THE ORIGINAL CONTRACT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO AGREEMENT

WHEREAS, the existing Carpenter Road Bridge was studied, under the direction of the State of California, Department of Transportation (Caltrans), through the Local Agency Seismic Retrofit Program, and

WHEREAS, the study determined that the bridge structure was seismically deficient and needs retrofitting, and

WHEREAS, due to the complexity of this project and amount of staff hours to support construction, a construction management firm is required for management and inspection of this project, and

WHEREAS, on March 27, 2012, by Resolution No. 2012-123, the City Council approved an agreement with Harris & Associates for construction management service for the Carpenter Road Bridge Seismic Retrofit project in the amount of \$1,086,406, and

WHEREAS, the agreement with Harris & Associates needs to be amended to provide additional construction management services for the completion of the project, and

WHEREAS, this amendment is accomplished by using cost savings resulting in no change to the original contract cost,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to the Agreement with Harris & Associates for construction management services for the Carpenter Road Bridge Seismic Retrofit project at no additional cost to the original agreement for the identified scope of services.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-335**

**A RESOLUTION APPROVING THE UPDATED COUNCIL DISTRICT MAP,
INCLUDING THE SHACKELFORD AREA, AS RECOMMENDED BY THE
CITIZENS' DISTRICTING COMMISSION**

WHEREAS, the Citizens' Districting Commission was appointed by the City Council on October 25, 2011, in response to the City's receipt of the 2010 Federal Decennial Information, and

WHEREAS, the Commission held a series of public hearings and meetings throughout the City from October 27, 2011 to January 5, 2012, and

WHEREAS, the Commission gathered testimony from all interested citizens during its meetings, and

WHEREAS, the Commission, at its meeting of January 5, 2012, by unanimous vote, approved selection of the Updated Council District Map,

WHEREAS, the Commission also recommended a second map including the Shackelford area, should that area be annexed into the City of Modesto,

WHEREAS, the Shackelford area was annexed into the City of Modesto on June 1, 2012.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Updated Council District Map, including the Shackelford area, as recommended by the Citizens' Districting Commission and **attached** to this Resolution as **Exhibit "A"**.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

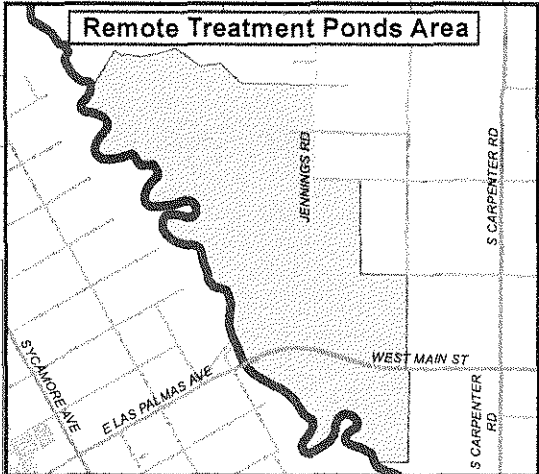
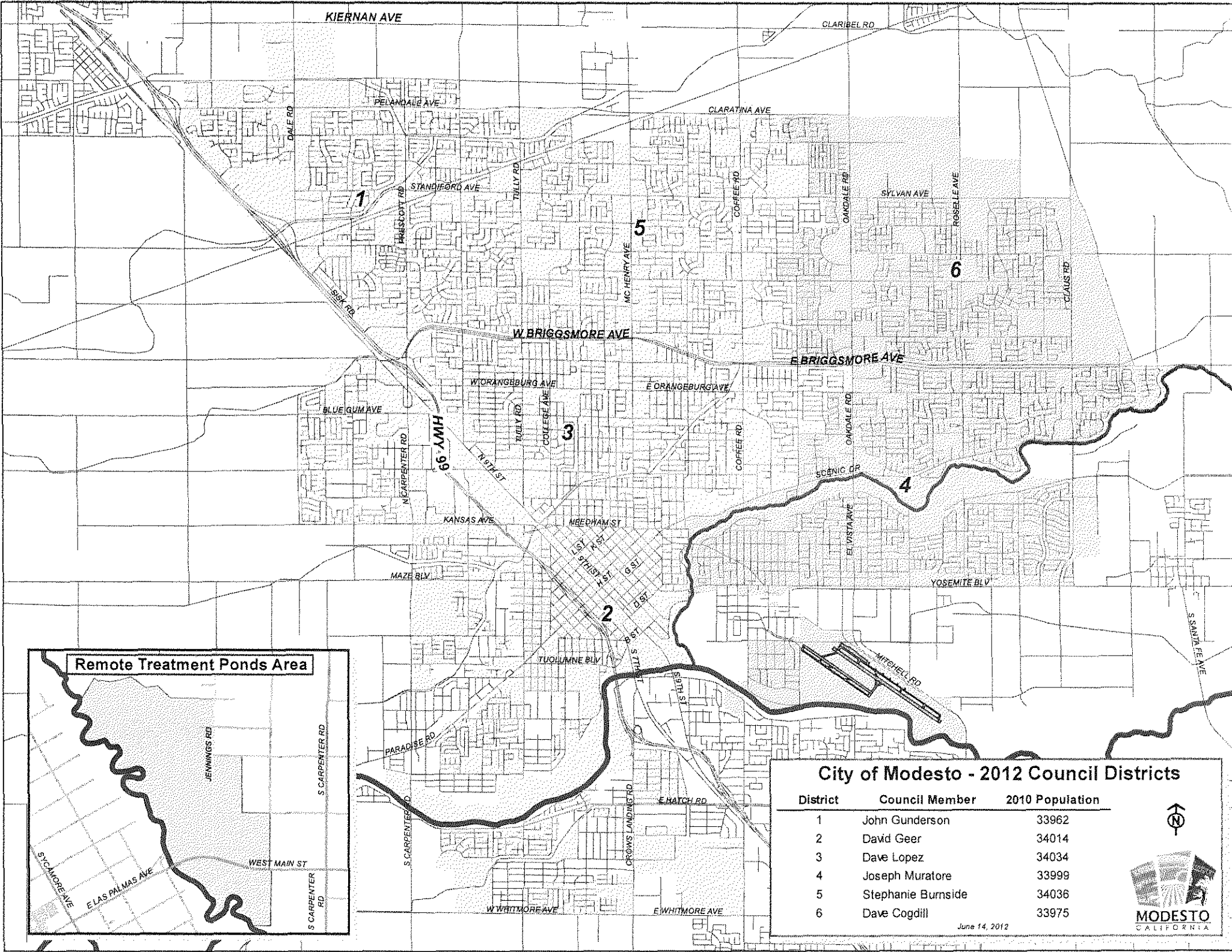
ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney



City of Modesto - 2012 Council Districts

District	Council Member	2010 Population
1	John Gunderson	33962
2	David Geer	34014
3	Dave Lopez	34034
4	Joseph Muratore	33999
5	Stephanie Burnside	34036
6	Dave Cogdill	33975



June 14, 2012

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-336**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO,
CALIFORNIA, AUTHORIZING A SHORT-TERM EXTENSION OF THE
IRREVOCABLE DIRECT PAY LETTER OF CREDIT SUPPORTING THE
GENERAL FUND'S LEASE REVENUE REFUNDING BONDS, SERIES 2008**

WHEREAS, the City has issued General Fund Lease Revenue Refunding Bonds, Series 2008 (Bonds) with an outstanding amount of \$62,130,000; and

WHEREAS, the Bonds were issued to refund the Series 1998 and Series 2007 Lease Revenue Bonds (together the "Prior Bonds"); and

WHEREAS, the Prior Bonds were issued in order to assist in the financing of certain public capital improvements in the City which consist of the following: (i) the Redevelopment Agency's parking garage, (ii) the City's one-half interest in the City-County JPA's administration building, (iii) the City's police headquarters building and police operations building, (iv) certain miscellaneous City properties and (v) the City's one-half undivided interest in the Communications Dispatch Center; and

WHEREAS, the City has an irrevocable direct pay Letter of Credit (LOC) with Bank of America; and

WHEREAS, the Bank of America LOC has an annual fee of 1.40%; and

WHEREAS, the Bank of America LOC expires on September 30, 2012; and

WHEREAS, the Bonds require the City maintain this liquidity support; and

WHEREAS, the City Manager must execute a short-term extension of its existing LOC prior to August 30, 2012 in order to allow enough time to execute documents associated with a replacement LOC.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager, or his designee, to execute short-term extension of the irrevocable direct pay Letter of Credit supporting the Bonds.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-337**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO,
CALIFORNIA, RELATING TO MODESTO PUBLIC FINANCING AUTHORITY
LEASE REVENUE REFUNDING BONDS SERIES 2008 APPROVING THE
EXTENSION OF A CREDIT FACILITY AND APPROVING THE FORM OF
AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN
AMENDMENT TO THE AMENDED AND RESTATED REIMBURSEMENT
AGREEMENT AND AN AMENDMENT TO THE FEE LETTER; AND
AUTHORIZING CERTAIN OTHER RELATED ACTIONS**

WHEREAS, the City has issued General Fund Lease Revenue Refunding Bonds, Series 2008 (Bonds) with an outstanding amount of \$62,130,000; and

WHEREAS, the Bonds were issued to refund the Series 1998 and Series 2007 Lease Revenue Bonds (together the "Prior Bonds"); and

WHEREAS, the Prior Bonds were issued in order to assist in the financing of certain public capital improvements in the City which consist of the following: (i) the Redevelopment Agency's parking garage, (ii) the City's one-half interest in the City-County JPA's administration building, (iii) the City's police headquarters building and police operations building, (iv) certain miscellaneous City properties and (v) the City's one-half undivided interest in the Communications Dispatch Center; and

WHEREAS, Bank of America, N.A., as Credit Facility Provider (the "Bank"), the City, and the Modesto Public Financing Authority (the "Authority") entered into a Reimbursement Agreement pursuant to which the Bank issued its irrevocable direct-pay Letter of Credit (the "Credit Facility") to provide credit support for the 2008 Bonds;

WHEREAS, the Bank subsequently extended the Stated Expiration Date of the Credit Facility to September 30, 2012, and, in connection therewith, the City, the

Authority and the Bank entered into an Amended and Restated Reimbursement Agreement (the "Reimbursement Agreement") and related Fee Letter (the "Fee Letter");

WHEREAS, the City has now determined that it is in its best interest to extend the Stated Expiration Date of the Credit Facility to November 30, 2013;

WHEREAS, in connection with the extension of the Credit Facility's State Expiration Date, the Bank, the City and the Authority will enter in to an amendment to the Reimbursement Agreement (the "Reimbursement Agreement Amendment") and an amendment to the Fee Letter (the "Fee Letter Amendment"); and

WHEREAS, all acts, conditions and things required by the laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the consummation of the transactions authorized hereby do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the Authority is now duly authorized and empowered, pursuant to each and every requirement of law, to consummate such transactions for the purpose, in the manner and upon the terms herein provided.

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

Section 1. Findings. The Council of the City of Modesto hereby specifically finds and determines that the statements, findings and determinations set forth above and in the preambles of the documents approved herein are true and correct.

Section 2. Approval of the Reimbursement Agreement Amendment and Fee Letter Amendment. The Reimbursement Agreement Amendment and Fee Letter

Amendment, proposed to be executed and entered into by and among the Authority, the City and the Bank, in the forms presented at this meeting and on file with the City Clerk, are hereby approved and the City Manager is hereby authorized to execute and deliver the Reimbursement Agreement Amendment and Fee Letter Amendment in substantially said forms, with such changes therein as such officer executing the Reimbursement Agreement Amendment and Fee Letter Amendment may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 3. Approval of the Extension of the Stated Expiration Date. The City Council hereby approves the extension of the Stated Expiration Date of the Credit Facility.

Section 4. Attestations. The City Clerk is hereby authorized and directed to attest the signatures of each Authorized Officer in connection with the documents approved by this Resolution.

Section 5. Other Actions. The City Manager is hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they may deem necessary or desirable in order to consummate the transactions authorized hereby and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution, the Reimbursement Agreement Amendment and Fee Letter Amendment, and all such actions heretofore taken by such officers are hereby ratified, confirmed and approved.

Section 6. Effective Date. This Resolution shall take effect immediately upon its passage.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-338**

RESOLUTION AUTHORIZING THE ISSUANCE OF CHANGE ORDERS UP TO 25.7% (\$101,415) OF THE ORIGINAL CONTRACT PRICE WITH HASKELL & HASKELL ENGINEERING & CONSTRUCTION SERVICES, INC. FOR THE MODESTO WEST BASIN IMPROVEMENTS PROJECT

WHEREAS, the City Council, on March 6, 2012, by Resolution No. 2012-084, awarded a \$394,731.06 contract to Haskell & Haskell Engineering & Construction Services, Inc. to construct the Modesto West Basin Improvements project, and

WHEREAS, additional costs not included in the original bid need to be added to the project to allow for termination of the project contract, and

WHEREAS, the cost of the additional work, delay costs and lost profit is \$101,415, an amount which exceeds the Director's authority for the project as established by the Council's Change Order Approval Policy adopted by Resolution No. 94-443, on July 19, 1994, and

WHEREAS, the Director of Utility Planning and Projects currently has authority to approve change orders up to a cumulative amount of \$39,473,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the issuance of change orders up to 25.7% (\$101,415) of the original contract price with Haskell & Haskell Engineering & Construction Services, Inc. for the Modesto West Basin Improvements project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-339**

**RESOLUTION TERMINATING THE CURRENT CONSTRUCTION
CONTRACT WITH HASKELL & HASKELL ENGINEERING &
CONSTRUCTION SERVICES, INC. FOR THE MODESTO WEST BASIN
IMPROVEMENTS PROJECT**

WHEREAS, due to certain unforeseen circumstances it is recommended to terminate the current contract with Haskell & Haskell Engineering & Construction Services, Inc. for the Modesto West Basin Improvements project, and

WHEREAS, the contractor, Haskell & Haskell Engineering & Construction Services, Inc., has agreed to voluntarily terminate the contract in accordance with the terms of the contract,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby terminates the current contract with Haskell & Haskell Engineering & Construction Services, Inc. for the Modesto West Basin Improvements project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

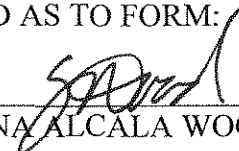
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-340**

**RESOLUTION AMENDING THE FISCAL YEAR 2012-2013 CAPITAL
IMPROVEMENT PROGRAM BUDGET IN THE AMOUNT OF \$173,678 TO BE
TRANSFERRED INTO THE PROJECT FROM STORM DRAIN FUND
RESERVES IN ORDER TO FUND CONSTRUCTION AND CONTINGENCY
FOR THE MODESTO WEST BASIN IMPROVEMENTS PROJECT**

WHEREAS, certain budgetary transactions are necessary in the amount of \$173,678, in order to fund construction and contingency for the Modesto West Basin Improvements project, and

WHEREAS, the Fiscal Year 2012-2013 Capital Improvement Program Budget must be amended as shown in **Exhibit A**, which is incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2012-2013 Capital Improvement Program Budget as shown in **Exhibit A**.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of August, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Exhibit A

Due to the increase of estimated construction and contingency costs for CIP Account #100094 "West Basin Erosion Control", the total project costs need to be increased by \$173,678. This would be done by adjusting Construction by \$72,263 and Contingency by \$101,415.

To fund the above account, funds will be transferred from Storm Drain Fund Reserves to Village One #2 CFD Fund, then reappropriate funds to CIP Account 100094 for the project.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-341**

**A RESOLUTION APPROVING THE REAPPOINTMENT OF KAREN
SWANSON TO THE DISABLED ACCESS APPEALS BOARD**

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

WHEREAS, the City Council approved, by Resolution Number 2008-524, the appointment of Karen Swanson to the Disabled Access Appeals Board for the term ending January 1, 2012, and

WHEREAS, Karen Swanson has expressed interest in continuing to serve as a member of the Disabled Access Appeals Board,

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

SECTION 1: Karen Swanson is hereby reappointed to the Disabled Access Appeals Board with a term expiration of January 1, 2016,

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-342**

**A RESOLUTION APPROVING THE REAPPOINTMENT OF EVAN YOSHINO
TO THE DISABLED ACCESS APPEALS BOARD**

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

WHEREAS, the City Council approved, by Resolution Number 2008-524, the appointment of Evan Yoshino to the Disabled Access Appeals Board for the term ending January 1, 2012, and

WHEREAS, Evan Yoshino has expressed interest in continuing to serve as a member of the Disabled Access Appeals Board,

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

SECTION 1: Evan Yoshino is hereby reappointed to the Disabled Access Appeals Board with a term expiration of January 1, 2016,

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-343**

RESOLUTION APPROVING A WATER WILL SERVE LETTER FOR THE PROPERTY LOCATED AT 7414 RIVER NINE DRIVE, MODESTO (APN: 004-092-016), FOR A DOMESTIC WATER CONNECTION TO THE CITY OF MODESTO'S EXISTING WATER SYSTEM; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE WATER WILL SERVE LETTER

WHEREAS, on May 22, 2012, the City Council, by Resolution No. 2012-203, approved amending City Council Policy 5.002, and

WHEREAS, Policy 5.001 requires that the City Manager, upon the recommendation of the Director responsible for utility system planning, request City Council approval for all extensions of water and sewer services into unincorporated areas, and

WHEREAS, the property located at 7414 River Nine Drive is currently not connected to the City water system for domestic use, and

WHEREAS, the property is located outside the Modesto City limits, and outside the City's Sphere of Influence, and

WHEREAS, the property is inside, continuous to, or near the former service area of the Del Este Water Company, and

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

WHEREAS, it has been determined that sufficient water pressure and flow is available for fire usage by the proposed property, and

WHEREAS, the proposed property meets all of the Stanislaus Consolidated Fire District's Fire Code requirements, and

WHEREAS, the water connection fees will be paid and associated permits will be obtained prior to beginning any on site construction,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Water Will Serve letter for a domestic water connection for the property located at 7414 River Nine Drive, Modesto (APN 004-092-016).

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to sign the Water Will Serve letter.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-344**

**RESOLUTION APPROVING AN OUTSIDE SERVICE AGREEMENT
BETWEEN THE CITY OF MODESTO AND RAJESH AND ANURADHA
DUBEY FOR WATER SERVICE FOR THE PROPERTY LOCATED AT 7414
RIVER NINE DRIVE, MODESTO (APN: 004-092-016); AND AUTHORIZING
THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the property located at 7414 River Nine Drive is not connected to City's water system, and

WHEREAS, the property is located outside Modesto City limits, and outside the City's Sphere of Influence, and

WHEREAS, the property is inside, continuous to, or near the former service area of the Del Este Water Company, and

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

WHEREAS, it has been determined that a sufficient quantity of potable water is available for normal usage by the proposed property, and

WHEREAS, the property meets all if the Stanislaus Consolidated Fire District's Fire Code requirements, and

WHEREAS, the water connection fees will be paid and associated permits be obtained prior to beginning any on site construction, and

WHEREAS, the property owner is required to entered into a standard outside service agreement for water with the City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Outside Service Agreement for a property located at 7414 River Nine Drive, Modesto (APN 004-092-016).

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

The foregoing resolution were introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-345**

RESOLUTION APPROVING A WATER WILL SERVE LETTER FOR THE PROPERTY LOCATED AT 7453 RIVER NINE DRIVE, MODESTO (APN: 004-093-012) TO CONNECT TO THE CITY OF MODESTO'S EXISTING WATER SYSTEM; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE WATER WILL SERVE LETTER

WHEREAS, on May 22, 2012, the City Council, by Resolution No. 2012-203, amended Council Policy 5.001 relating to water connection charges, and

WHEREAS, it required that the City Manager, upon the recommendation of the Director responsible for utility system planning, to request City Council approval for all extensions of water and sewer services into unincorporated areas, and

WHEREAS, the property located at 7453 Rive Nine Drive is not connected to City's water system, and

WHEREAS, the property is located outside Modesto City limits, and outside the City's Sphere of Influence, and

WHEREAS, the property is inside, contiguous to, or near the former service area of the Del Este Water Company, and

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

WHEREAS, it has been determined that a sufficient quantity of potable water is available for normal usage by the property, and

WHEREAS, the property meets all if the Stanislaus Consolidated Fire District's Fire Code requirements, and

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Water Will Serve letter for the property located at 7453 River Nine Drive, Modesto (APN 004-093-012).

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to approve the Water Will Serve letter.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-346**

**RESOLUTION APPROVING AN OUTSIDE SERVICE AGREEMENT
BETWEEN THE CITY OF MODESTO AND DON LEE AND MARGARET
BARNETT LEE FOR WATER SERVICE FOR THE PROPERTY LOCATED AT
7453 RIVER NINE DRIVE, MODESTO (APN: 004-093-012); AND
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE
THE AGREEMENT**

WHEREAS, the property located at 7453 River Nine Drive is not connected to City's water system, and

WHEREAS, the property is located outside Modesto City limits, and outside the City's Sphere of Influence, and

WHEREAS, the property is inside, contiguous to, or near the former service area of the Del Este Water Company, and

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

WHEREAS, it has been determined that a sufficient quantity of potable water is available for normal usage by the property, and

WHEREAS, the property meets all of the Stanislaus Consolidated Fire District's Fire Code requirements, and

WHEREAS, the water connection fees shall be paid and associated permits obtained prior to beginning any on site construction, and

WHEREAS, the property owner is required to enter into a standard outside service agreement for water service with the City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Outside Service Agreement for the property located at 7453 River Nine Drive, Modesto (APN 004-093-012).

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-347**

RESOLUTION APPROVING A WATER WILL SERVE LETTER FOR THE PROPERTY LOCATED AT 7410 RIVER NINE DRIVE, MODESTO (APN: 004-093-021), TO CONNECT TO THE CITY OF MODESTO'S EXISTING WATER SYSTEM; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE WATER WILL SERVE LETTER

WHEREAS, on May 22, 2012, the City Council, by Resolution No. 2012-203, amended City Council Policy 5.001 relating to water connection charges, and

WHEREAS, it required that the City Manager, upon the recommendation of the Director responsible for utility system planning, to request City Council approval for all extensions of water and sewer services into unincorporated areas, and

WHEREAS, the property located at 7410 River Nine Drive is not connected to the City's water system, and

WHEREAS, the property is located outside Modesto City limits, and outside the City's Sphere of Influence, and

WHEREAS, the property is inside, contiguous to, or near the former service area of the Del Este Water Company, and

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

WHEREAS, it has been determined that a sufficient quantity of potable water is available for normal usage by the property, and

WHEREAS, the property meets all if the Stanislaus Consolidated Fire District's Fire Code requirements, and

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Water Will Serve letter for a property located at 7410 River Nine Drive, Modesto (APN 004-093-021).

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to sign the Water Will Serve letter.

The foregoing resolution were introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-348**

**RESOLUTION APPROVING AN OUTSIDE SERVICE AGREEMENT
BETWEEN THE CITY OF MODESTO AND MARK GOERING AND MARIE
JEAN MACARUBBO-GOERING FOR WATER SERVICE FOR THE
PROPERTY LOCATED AT 7410 RIVER NINE DRIVE, MODESTO (APN: 004-
093-021); AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO
EXECUTE THE AGREEMENT**

WHEREAS, the property located at 7410 River Nine Drive is not connected to City's water system, and

WHEREAS, the property is located outside Modesto City limits, and outside the City's Sphere of Influence, and

WHEREAS, the property is inside, contiguous to, or near the former service area of the Del Este Water Company, and

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

WHEREAS, it has been determined that a sufficient quantity of potable water is available for normal usage by the property, and

WHEREAS, the property meets all of the Stanislaus Consolidated Fire District's Fire Code requirements, and

WHEREAS, the water connection fees shall be paid and associated permits obtained prior to beginning any on site construction, and

WHEREAS, the property owner is required to enter into a standard outside service agreement for water with the City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Outside Service Agreement for water service for a property located at 7410 River Nine Drive, Modesto (APN 004-093-021).

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

The foregoing resolution were introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-349**

RESOLUTION AUTHORIZING THE AWARD OF PROPOSAL AND CONTRACT FOR THE FURNISHING OF AN EMPLOYEE GROUP INSURANCE PROGRAM FOR THE DEPARTMENT OF HUMAN RESOURCES TO GALLAGHER BENEFIT SERVICES, INC., FRESNO, CA, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO ISSUE AN AGREEMENT FOR AN ESTIMATED ANNUAL COST OF \$43,000

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Proposals (RFP) for the furnishing an employee group insurance program, and

WHEREAS, the Purchasing Division issued RFP No. 1112-29 Employee Group Insurance Program to eight (8) prospective proposers, one of which was a local vendor, posted the RFP on the City's website and formally advertised as required by law, and

WHEREAS, proposals were formally opened in the City Clerk's Office. Five (5) companies choose to respond, one of which was a local vendor. All five (5) companies provided responsive and responsible proposals, and

WHEREAS, an evaluation committee comprised of three (3) City staff members and two (2) technical experts outside the City evaluated and graded the proposals, and

WHEREAS, based on being ranked highest in total evaluation criteria, the evaluation committee recommends the award of proposal and contract for the furnishing of an employee group insurance program for the Department of Human Resources to Gallagher Benefits Services, Inc., Fresno, CA, and

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

to be formally bid. The award of proposal for the furnishing of an employee group insurance program to Gallagher Benefits Services, Inc., Fresno, CA, conforms to the Modesto Municipal Code, and

WHEREAS, funds shall be budgeted in Fiscal Year 2012-13 for the furnishing of an employee group insurance program in Appropriation Unit: 5520-03160-53300.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of proposal for the furnishing of an employee group insurance program for the Department of Human Resources to Gallagher Benefits Services, Inc., Fresno, CA.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to issue an agreement for an estimated annual cost of \$43,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

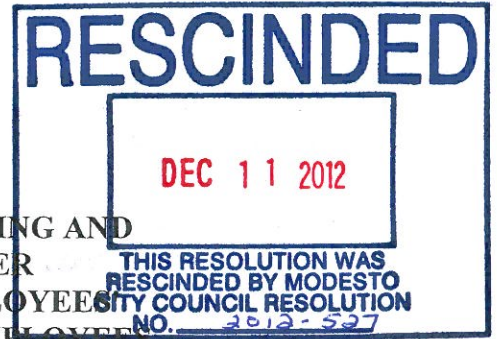
ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-350



RESOLUTION AMENDING A LABOR POLICY FOR PAYING AND REPORTING THE VALUE OF EMPLOYER PAID MEMBER CONTRIBUTIONS TO THE CALIFORNIA PUBLIC EMPLOYEES RETIREMENT SYSTEM (CALPERS) ON BEHALF OF EMPLOYEES REPRESENTED BY THE MODESTO POLICE OFFICERS ASSOCIATION; AND RESCINDING RESOLUTION NO. 2003-82

WHEREAS, on February 11, 2003, the City Council, by Resolution No 2003-82 adopted a labor policy providing for Public Employees' Retirement System (PERS) employee contributions to be paid by the City on behalf of employees and for reporting of employer-paid normal member contributions to PERS as compensation, and

WHEREAS, the City amended its contract with CalPERS to provide a second tier retirement formula 3% @ 55 to local police safety members entering employment with the City of Modesto for the first time in the police classification effective September 11, 2012, and

WHEREAS, the governing body of the City of Modesto has the authority to implement Government Code Section 20636(c) (4) pursuant to Section 20691, and

WHEREAS, the governing body of the City of Modesto has a written labor policy or agreement which specifically provides for the normal member contributions to be paid by the employer, and reported as additional compensation, and

WHEREAS, one of the steps in the procedures to implement Section 20691 is the adoption by the governing body of the City of Modesto of a Resolution to commence paying and reporting the value of said Employer Paid Member Contributions, and

WHEREAS, the governing body has the authority to amend all members in a group or class of employment pursuant to Government Code Section 20691,

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

For Police Safety employees hired before September 11, 2012, the City of Modesto elects to pay seven and one half percent (7.5%) of the normal member contributions of nine percent (9%) as employer paid member contributions and report the same value to CalPERS as compensation earnable as additional compensation.

For Police Safety employees hired on or after September 11, 2012, the City of Modesto elects to pay zero percent (0%) of the normal member contributions of nine percent (9%). No payment shall be implemented pursuant to the provisions of Section 20636 (c) (4) of the California Government Code.

This benefit shall apply to all employees represented by the Modesto Police Officers Association (MPOA) who are classified police safety members by PERS.

BE IT FURTHER RESOLVED that this Resolution shall become effective on September 4, 2012.

BE IT FURTHER RESOLVED that effective September 4, 2012 Resolution No. 2003-82 is hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-351**

RESOLUTION AMENDING A LABOR POLICY FOR PAYING AND REPORTING THE VALUE OF EMPLOYER PAID MEMBER CONTRIBUTIONS TO THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM ON BEHALF OF EMPLOYEES REPRESENTED BY THE MODESTO POLICE MANAGEMENT ASSOCIATION

WHEREAS, on February 11, 2003, the City Council, by Resolution No 2003-83, adopted a labor policy providing for Public Employees' Retirement System (PERS) employee contributions to be paid by the City on behalf of employees and for reporting of employer-paid normal member contributions to PERS as compensation, and

WHEREAS, the City amended its contract with CalPERS to provide a second tier retirement formula 3% @ 55 to local police safety members entering employment with the City of Modesto for the first time in the police classification effective September 11, 2012, and

WHEREAS, the governing body of the City of Modesto has the authority to implement Government Code Section 20636(c) (4) pursuant to Section 20691, and

WHEREAS, the governing body of the City of Modesto has a written labor policy or agreement which specifically provides for the normal member contributions to be paid by the employer, and reported as additional compensation, and

WHEREAS, one of the steps in the procedures to implement Section 20691 is the adoption by the governing body of the City of Modesto of a Resolution to commence paying and reporting the value of said Employer Paid Member Contributions, and

WHEREAS, the governing body has the authority to amend all members in a group or class of employment pursuant to Government Code Section 20691,

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

For Police Safety employees hired before September 11, 2012, the City of Modesto elects to pay seven and one half percent (7.5%) of the normal member contributions of nine percent (9%) as employer paid member contributions and report the same value to CalPERS as compensation earnable as additional compensation.

For Police Safety employees hired on or after September 11, 2012, the City of Modesto elects to pay zero percent (0%) of the normal member contributions of nine percent (9%). No payment shall be implemented pursuant to the provisions of Section 20636 (c) (4) of the California Government Code.

BE IT FURTHER RESOLVED that this Resolution shall become effective on September 4, 2012.

BE IT FURTHER RESOLVED that effective September 4, 2012 Resolution No. 2003-83 is hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-352**

RESOLUTION AMENDING A LABOR POLICY FOR PAYING AND REPORTING THE VALUE OF EMPLOYER PAID MEMBER CONTRIBUTIONS TO THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (CALPERS) ON BEHALF OF UNREPRESENTED MANAGEMENT POLICE SAFETY MEMBERS

WHEREAS, by Resolution No 2003-83 adopted by the Council, the City adopted a labor policy providing for Public Employees' Retirement System (PERS) employee contributions to be paid by the City on behalf of employees and for reporting of employer-paid normal member contributions to PERS as compensation, and

WHEREAS, the City amended its contract with CalPERS to provide a second tier retirement formula 3% @ 55 to local police safety members entering employment with the City of Modesto for the first time in the police classification effective September 11, 2012, and

WHEREAS, the governing body of the City of Modesto has the authority to implement Government Code Section 20636(c)(4) pursuant to Section 20691, and

WHEREAS, the governing body of the City of Modesto has a written labor policy or agreement which specifically provides for the normal member contributions to be paid by the employer, and reported as additional compensation, and

WHEREAS, one of the steps in the procedures to implement Section 20691 is the adoption by the governing body of the City of Modesto of a Resolution to commence paying and reporting the value of said Employer Paid Member Contributions, and

WHEREAS, the governing body has the authority to amend all members in a group or class of employment pursuant to Government Code Section 20691.

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

For Police Safety employees hired before September 11, 2012, the City of Modesto elects to pay seven and one half percent (7.5%) of the normal member contributions of nine percent (9%) as employer paid member contributions and report the same value to CalPERS as compensation earnable as additional compensation.

For Police Safety employees hired on or after September 11, 2012 under Tier 2 retirement formula 3%@55, the City of Modesto elects to pay zero percent (0%) of the normal member contributions of nine percent (9%). No payment shall be implemented pursuant to the provisions of Section 20636 (c)(4) of the California Government Code.

BE IT FURTHER RESOLVED that this Resolution shall become effective on September 11, 2012.

BE IT FURTHER RESOLVED that effective September 11, 2012 Resolution No. 2003-83 is hereby repealed in its entirety.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-353**

**RESOLUTION AMENDING THE POSITION ALLOCATION FOR FISCAL
YEAR 12/13 AS ADOPTED IN THE OPERATING BUDGET**

WHEREAS, a Position Allocation for the City of Modesto was adopted by Modesto City Council on June 21, 2012, as part of the Annual Budget of the City of Modesto for Fiscal Year 2012-2013, and

WHEREAS, the Community and Economic Development department budget for Fiscal Year 2012-2013 was approved with funding to add one (1) allocation for a Development Services Technician II.

WHEREAS, the inclusion of this position was omitted in error from the position allocation list approved with the FY 12/13 budget.

WHEREAS, the Parks, Recreation and Neighborhoods department redistributed workload from vacant positions to maintain services levels in HUD, budget, personnel and special projects.

WHEREAS, a Recreation Coordinator has assumed additional responsibilities that include oversight of the customer services unit and special projects on a limited term basis until a departmental reorganization can be finalized.

WHEREAS, the Parks, Recreation and Neighborhoods department budget for Fiscal Year 2012-2013 included a .25 position reduction of one (1) Senior Administrative Office Assistant in Cultural Services.

WHEREAS, the Parks, Recreation and Neighborhoods department received funding from the Museum Society and Mansion Foundation to temporarily increase the allocation by .25 to make it a full time allocation through FY 12/13.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Position Allocation for Fiscal Year 2012-13 as follows:

1. Community and Economic Development Department to reallocate add one (1) Development Services Technician II position (\$3,855-\$4,686 monthly) in Cost Center 14210;
2. Parks, Recreation and Neighborhoods Department to reallocate one (1) Recreation Coordinator .75 allocation to one (1) Recreation Coordinator 1.0 allocation for a limited term through the end of FY 12/13 in Cost Center 33130;
3. Parks, Recreation and Neighborhoods Department to reallocate one (1) Senior Administrative Office Assistant .25 allocation to one (1) Senior Administrative Office Assistant 1.0 allocation for a limited term through the end of FY 12/13 in Cost Center 34110.

This resolution shall become effective on and after September 11, 2012.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-354**

RESOLUTION ACCEPTING A GRANT IN THE AMOUNT OF \$96,450.00 FROM THE OFFICE OF TRAFFIC SAFETY SOBRIETY CHECKPOINT GRANT PROGRAM, TO CONDUCT SOBRIETY CHECKPOINTS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ANY NECESSARY PROGRAM DOCUMENTS

WHEREAS, the Modesto Police Department received an announcement for the solicitation of applications for the “Sobriety Checkpoint Grant Program” from the Office of Traffic Safety (OTS), through the National Highway Traffic Safety Administration (NHTSA), and

WHEREAS, the grant is for personnel overtime costs to conduct sobriety checkpoint operations during the period from October 1, 2012 to September 30, 2013, and

WHEREAS, a checkpoint cannot exceed \$5,000 for overtime to conduct the checkpoint and includes funding for police officers and support personnel (Community Services Officers), and

WHEREAS, this award includes a maximum of \$6,450.00 for the purchase of OST-approved checkpoint supplies, and

WHEREAS, on August 3, 2012, the Modesto Police Department received notification that it was awarded \$96,450.00 for the operation of up to eighteen sobriety checkpoints in Modesto, and

WHEREAS, this grant will result in increased grant revenue of \$96,450.00 to the City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts a grant in the amount of \$96,450.00 from the Office of Traffic Safety Sobriety Checkpoint Grant Program to conduct sobriety checkpoints.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute any necessary program documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-355**

**RESOLUTION AMENDING THE MULTI-YEAR 2012/2013 OPERATING
BUDGET TO APPROPRIATE REVENUES AND EXPENDITURES OF \$96,450.00
TO CONDUCT SOBRIETY CHECKPOINTS**

WHEREAS, the Modesto Police Department received an announcement for the solicitation of applications for the “Sobriety Checkpoint Grant Program” from the Office of Traffic Safety, through the National Highway Traffic Safety Administration, and

WHEREAS, the mini-grant is for personnel overtime costs to conduct sobriety checkpoint operations during the period from October 1, 2012 to September 30, 2013, and

WHEREAS, a checkpoint cannot exceed \$5,000 for overtime to conduct the checkpoint and includes funding for police officers and support personnel (Community Services Officers), and

WHEREAS, this award includes a maximum of \$6,450.00 for the purchase of OST-approved checkpoint supplies, and

WHEREAS, on August 3, 2012, the Modesto Police Department received notification that it was awarded \$96,450.00 for the operation of up to eighteen sobriety checkpoints in Modesto, and

WHEREAS, this grant will result in increased grant revenue of \$96,450.00 to the City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the Multi-Year 2012/2013 Operating Budget to appropriate revenues and expenditures of \$96,450.00 for overtime to conduct sobriety checkpoints, as listed in **Exhibit A**.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Exhibit A

The Multi-Year 2012/2013 Operating Budget will be amended as follows:

	<u>Revenue</u>	<u>Increase/(Decrease)</u>	<u>Description</u>
To:	1341-19999-42199-100717	\$96,450	2012/13 OTS Sobriety Checkpoint Program Grant
	<u>Expense</u>		
To:	100717 - Appr. A	\$90,000	Overtime
	100717 - Appr. C	<u>\$ 6,450</u>	Tools & Field Supplies < \$5K
		\$96,450	

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-356**

A RESOLUTION ACCEPTING THE 2012 SELECTIVE TRAFFIC ENFORCEMENT PROGRAM GRANT IN THE AMOUNT OF APPROXIMATELY \$100,000 FROM THE OFFICE OF TRAFFIC SAFETY TO INCREASE ENFORCEMENT FOR SPEED, DUI, AND OTHER SPECIAL TRAFFIC ENFORCEMENT OPERATIONS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY DOCUMENTS

WHEREAS, the City of Modesto Police Department desires to undertake a certain project designated as the Selective Traffic Enforcement Program (STEP) grant from the Office of Traffic Safety (OTS), and

WHEREAS, the Police Department was awarded a grant in the sum of approximately \$100,000 from OTS, and

WHEREAS, acceptance of said \$100,000 grant will increase enforcement for speed, DUI, and other special traffic enforcement operations, while also reducing collisions with speed, DUI, and special operations, and

WHEREAS, OTS will pay overtime for officers, training, and equipment to assist in traffic studies and other traffic related enforcement equipment, and

WHEREAS, the term of this grant will be from October 1, 2012, through September 30, 2013,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Selective Traffic Enforcement Program Grant in the amount of approximately \$100,000 from the Office of Traffic Safety to increase enforcement for speed, DUI, and other special traffic enforcement operations.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-357

A RESOLUTION AMENDING THE FISCAL YEAR 2012/2013 OPERATING AND MULTI-YEAR GRANT BUDGET TO REFLECT REVENUE AND EXPENSES IN THE AMOUNT OF APPROXIMATELY \$100,000 RELATED TO THE SELECTIVE TRAFFIC ENFORCEMENT PROGRAM GRANT TO INCREASE ENFORCEMENT FOR SPEED, DUI, AND OTHER SPECIAL TRAFFIC ENFORCEMENT OPERATIONS

WHEREAS, the Police Department acquired a grant award in the amount of approximately \$100,000 from the Office of Traffic Safety (OTS) to increase enforcement for speed, DUI, and other special traffic enforcement operations, and

WHEREAS, the grant will pay overtime for officers for special enforcement operations, DUI saturation patrols, and other traffic related enforcement supplies, and

WHEREAS, there is no local match required for this grant, and

WHEREAS, the term of this grant will be from October 1, 2012, through September 30, 2013,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2012/2013 Operating and Multi-Year Budget is hereby adjusted as indicated on budget adjustment **attached**.

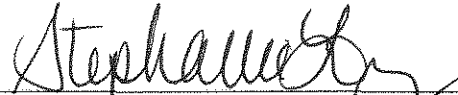
BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Exhibit A

The Multi-Year 2012/2013 Operating Budget will be amended as follows:

	<u>Revenue</u>	<u>Increase/(Decrease)</u>	<u>Description</u>
To:	1341-19999-42199-100718	\$100,000	2012/13 OTS Selective Traffic Enforcement Program (STEP)
	<u>Expense</u>		
To:	100718 - Appr. A	\$96,000	Overtime
	100718 - Appr. C	<u>\$ 4,000</u>	Conference/Training Expense
		\$100,000	

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-358**

RESOLUTION APPROVING AGREEMENTS FOR HOME COMMUNITY HOUSING DEVELOPMENT ORGANIZATION (CHDO) OPERATING FUNDS IN THE AMOUNT OF \$50,000 TO STANISLAUS COUNTY AFFORDABLE HOUSING CORPORATION (STANCO) AND \$50,000 TO HABITAT FOR HUMANITY, STANISLAUS (HABITAT) AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CHDO AGREEMENTS

WHEREAS, the City of Modesto reserves up to 5% of the total HOME program allocation to be used by CHDO's for administration and operating expenses in conjunction with running a CHDO program, and

WHEREAS, if funds for operating expenses are provided to a CHDO that is also receiving CHDO reserve funds for the development of housing, the City will enter into a written agreement with the CHDO that states they are expected to receive CHDO reserve funds within 24 months of receiving funds for operating expenses and specifies the terms and conditions upon which this expectation is based, and

WHEREAS, applicants for CHDO operating funds must be an approved CHDO through the City of Modesto. A CHDO is a specific type of private nonprofit entity and must meet certain requirements pertaining to their legal status; organizational structure; and capacity and experience. HUD Notice CPD 97-11 24 and CFR Part 92 detail these requirements, and

WHEREAS, Citizens Housing and Community Development Committee (CH&CDC) met on April 18, 2012 and recommended forwarding to Council approval to allocate CHDO operating funds in the amount of \$50,000 to STANCO and \$50,000 to Habitat, and

WHEREAS, on May 8, 2012 City Council, by Resolution No. 2012-169, approved the allocation of HOME Community Housing Development Organization (CHDO) operating funds in the amount of \$50,000 to STANCO and \$50,000 to Habitat.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves agreements for HOME Community Housing Development Organization (CHDO) operating funds in the amount of \$50,000 to Stanislaus County Affordable Housing Corporation (STANCO) and \$50,000 to Habitat for Humanity, Stanislaus (Habitat).

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to sign the CHDO agreements.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Stephanie Lopez
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-359**

RESOLUTION AUTHORIZING THE PURCHASE OF PARTS AND SERVICES FROM ENVIROGEN TECHNOLOGIES, INC., RANCHO CUCAMONGA, CA, FOR REPAIRS AT THE GRAYSON WATER SYSTEM FOR A COST NOT TO EXCEED \$80,182.23

WHEREAS, in 1994, the City of Modesto purchased the Del Este Water Company, which included the Grayson water system serving a population of approximately 1,200 customers, and

WHEREAS, since this is Grayson's only source of potable water, it is important that the system be in good working order to ensure reliability and provide safe drinking water to the Grayson community, and

WHEREAS, the California Department of Public Health mandates that the City of Modesto remove the nitrates to safe drinking levels before the water enters the Grayson distribution system, and

WHEREAS, the treatment system is aging and repairs and equipment replacement will exceed \$50,000, and

WHEREAS, Modesto Municipal Code (MMC) Section 8-3.203 requires all purchases, which meet or exceed \$50,000 for material, equipment, or contractual services be properly bid,

WHEREAS, staff requested bids and a cost breakdown from three Vendors, with Envirogen Technologies, Inc. being the lowest bid at \$80,182.23.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to purchase parts and services from

Envirogen Technologies, Inc., Rancho Cucamonga, Ca., for Repairs at the Grayson Water System for a cost not to exceed \$80,182.23.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-360**

RESOLUTION ACCEPTING THE WORK BY COLLINS ELECTRICAL COMPANY, INC., FOR THE "ARRA MODESTO CENTRE PLAZA LIGHTING IMPROVEMENTS" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER UPON RECEIPT OF APPROVED WARRANTY BOND, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING \$679,523.41

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the ARRA Modesto Centre Plaza Lighting Improvements project has been completed by Collins Electrical Company, Inc., in accordance with the contract agreement dated September 6, 2011,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the ARRA Modesto Centre Plaza Lighting Improvements project is hereby accepted as complete from said contractor, Collins Electrical Company, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder upon receipt of approved Warranty Bond, and that payment of amounts totaling \$679,523.41 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-361**

RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING (MOU) NOT TO EXCEED \$2 MILLION WITH THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS (HACS) FOR THE NEIGHBORHOOD STABILIZATION PROGRAM 2 (NSP2) AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN ANY AND ALL RELATED DOCUMENTS

WHEREAS, on March 13, 2012, by Resolution No. 2012-104, Council approved the updated NSP2 guidelines which require Council approval of all property acquisition and rehabilitation loans made with NSP2 funds after initial approval of the Citizens' Housing & Community Development subcommittee (CH&CDC), and

WHEREAS, the updated NSP2 guidelines approve HACS as the sub-recipient to expend the remaining NSP2 funds as outlined in the NSP2 "General Acquisition and Rehabilitation" activity (**Exhibit A**).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a MOU not to exceed \$2 million with the HACS for all property acquisition and rehabilitation loans funded in the NSP2 General Acquisition and Rehabilitation activity.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to sign any and all related documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

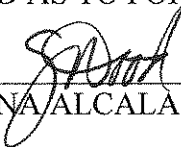
By: 
SUSANA ALCALA WOOD, City Attorney

Exhibit A - BUDGET

Neighborhood Stabilization Program 2			
	Starting Budget	Funds Obligated	Remaining to Obligate
Administration	\$2,500,000	\$2,500,000	\$0
General Acquisition and Rehabilitation	\$10,500,000	\$8,800,000	\$1,700,000
Emancipated Foster Youth	\$6,000,000	\$6,178,000	\$0
SCAP/CICV Special Needs	\$6,000,000	\$5,822,000	\$0

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-362**

**RESOLUTION APPROVING NEIGHBORHOOD STABILIZATION PROGRAM
2 (NSP2) LOAN DOCUMENT TEMPLATES FOR USE WITH ALL
CONTEMPLATED ACQUISITION AND REHABILITATION LOAN
AGREEMENTS WITH THE HOUSING AUTHORITY OF THE COUNTY OF
STANISLAUS (HACS) UNDER THE NSP2 “GENERAL ACQUISITION AND
REHABILITATION” ACTIVITY**

WHEREAS, on March 13, 2012, by Resolution No. 2012-104 Council approved the updated NSP2 guidelines which require Council approval of all property acquisition and rehabilitation loans made with NSP2 funds after initial approval of the Citizens' Housing & Community Development subcommittee (CH&CDC), and

WHEREAS, staff developed NSP2 Loan Document “templates” to be prepared for each acquisition and rehabilitation project for submission to Council for consideration of approval (**Exhibit B**).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves NSP2 Loan Document “templates” for use with all acquisition and rehabilitation loan agreements with the HACS funded in the NSP2 General Acquisition and Rehabilitation activity (**Exhibit B**).

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to sign any and all related documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of September, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

EXHIBIT B.

**CITY OF MODESTO NEIGHBORHOOD STABILIZATION PROGRAM 2
LOAN AGREEMENT**

This CITY OF MODESTO NEIGHBORHOOD STABILIZATION PROGRAM 2 (hereafter referred to as "NSP2 Loan Agreement") is entered into this _____ day of _____, 2012 (the "Effective Date"), by and between CITY OF MODESTO, a municipal corporation of the State of California ("CITY") and the HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS, a California public entity ("BORROWER").

RECITALS

WHEREAS, CITY has received Neighborhood Stabilization Program 2 ("NSP2") funds from the United States Department of Housing and Urban Development ("HUD") under Section 2301 of Title III, Division B, of the Housing and Economic Recovery Act of 2008, Title XII, Division A, of the American Recovery and Reinvestment Act of 2009 (the "NSP2 Act"), and implementing regulations, including but not limited to 24 CFR 570 et seq., and applicable guidance, including but not limited to the Notices of Allocations, Application Procedures, Regulatory Waivers Granted to and Alternative Requirements for Emergency Assistance for Development of Abandoned and Foreclosed Homes Grantees under HERA and such corrections (including, but not limited to, Docket Nos. FR-5255-N-01, FR-5255-N-02, FR-5321-N-03, FR-5435-N-01, and FR-5447-N-01), as amended (the "NSP2 Regulations"); and

WHEREAS, except as otherwise prescribed by the NSP2 Act and NSP2 Regulations, the statutory and regulatory provisions that govern the Community Development Block Grant ("CDBG") program under Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.), as amended (including those at 24 C.F.R. part 570 subparts A, C, D, J, K, and O, as appropriate, apply with equal force to the NSP2 funds (the "CDBG Regulations"). Together, the NSP2 Act, NSP2 Regulations, and CDBG Regulations are the "NSP2 Requirements;" and

WHEREAS, pursuant to the NSP2 Requirements, CITY is authorized to provide the NSP2 funds to qualified developers or subrecipients to perform eligible activities under the NSP2 program in the City of Modesto; and

WHEREAS, BORROWER is a qualified subrecipient for purposes of receipt and use of the NSP2 Funds; and

WHEREAS, pursuant to said NSP2, CITY is undertaking to fund certain programs, activities and services to promote affordable rental housing and/or affordable home ownership housing for Eligible Households, as defined below, in the City of Modesto (the "NSP2 Program"); and

WHEREAS, BORROWER desires to purchase real property commonly described as _____, Modesto, California and more fully described as _____ attached hereto as Exhibit A and made a part hereof (the "Property"); and

WHEREAS, the Property includes certain improvements consisting of a _____; and

WHEREAS, the Property is an Eligible Property as that term is defined in Section 2.1 herein and as used in the NSP2 Requirements and as defined and used in that certain agreement between CITY and BORROWER titled City of Modesto Neighborhood Stabilization Program 2 Memorandum of Understanding (the "MOU") the terms of which are incorporated herein by this reference, a true and correct copy of the MOU is attached herein as Exhibit D; and

WHEREAS, BORROWER intends to [**INSERT: acquire and/or acquire and rehabilitate, as applicable**] the Property and sell the Property as affordable homeownership housing to a Qualified Homebuyer, as defined in Section 2.1, or if unable to sell the Property to a Qualified Homebuyer in accordance with the MOU and this NSP2 Loan Agreement, BORROWER intends to rent the Property as affordable rental housing to a Qualified Tenant, as defined in Section 2.1, pursuant to the MOU and this NSP2 Loan Agreement; and

WHEREAS, CITY desires to loan BORROWER funds to assist in financing the [**INSERT: purchase and/or purchase and rehabilitation, as applicable**] of the Property by BORROWER; provided, BORROWER sells the Property to a Qualified Homebuyer or, if necessary, rents the Property to a Qualified Tenant; and

WHEREAS, CITY has conditionally agreed to make the loan to BORROWER in an amount not to exceed _____ Dollars (\$ _____) (the "NSP2 Loan") pursuant to, and with funds provided by the NSP2 Program in accordance with the NSP2 Requirements, and

[DELETE IF NO REHAB] WHEREAS, the NSP2 Loan amount shall be allocated as follows: _____ Dollars (\$ _____) represents the purchase price for acquisition of the Property; the balance of the NSP2 Loan funds shall be allocated to the rehabilitation of the Property; and

WHEREAS, BORROWER acknowledges that CITY's desire to expand the inventory of affordable housing units available for rent or sale to Very Low Income Households, Low Income Households, and Middle Income Households, also referred herein as "Eligible Households," in the City of Modesto; and

WHEREAS, BORROWER acknowledges that CITY would not enter into this NSP2 Loan Agreement to loan NSP2 funds to BORROWER but for BORROWER's covenant and agreement to sell the Property to a Qualified Homebuyer after the Property is [**INSERT: acquired or acquired and rehabilitated**], or if necessary, rent the Property to Qualified Homebuyer after using best efforts to sell the Property to a Qualified Homebuyer; and

WHEREAS, BORROWER shall execute a promissory note of even date herewith (the "NSP2 Note") consisting of a promissory note evidencing BORROWER's obligation to repay the NSP2 Loan. BORROWER shall execute a deed of trust of even date with this NSP2 Loan Agreement signed by BORROWER as Trustor in favor of CITY as beneficiary conveying BORROWER's interest in the Property as security for the NSP2 Loan as evidenced by the NSP2 Note (the "NSP2 Deed of Trust"). The NSP2 Deed of Trust shall be recorded against the Property as security for the NSP2 Note. BORROWER further agrees to execute a City of Modesto Neighborhood Stabilization Program 2 Regulatory Agreement (the "NSP2 Regulatory Agreement") containing covenants, conditions and restrictions regarding the ownership, rental, and use of the Property. BORROWER agrees to be bound by all terms and conditions of the NSP2 Note, the NSP2 Deed of Trust, and the NSP2 Regulatory Agreement. This NSP2 Loan Agreement, the NSP2 Note, the NSP2 Deed of Trust, and the NSP2 Regulatory Agreement are collectively referred to herein as the "NSP2 Loan Documents" and/or the "Loan Documents;" and

WHEREAS, to assist an Eligible Household in purchasing the Property at an affordable price from BORROWER, CITY will make second mortgage loans to the Eligible Household by converting a portion of the NSP2 Loan into loans to the Eligible Household.

NOW, THEREFORE, CITY and BORROWER agree as follows:

SECTION 1. RECITALS.

The foregoing Recitals are part of this NSP2 Loan Agreement.

SECTION 2. DEFINITIONS AND EXHIBITS.

Section 2.1 Definitions. As used in this NSP2 Loan Agreement and in addition to the definitions set forth in the Recitals, the following terms shall have the respective meanings indicated opposite each of them:

(a) Abandoned Property. Abandoned Property shall mean real property located in the City of Modesto, County of Stanislaus improved with a home or residential structure meeting at least one of the following criteria : (a) a mortgage, tribal leasehold, or tax lien payment is at least ninety (90) days delinquent; (b) a code enforcement inspection has determined that the property is not habitable and the property owner has taken no corrective action within ninety (90) days of notification of the deficiency; or (c) the property is subject to a court ordered receivership or nuisance abatement order related to abandonment pursuant to state or local law or otherwise meets a state definition of abandoned home or residential property.

(b) Acquisition Costs. Acquisition Costs shall mean the costs directly related to acquiring title in fee simple absolute to the Property, including the Purchase Price and closing costs, and including, but not limited to, due diligence costs, payment of tax liens, and title and escrow costs, and broker fees.

(c) Activity Delivery Fee. Activity Delivery Fee shall mean a fee in an amount not to exceed three percent (3%) of the Acquisition Cost **[INSERT, if applicable: or Rehabilitation Cost]** payable to BORROWER by CITY from the NSP2 Loan funds, for the salary costs, overhead costs, or other eligible activity delivery costs associated with carrying out the acquisition or rehabilitation, as applicable, of the Property. The Activity Delivery Fee shall only include direct costs related to carrying out the acquisition **[INSERT, delete and replace with: acquisition and rehabilitation]** of the Property.

(d) Affordable Rent. Affordable Rent shall mean the maximum rent paid by an Eligible Household to occupy the Property pursuant to 24 CFR 92.252.

(e) Appraised Value at Purchase. Appraised Value at Purchase shall mean the value established through an appraisal that is (a) commissioned by BORROWER; (b) performed by an appraiser approved by CITY; (c) made in conformity with the appraisal regulations of the Uniform Relocation Assistance and Real Property Acquisition Policies Act at 49 CFR 24.103; and (d) completed within sixty (60) days of the final offer made for the Property.

(f) **[DELETE IF NO REHAB]** Appraised Value at Resale. Appraised Value at Resale shall mean the value of (a) the rehabilitated Property established through an appraisal that is commission by BORROWER; (b) performed by an appraiser approved by CITY; (c) made in conformity with the appraisal regulations of the Uniform Relocation Assistance and Real Property Acquisition Policies Act at 49 CFR 24.103; and (d) completed within sixty (60) days of the final offer made for the Property.

(g) CITY Second Mortgage Loan Documents. CITY Second Mortgage Loan Documents shall mean the documents evidencing CITY Second Mortgage Loans to be executed by the Qualified Homebuyer receiving a CITY Second Mortgage Loan, including the Homebuyer Note, Homebuyer Deed of Trust, and Homebuyer Disclosure Statement.

(h) CITY Second Mortgage Loan. CITY Second Mortgage Loan shall mean a loan of NSP2 funds by CITY to the Qualified Homebuyer in an amount equal to twenty percent (20%) to fifty percent (50%) of the Sales Price, to be used to pay part of the purchase price for the Property.

(i) Continued Affordability Period. Continued Affordability Period shall mean the period of no less than twenty (20) consecutive years from (i) the close of escrow of the sale of the Property to a Qualified Homebuyer or (ii) in the event the Property is rented pursuant to Section 6.4 below, the date the NSP2 Regulatory Agreement is recorded against the Property.

(j) Eligible Household. Eligible Household shall mean a Very Low Income Household, Low Income Household, or a Middle Income Household.

(k) Eligible Property. Eligible Property shall mean an Abandoned Property, Foreclosed Property, or Vacant Property located in Census Tracts 19.00; 20.04; 20.03; 9.06;

9.05; 9.12; 21.00; 18.00; 12.00; 10.02; 10.01; 11.00; 13.00; 16.01; 22.00; 16.04; 6.02; 8.03; 8.05; 8.01; 9.09; 9.10; 9.11; 8.07; 24.00; 23.01; 23.01; 15.00; 25.01; 17.00; 14.00; 16.03; 8.06; 9.07; 9.08; and 28.03 in the City of Modesto, County of Stanislaus improved with a permanent residential structure that is a single family home, townhouse, condominium unit, or multi-unit rental complex.

(l) Foreclosed Property. Foreclosed Property shall mean residential real property located in the City of Modesto, County of Stanislaus improved with a permanent residential structure that meets at least one (1) of the following criteria: (a) payment under any mortgage, deed of trust or equivalent is delinquent at least sixty (60) days under the Mortgage Bankers of America delinquency calculation and the property owner has received notification of the delinquency; (b) the property owner is ninety (90) days or more delinquent on tax payments; (c) foreclosure proceedings have been initiated or completed under state, local or tribal law; or (d) foreclosure proceedings have been completed and title to the property has been transferred to an intermediary aggregator or servicer that is not a NSP2 grantee, subrecipient, contractor, developer, or end user.

(m) Homebuyer Deed of Trust. Homebuyer Deed of Trust shall mean the deed of trust, in a form to be provided by CITY, to be executed and delivered to CITY by the Qualified Homebuyer receiving a CITY Second Mortgage Loan.

(n) Homebuyer Disclosure Statement. Homebuyer Disclosure Statement shall mean the disclosure statement in a form to be provided by CITY, to be executed and delivered to CITY by the Qualified Homebuyer receiving a CITY Second Mortgage Loan.

(o) Homebuyer Note. Homebuyer Note shall mean the promissory note, in the form to be provided by CITY, to be executed and delivered to CITY, by the Qualified Homebuyer receiving a CITY Second Mortgage Loan.

(p) Low Income Household. Low Income Household shall mean a person or household whose annual income does not exceed sixty percent (60%) of area median income adjusted for family size based on guidelines published by HUD.

(q) Middle Income Household. Middle Income Household shall mean a person or household whose annual income does not exceed one-hundred twenty percent (120%) of area median income adjusted for family size based on guidelines published by HUD.

(r) Net Sales Proceeds. Net Sales Proceeds shall mean the gross proceeds received by BORROWER from the sale of a NSP2 Assisted Unit to a Qualified Homebuyer less closing costs paid by BORROWER.

(s) [DELETE IF NO REHAB] Prime Contractor. Prime Contractor shall mean a third-party contractor who in contract with BORROWER to oversee the rehabilitation of the Property.

(t) Purchase Price. Purchase Price shall mean a sum that BORROWER will pay to acquire the Property. The Purchase Price to acquire a Foreclosed Property shall be a minimum of one percent (1%) below the Appraised Value at Purchase of the Foreclosed Property.

(u) Qualified Homebuyer. Qualified Homebuyer shall mean a person or household who has (a) been income qualified as an Eligible Household by CITY; (b) completed eight (8) hours of home ownership counseling training through a counseling agency certified by HUD; (c) occupies or intends to occupy a the Property as a primary residence; (d) agrees to secure a CITY Second Mortgage Loan; and (e) intends to purchase the Property at the Sales Price under the NSP2 Program.

(v) Qualified Tenant. Qualified Tenant shall mean a person or household who has (a) been income qualified as an Eligible Household by BORROWER; (b) occupies or intends to occupy the Property as a primary residence; and (c) intends to pay Affordable Rent to BORROWER for the Property for the Continued Affordability Period.

(w) ~~[DELETE IF NO REHAB]~~ Rehabilitation Costs. Rehabilitation Costs shall mean the costs of improvements required to make the Property safe and habitable and in compliance with HUD Housing Quality Standards (HQS), state and local building codes/regulations and other housing standards including but not limited to accessibility standards of 24 CFR Part 8, and green building and energy efficient standards, including material and labor, permits and fees, holding costs and other soft costs.

(x) Sales Price. Sales Price shall mean the maximum price for the sale of the Property to a Qualified Homebuyer by BORROWER. ~~[INSERT if ONLY Acquisition: The Sales Price shall not exceed the lesser of the Appraised Value at Purchase or the Acquisition Costs, as documented by BORROWER to CITY.]~~ ~~[INSERT if Acquisition and Rehab: The Sales Price shall not exceed the lesser of the Appraised Value at Resale or the Total Costs of Development.]~~

(y) ~~[DELETE IF NOT REHAB]~~ Total Cost of Development. Total Cost of Development shall mean the Acquisition Costs and Rehabilitation Costs, as documented by BORROWER to CITY.

(z) Vacant Property. Vacant Property shall mean improved real property located in the City of Modesto, County of Stanislaus that has been unoccupied for at least ninety (90) days and has no bona fide tenant with rights of occupancy.

(aa) Very Low Income Household. Very Low Income Household shall mean a person or household whose annual income does not exceed fifty percent (50%) of area median income adjusted for family size based on guidelines published by HUD and used by City of Modesto.

(bb) Term. Term shall have the meaning set forth in Section 3.2 below.

Section 2.2 Exhibits.

The following exhibits are attached to this NSP2 Loan Agreement and incorporated into this NSP2 Loan Agreement by this reference:

Exhibit A: Legal Description of the Property

Exhibit B: Project Budget

Exhibit C: Project Timeline

Exhibit D: City of Modesto Neighborhood Stabilization Program 2 Memorandum of Understanding

Exhibit E: NSP2 National Objectives Certification

SECTION 3. LOAN PROVISIONS.

Section 3.1 NSP2 Loan Amount.

CITY shall loan BORROWER the principal sum not to exceed _____ Dollars (\$_____) (the "NSP2 Loan") subject to Section 5.3 below and to the terms and conditions set forth in this NSP2 Loan Agreement and the Loan Documents as defined herein.

Section 3.2 Term.

The Term of this NSP2 Loan Agreements shall commence on the Effective Date, and expires, unless sooner terminated in accordance with this NSP2 Loan Agreement on the twentieth (20th) anniversary of the Effective Date, subject to any extension agreed to in writing by CITY and BORROWER.

Section 3.3 Interest.

(a) Subject to the provisions of subsection (b) below, the outstanding principal balance of the Loan shall bear no interest.

(b) Upon the occurrence of an Event of Default, the NSP2 Loan will begin to accrue, as of the date of the Event of Default and continue until such time as the NSP2 Loan is repaid in full or the Event of Default is cured, at the default rate of ten percent (10%), simple interest annually.

Section 3.4 Use of NSP2 Loan Funds.

(a) BORROWER shall use the NSP2 Loan for acquisition [INSERT, as applicable: and rehabilitation] of the Property, consistent with the Project Budget, as attached hereto as Exhibit B.

(b) BORROWER shall not use the NSP2 Loan funds for any other purpose without the prior written consent of CITY.

(c) BORROWER shall comply with the MOU in the use of the NSP2 Loan funds.

Section 3.5 Activity Delivery Fee.

Except upon an Event of Default by BORROWER, CITY shall pay the Activity Delivery Fee to BORROWER following receipt of documentation evidencing the requested Activity Delivery Fee pursuant to Sections 5.3 and 10 of the MOU.

Section 3.6 Security.

BORROWER shall secure its obligation to repay the NSP2 Loan as evidenced by the NSP2 Note, be executing the NSP2 Deed of Trust, and recording it as a lien against the Property, subject only to the lien of the NSP2 Regulatory Agreement to be recorded against the Property.

Section 3.7 Conditions Precedent to Disbursement of NSP2 Funds for Purchase.

CITY shall have no commitment to BORROWER under this NSP2 Loan Agreement and shall have no obligation to disburse any NSP2 funds for the acquisition of the Property unless and until BORROWER complies with and continues to satisfy the following conditions:

(a) There exists no Event of Default nor any act, failure, omission or condition that would constitute an Event of Default under this NSP2 Loan Agreement or the MOU; and

(b) BORROWER is acquiring title to the Property simultaneously with the disbursement of the NSP2 Loan proceeds; and

(c) BORROWER has executed and delivered to CITY a copy of the purchase agreement under which BORROWER agrees to purchase the Property for the Purchase Price;

(d) CITY has approved the Project Budget, as attached hereto as Exhibit B or further amendments to the Project Budget, as applicable; and

(e) CITY has approved the Project Timeline, as attached hereto as Exhibit C or further amendments to the Project Timeline, as applicable; and

(f) The Purchase Price of the Property does not exceed the Purchase Price set forth in the Project Budget, as attached hereto as Exhibit B; and

(g) BORROWER has received and/or confirmed all sources of funding for the acquisition [**INSERT, as applicable: and rehabilitation**] of the Property; and

(h) BORROWER has delivered to CITY a copy of a resolution adopted by BORROWER's Board of Commissioners authorizing BORROWER's Executive Director, or his designee, to obtain the NSP2 Loan, execute the Loan Documents, acquire **[INSERT, as applicable: and rehabilitate]** the Property, and execute any and all related documents on behalf of BORROWER; and

(i) BORROWER has executed and delivered to CITY all documents, instruments, and policies required under the NSP2 Loan Documents and MOU; and

(j) BORROWER has furnished CITY with evidence of the insurance coverage meeting the requirements of Section 7.16 below; AND

(k) A Title insurer reasonably acceptable to CITY is unconditionally and irrevocably committed to issuing an ALTA loan policy of insurance insuring the priority of the NSP2 Deed of Trust in the amount of the NSP2 Loan, subject only to such exceptions and exclusions as may be reasonably acceptable to CITY, and containing such endorsements as CITY may reasonably require; and

(l) The NSP2 Regulatory Agreement and the NSP2 Deed of Trust will be recorded against the Property in the Office of the Recorder of the County of Stanislaus simultaneously with the disbursement of the NSP2 Loan proceeds; and

(m) BORROWER has delivered to CITY the required National Environmental Policy Act and/or California Environmental Quality Act documentation; and

(n) BORROWER has delivered to CITY written confirmation in a form satisfactory to CITY that BORROWER has complied with all applicable laws, regulations, and guidelines, including, but not limited to the NSP2 Requirements, relating to tenant protections governing receipt and use of the NSP2 funds.

Section 3.8 Conditions Precedent to Disbursement of NSP2 Funds for Rehabilitation.
[DELETE IF NO REHAB]

CITY shall have no commitment to BORROWER under this NSP2 Loan Agreement and shall have no obligation to disburse any NSP2 funds for the rehabilitation of the Property unless and until BORROWER complies with and continues to satisfy the following conditions:

(a) All the conditions precedent set forth in Section 3.8 have been timely satisfied; and

(b) There exists no Event of Default nor any act, failure, omission or condition that would constitute an Event of Default under this NSP2 Loan Agreement or the MOU; and

(c) CITY has approved the Project Budget, as attached hereto as Exhibit B or further amendments to the Project Budget, as applicable; and

(d) CITY has approved the Project Timeline, as attached hereto as Exhibit C or further amendments to the Project Timeline, as applicable; and

(e) CITY has received and approved the conceptual plans/drawings, if applicable, for rehabilitation of the Property; and

(f) BORROWER has received all permits and approvals necessary to perform the planned rehabilitation work; and

(g) CITY has received and approved all contracts that BORROWER has entered or proposed to enter for rehabilitation of the Property; and

(h) CITY has received and approved the final scope of rehabilitation work for the Property; and

(i) The Initial Property Inspection and Walkthrough has been completed and signed by CITY and BORROWER; and

(j) BORROWER is in compliance with all requirements of this NSP2 Loan Agreement concerning rehabilitation of the Property, including the timing as set forth in the Project Timeline; and

(k) BORROWER has completed, executed and submitted to CITY a Request For Project Draw Down form, in a form acceptable to CITY, indicating BORROWER's request for disbursement of NSP2 Loan funds and setting forth the proposed use, the amount needed, and, where applicable, a copy of the billing or invoice covering the costs to be incurred. BORROWER agrees that no request for NSP2 Loan funds shall be submitted until the NSP2 Loan funds are needed for payment of eligible costs, and that each request shall be limited to the amount needed. BORROWER shall supply CITY other documentation or information as CITY in its discretion deems necessary to substantiate the amount and nature of the eligible cost(s). All disbursements are on a reimbursement basis only. BORROWER is required to have all work, purchases, and services completed prior to submittal of the required invoice form. If there is the need for an advance of NSP2 Loan funds, BORROWER shall submit a copy of any and all bids and cost estimates to CITY. Any and all advance disbursements of the NSP2 Loan funds by CITY shall be determined by CITY, in its sole discretion.

(l) BORROWER has delivered to CITY written confirmation in a form satisfactory to CITY that BORROWER has complied with all applicable laws, regulations, and guidelines, including, but not limited to the NSP2 Requirements, relating to tenant protections governing receipt and use of the NSP2 funds.

Section 3.9 Repayment.

The NSP2 Loan shall be repaid as follows:

(a) Provided that no Event of Default exists, upon sale of the Property to a Qualified Homebuyer and the execution of the CITY Second Mortgage Loan Documents by the Qualified Homebuyer, CITY shall credit repayment of the NSP2 Loan in the amount set forth in the Homebuyer Note. If the Net Sales Proceeds are insufficient to permit payment of the outstanding balance of the NSP2 Loan, the NSP2 Loan will be deemed to be paid in full if any and all Net Sales Proceeds are applied to repay the outstanding balance of the NSP2 Loan.

(b) Provided that no Event of Default exists and the Property is rented to a Qualified Tenant in compliance with Section 6.4 below, CITY shall forgive the NSP2 Loan upon expiration of the Term.

(c) Subject to subsection (a) or (b) above, BORROWER shall pay all outstanding principal and accrued interest on the NSP2 Loan, in full, on the earliest to occur of (i) a Transfer, (ii) an Event of Default, and (iii) the expiration of the Term.

(d) BORROWER may prepay the NSP2 Loan at any time without premium or penalty. Regardless of any prepayment or Transfer, BORROWER acknowledges that the provisions of this NSP2 Loan Agreement, including but not limited to the requirement that the Property be sold to a Qualified Homebuyer, or if necessary, the Property be rented to a Qualified Tenant, are applicable even if BORROWER has prepaid all or a portion of the NSP2 Loan amount.

SECTION 4. ACQUISITION OF THE PROPERTY.

Section 4.1 Purchase Price.

BORROWER warrants that the purchase price of the Property is _____ (_____). The Purchase Price to acquire a Foreclosed Property shall be a minimum of one percent (1%) below the Appraised Value at Purchase of the Foreclosed Property.

Section 4.2 Eligibility of Property.

(a) BORROWER hereby makes the following representations and warranties to CITY concerning the compliance of the acquisition and rehabilitation of the Property with the NSP2 Requirements.

(i) The Property is an Eligible Property.

(ii) Seller has complied with NSP2 Requirements regarding proper notification to bona-fide tenants of the Property, if applicable.

(iii) BORROWER has provided a voluntary acquisition letter, if applicable.

(iv) The price to be paid pursuant to a purchase agreement between the BORROWER and seller for the purchase of the Property does not exceed the Purchase Price.

(b) BORROWER has submitted the following required documentation to CITY and received written approval from CITY that the acquisition **[INSERT, if applicable, and rehabilitation of the Property]** is eligible for NSP2 funding:

- (i) The address of the Property and the assessor's parcel number.
- (ii) A copy of the purchase agreement, as applicable, with the seller.
- (iii) A copy of an appraisal.
- (iv) Evidence that the Property is an Abandoned Property, Foreclosed Property, or Vacant Property.
- (v) Evidence that the seller has complied with NSP2 Requirements regarding proper notification to bona-fide tenants of the Property, as applicable.

Section 4.3 Property Condition.

(a) BORROWER understands and acknowledges that it, or its representatives, has inspected the Property and is acquiring the Property in reliance on its own investigations and due diligence and that no representations, warranties or statements of any kind whatsoever, express or implied have been made by CITY with regard to the condition of the Property and its suitability for the operation and use intended by BORROWER.

(b) BORROWER understands and acknowledges that it has not relied upon any representations, warranties or statements of CITY, or any agent, employee, attorney or representative of CITY which are not set forth in the Loan Documents. BORROWER further acknowledges and understands that as of the date of this NSP2 Loan Agreement, BORROWER will be aware of (1) the condition of the Property and its suitability for BORROWER's intended use and (2) zoning, subdivision and environmental regulations and requirements which may be applicable to the Property, or the impact, if any, of such requirements or regulations on BORROWER's intended use of the Property.

(c) BORROWER expressly assumes all risk caused by, related to, or arising from the condition of the Property, including but not limited to, any liability, damage, loss, cost, expense, demand, or penalty that may occur as a result of the existence, presence, storage, leak, discharge, emission or disposal of hazardous and toxic materials or otherwise harmful substances of any kind whatsoever on, under or above the Property or which, in contact with the Property or affect other properties, regardless of whether or not any such condition was in existence before BORROWER's acquisition of the Property.

SECTION 5. REHABILITATION OF THE PROPERTY [DELETE IF NO REHAB]

Section 5.1 Permits and Approvals.

BORROWER shall apply for all necessary building permits and approvals for the rehabilitation of the Property within thirty (30) days of BORROWER's acquisition of the Property. Copies of all permits and approvals necessary to commence rehabilitation of the Property must be received by CITY.

Section 5.2 Plans and Specifications.

Before commencement of rehabilitation, BORROWER shall submit to CITY for its review and approval the final plans and specifications, including material and color samples for rehabilitation of the Property. BORROWER shall develop the Property in full conformance with the plans and specifications and any modifications thereto approved by CITY.

Section 5.3 Changes in Plans.

BORROWER shall inform CITY of changes in the approved plans and specifications. The CITY Manager or CITY's Director of the Parks, Recreation and Neighborhoods Department is authorized to amend this NSP2 Loan Agreement and increase the NSP2 Loan up to Twenty Thousand Dollars (\$20,000) if such increase is required pursuant to a change order necessary to rehabilitate the Property. In no event shall such increase exceed the Total Costs of Development of One Hundred Sixty-Five Thousand Dollars (\$165,000) for a single-family unit or One Hundred Twenty-Five Thousand (\$125,000) for a multi-family unit. BORROWER shall be responsible to ensure adequate funds are available to pay for increased costs due to change orders.

Section 5.4 Commencement and Completion of Rehabilitation.

BORROWER shall commence rehabilitation of the Property on or before _____ and complete rehabilitation of the Property on or before _____. Rehabilitation shall be considered complete upon acceptance of final inspection by CITY for the Property.

Section 5.5 Rehabilitation Pursuant to Plans and Laws.

(a) BORROWER shall cause all work performed in connection with the Property to be performed in compliance with (i) all applicable laws, ordinances, rules and regulations of federal, state, county or municipal governments or agencies now in force or that may be enacted hereafter, including (without limitation and where applicable) the prevailing wage provisions of the federal Davis-Bacon Act and the California Labor Code and implementing rules and regulations), (ii) the County Building Code and any applicable City building code, and (iii) all directions, rules and regulations of any fire marshal, health officer, building inspector, or other officer of every governmental agency now having or hereafter acquiring jurisdiction. BORROWER shall permit the work to proceed only after procurement of each permit, license, or other authorization that may be required by any governmental agency having jurisdiction, and BORROWER is responsible to CITY for the procurement and maintenance thereof, as may be required of BORROWER and all entities engaged in work on the Property.

(b) BORROWER shall comply with the environmentally sensitive ("green") and energy efficient building standards set forth in the NSP2 Requirements.

(c) BORROWER shall ensure that all asbestos abatement and lead paint remediation, if applicable, is performed by a contractor(s) licensed and certified to perform such abatement and remediation. BORROWER shall also ensure that all such abatement and remediation is performed in accordance with applicable local, state and federal law.

(d) As more fully set forth in Section 7.3, BORROWER shall comply with the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. Section 1701u, requiring that to the greatest extent feasible opportunities for training and employment be given to lower income residents of the project area and agreements for work in connection with the Property be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the areas of the Property.

Section 5.6 Construction Bonds.

If applicable, prior to commencement of rehabilitation of the Property, BORROWER shall deliver to CITY copies of labor and material bonds and performance bonds for the construction of the Property in an amount equal to one hundred percent (100%) of the Rehabilitation Costs of the Property. Such bonds shall name CITY as a co-obligee.

Section 5.7 Contractors and Subcontractors.

(a) BORROWER shall utilize a procurement policy as approved by HUD and Procurement Handbook for Public Housing Agencies 7460.8 rev-2 for all procurement, including contracting and subcontracting.

(b) All construction work and professional services for the rehabilitation shall be performed by persons or entities licensed or otherwise authorized to perform applicable construction work or service in the State of California. All costs incurred in the preparation for rehabilitation of the Property shall be the responsibility and obligation solely of BORROWER.

(c) For the performance of any construction work on the Property, BORROWER shall use contractors who are not on the Federal Debarred List and are appropriately licensed by, and in good standing with, the California State Contractor's License Board and shall ensure that the contractor and any successor thereto shall only contract with subcontractors which are so licensed.

(d) BORROWER shall procure from all contractors and subcontractors of any tier all warranty documents, including warranties on all appliances and building components (such as roof, etc.) and all service manuals, and operating instructions pertaining to the Property.

(e) Should BORROWER decide to employ a Prime Contractor to serve as a contractor of record for the project, BORROWER agrees that it shall not retain or hire any such contractor until CITY has provided written consent of such retention/hiring. BORROWER shall

obtain CITY's approval of all written contracts/agreements between BORROWER and contractor for work on the Property.

(f) BORROWER shall submit to CITY certified payroll records for each and every contractor and subcontractor working on the rehabilitation of the Property, if applicable.

Section 5.8 Scheduling and Extension of Time.

It shall be the responsibility of BORROWER to coordinate and schedule the work to be performed so that commencement and completion of the rehabilitation will take place in accordance with the provisions of this NSP2 Loan Agreement. CITY may extend the time for commencement or completion of the rehabilitation in writing in its sole and absolute discretion. Any time extension granted to BORROWER to enable BORROWER to complete the work shall not constitute a waiver of any other rights of CITY under this NSP2 Loan Agreement or the Loan Documents.

Section 5.9 Access. Inspections. No Duty to Inspect.

For purposes of assuring compliance with this NSP2 Loan Agreement, representatives of CITY shall have reasonable right of access to the Property to inspect all work, materials, material invoices and other relevant data pertaining to the development of the Project and maintenance and operation of the Project.

CITY shall not have any affirmative duty to make any inspection, to make any investigation, or to supervise or inform BORROWER or any third party as to any aspect of the project development and shall not incur any liability for failing to do so. Any inspection, investigation, or review undertaken by CITY shall be solely to determine whether BORROWER is properly discharging its obligations to CITY and may not be relied upon by BORROWER or any third party. Once having undertaken any such inspection, investigation or review, CITY shall not incur any liability for failing to do so properly or for failing to complete the same. CITY owes no duty of care to BORROWER or any third party to protect against, or to inform BORROWER or any third party of any negligent, faulty, inadequate or defective design or construction of the Project.

Section 5.10 BORROWER Not Relieved of Obligation.

The fact that inspection, investigation or review of the design or construction of the development may or may not have been made by CITY shall not relieve BORROWER or the contractor of any obligation that they may otherwise have to inspect the Property or to otherwise comply with the terms of this NSP2 Loan Agreement or the Loan Documents.

Section 5.11 Rehabilitation Responsibilities.

BORROWER shall be solely responsible for all aspects of conduct in connection with the rehabilitation of the Property, including, but not limited to, the supervision of construction work,

and the qualifications, financial conditions, and performance of all architects, engineers, contractors, subcontractors, suppliers, consultants, and property managers and the accuracy of all applications for payment and the proper application of all disbursements. Any review or inspection undertaken by CITY with reference to the rehabilitation of the Property is solely for the purpose of determining whether BORROWER is properly discharging its obligations to CITY, and should not be relied upon by BORROWER or by any third parties as a warranty or representation by CITY as to the quality of the construction of the project.

Section 5.12 Purchase of Materials under Title Retention Agreement.

BORROWER shall not purchase or install or permit to be purchased or installed any materials, equipment, fixtures, or other part of the project under any agreements or other arrangements wherein the supplier or seller reserves or purports to reserve the right to remove or repossess any such items or to consider them personal property after their incorporation into the project, unless authorized in writing by CITY.

Section 5.13 Lead-Based Paint Responsibilities.

(a) BORROWER shall be responsible and ensure compliance with the Lead-Based Poisoning Prevention Act (42 U.S.C. 4821, et seq. and amendments) as it applies. BORROWER is also responsible for testing and abatement activities with respect to construction and maintenance of the rehabilitation project.

(b) BORROWER and its contractors and subcontractors shall not use lead-based paint in the development or construction of the Property.

Section 5.14 Financial Accounting and Post-Completion Audits.

BORROWER shall provide to CITY a financial accounting of all sources and uses of funds for the rehabilitation of the Property no later than sixty (60) days after rehabilitation of the Property is complete.

Section 5.15 Mechanics Liens, Stop Notices, and Notices of Completion.

(a) If any claim or lien is filed against the Property or a stop notice affecting the Loan is served on CITY or any other lender or other third party in connection with the Property, then BORROWER shall, within twenty (20) days after such filing or service, either pay and fully discharge the lien or stop notice, effect the release of such lien or stop notice by delivering to CITY a surety bond in sufficient form and amount, or provide CITY with other assurance satisfactory to CITY that the claim or lien or stop notice will be paid or discharged.

(b) If BORROWER fails to discharge any lien, encumbrance, charge, or claim in the manner required in this Section, then in addition to any other right or remedy, CITY may (but is under no obligation to) discharge such lien, encumbrance, charge, or claim at BORROWER's expense. Alternately, CITY may require BORROWER to immediately deposit

with CITY the amount necessary to satisfy such lien or claim and any costs, pending resolution thereof. CITY may use such deposit to satisfy any claim or lien that is adversely determined against BORROWER.

(c) BORROWER shall file a valid notice of cessation or notice of completion upon cessation of rehabilitation on the Property for a continuous period of thirty (30) days or more, and take all other reasonable steps to forestall the assertion of claims of lien against the Property. CITY may, but is not obligated to, record any notices of completion or cessation of labor, or any other notice that CITY deems necessary or desirable to protect its interest in the Property.

Section 5.16 Discretion of CITY.

CITY's execution of this NSP2 Loan Agreement in no way limits the discretion of CITY in the permit and approval process in connection with any construction or improvement of the Property by BORROWER.

SECTION 6. RENTAL AND SALE OF THE PROPERTY.

Section 6.1 Sale of the Property to a Qualified Homebuyer.

Subject to Section 6.4 below, the Property shall be sold to a Qualified Homebuyer at the Sales Price pursuant to this NSP2 Loan Agreement, the MOU, and the NSP2 Regulatory Agreement. The sale of the Property to a Qualified Homebuyer shall be completed within twelve (12) months of the date of [INSERT: acquisition or completion of rehabilitation] of the Property.

Section 6.2 CITY Second Mortgage Documents.

(a) To assist a Qualified Homebuyer in acquiring the Property, CITY shall convert the total principal amounts of the NSP2 Loan to a CITY Second Mortgage Loan. The CITY Second Mortgage Loan made to a Qualified Homebuyer shall be in an amount equal to twenty percent (20%) to fifty percent (50%) of the Sales Price, with the final amount of CITY Second Mortgage Loan to be determined by CITY prior to the sale of the Property to the Qualified Homebuyer. In no event shall the total of all CITY contribution to the CITY Second Mortgage Loan exceed (i) fifty percent (50%) of the Sales Price or (ii) the outstanding principal balance of the NSP2 Loan.

(b) Pursuant to the Homebuyer Note, the Qualified Homebuyer shall repay a portion or all of the City Second Mortgage Loan upon sale of the Property to a non-qualifying third-party during the Continued Affordability Period;

(c) As a condition of purchase of the Property, the Qualified Homebuyer shall be required to execute CITY Second Mortgage Loan Documents. Within one hundred twenty

(120) days after the closing of the NSP2 Loan, CITY and BORROWER shall agree on the form of CITY Second Mortgage Loan Documents and the method of calculation of the amount of CITY Second Mortgage Loan.

Section 6.3 Other Homebuyer Financing.

Subject to prior approval by CITY, the Qualified Home Buyer shall secure the necessary private financing to purchase the Property at the Sales Price ("Approved Financing"). In no event shall the CITY Second Mortgage Loan and Approved Financing exceed the Sales Price for the Property.

Section 6.4 Rental of the Property.

Notwithstanding the provisions in this NSP2 Loan Agreement, BORROWER may elect to rent the Property to a Qualified Tenant. BORROWER shall provide written notice to CITY that it intends to rent the Property to a Qualified Tenant (the "Rental Notice"). Upon issuance of the Rental Notice, CITY and BORROWER may mutually agree in writing to rent the Property as follows:

(b) The Property shall be rented to a Qualified Tenant pursuant to the term of a one-year lease, in a form approved by CITY.

(c) BORROWER shall rent the Property only to Qualified Tenants during the Continued Affordability Period.

(d) The Qualified Tenant shall pay no more than the Affordable Rent to BORROWER during the Continued Affordability Period. The Affordable Rent shall be used by BORROWER to pay maintenance costs and property taxes of the Property. Any remaining Affordable Rent following payment of the maintenance costs and property taxes of the Property shall be retained by BORROWER.

(e) BORROWER shall be solely responsible for maintenance and repair of the Property in accordance with CITY policies until the expiration of the NSP2 Regulatory Agreement.

(f) BORROWER shall be solely responsible for the payment of property taxes of the Property. In no event shall BORROWER permit a tax or delinquency lien to be secured against the Property.

SECTION 7. LOAN REQUIREMENTS. BORROWER'S OBLIGATIONS AND CONDITIONS

Section 7.1 Compliance with MOU.

BORROWER shall comply with the terms of the MOU and any breach under the MOU, subject to the notice and cure periods set forth in Section 9 below, is a Default under this NSP2

Loan Agreement. The MOU is hereby incorporated into this NSP2 Loan Agreement by this reference.

Section 7.2 Anti-Speculation Requirements.

BORROWER recognizes and acknowledges the importance of developing and maintaining affordable rental housing and affordable home ownership housing for Eligible Households to the general welfare of the City of Modesto. BORROWER covenants and agrees, for itself and its successors, assigns and transferees that each Eligible Property will be used exclusively for the operation of affordable home ownership housing and affordable rental housing for Eligible Households in accordance with the NSP2 Regulatory Agreement and not for any form of speculation and landholding. BORROWER understands and agrees that, without the advance written consent of CITY, BORROWER is prohibited from selling, transferring, conveying or assigning an Eligible Property or any interest therein.

Section 7.3 NSP2 Requirements.

BORROWER shall comply with all applicable laws and regulations governing the use of the NSP2 Funds as set forth in the NSP2 Requirements. In the event of any conflict between this NSP2 Loan Agreement, the NSP2 Note, the NSP2 Deed of Trust, or the NSP2 Regulatory Agreement, the NSP2 Requirements shall govern.

(a) The laws and regulations governing the use of the NSP2 Loan include (but are not limited to) the following:

(i) Environmental and Historic Preservation. 24 C.F.R. Part 58, which prescribes procedures for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4361), and the additional laws and authorities listed at 24 C.F.R. 58.5.

(ii) Applicability of OMB Circulars. The applicable policies, guidelines, and requirements of OMB Circulars Nos. A-87, A-102, Revised, A-110, A-122, and A-133.

(iii) Debarred, Suspended or Ineligible Contractors. The prohibition on the use of debarred, suspended, or ineligible contractors set forth in 24 C.F.R. Part 24.

(iv) Civil Rights, Housing and Community Development, and Age Discrimination Acts.

(1) Compliance. BORROWER shall comply with the Fair Housing Act (42 U.S.C. 3601 et seq.) and implementing regulations at 24 C.F.R. Part 100; Title VI of the Civil Rights Act of 1964 as amended; Title VIII of the Civil Rights Act of 1968 as amended; Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended; Section 504 of the Rehabilitation Act of 1973 (29 USC 794, et seq.); the Age Discrimination Act of 1975 (42 USC 6101, et seq.); Executive Order 11063 as amended by Executive Order 12259 and implementing regulations at 24 C.F.R. Part

107; Executive Order 11246 as amended by Executive Orders 11375, 12086, 11478, 12107; Executive Order 11625 as amended by Executive Order 12007; Executive Order 12432; Executive Order 12138 as amended by Executive Order 12608.

(2) Non-Discrimination. BORROWER shall comply with the non-discrimination in employment and contracting opportunities laws, regulations and executive orders referenced in 24 C.F.R. 570.607, as revised by Executive Order 13279, and the applicable non-discrimination provisions in Section 109 of the Housing and Community Development Act of 1974, and may not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability, age, marital status, or status with regard to public assistance. BORROWER shall take affirmative action to ensure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. BORROWER shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

(3) Land Covenants. This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 C.F.R. 570.601. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this NSP2 Loan Agreement, BORROWER shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that CITY and the United States are beneficiaries of and entitled to enforce such covenants. BORROWER, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

(v) Lead-Based Paint. The requirement of the Lead-Based Paint Poisoning Prevention Act, as amended (42 U.S.C. 4821 et seq.), the Residential Lead-Based Paint Hazard Reduction Act (42 U.S.C. 4851 et seq.), and implementing regulations at 24 C.F.R. Part 35.

(vi) Relocation. The requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601, et seq.), and implementing regulations at 49 C.F.R. Part 24 (as modified by the NSP2 Requirements); 24 C.F.R. 570.606; Section 104(d) of the Housing and Community Development Act of 1974 and implementing regulations at 24 C.F.R. 42 et seq.; and California Government Code Section 7260 et seq. and implementing regulations at 25 California Code of Regulations Sections 6000 et seq., relating to the acquisition and disposition of all real property purchased with NSP2 Funds, and to the permanent or temporary displacement of persons, businesses, nonprofit organizations and farms occurring as a direct result of any acquisition or rehabilitation of real property made with NSP2 Funds, and state and local relocation laws. If, and to the extent that the rehabilitation of the Property results in the permanent or temporary displacement of residential tenants,

homeowners, or businesses, then BORROWER shall comply with all applicable local, state, and federal statutes and regulations with respect to relocation planning, advisory assistance, and payment of monetary benefits. BORROWER shall prepare and submit a relocation plan to CITY for approval. BORROWER is solely responsible for payment of any relocation benefits to any displaced persons and any other obligations associated with complying with such relocation laws. BORROWER shall indemnify, defend (with counsel reasonably chosen by CITY), and hold harmless CITY, its council members, officers, representatives, agents, assigns and employees against all claims that arise out of relocation obligations to residential tenants, homeowners, or businesses permanently or temporarily displaced by the Property. The requirements in this subsection shall survive repayment of the NSP2 Loan and the reconveyance of the NSP2 Deed of Trust.

(vii) Discrimination against the Disabled. The requirements of the Fair Housing Act (42 U.S.C. 3601 et seq.) and implementing regulations at 24 C.F.R. Part 100; Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and federal regulations issued pursuant thereto, which prohibit discrimination against the disabled in any federally assisted program, the requirements of the Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) and the applicable requirements of Title II and/or Title III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.), and federal regulations issued pursuant thereto.\

(viii) Clean Air and Water Acts. The Clean Air Act, as amended, 42 U.S.C. 7401 et seq., the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 C.F.R. Part 1500, as amended from time to time.

(ix) Uniform Administrative Requirements. If applicable, the requirements of applicable sections of 24 C.F.R. Part 85, as amended from time-to-time, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments" and 24 C.F.R. 570.502 regarding cost and auditing requirements.

(x) Training Opportunities. The requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u ("Section 3"), requiring that to the greatest extent feasible opportunities for training and employment be given to lower income residents of the project area and agreements for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the areas of the project. BORROWER agrees to include the following language in all subcontracts executed under this NSP2 Loan Agreement:

(1) The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very

low-income persons, particularly persons who are recipients of HUD assistance for housing.

(2) The parties to this contract agree to comply with HUD's regulations in 24 C.F.R. Part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.

(3) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause; and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference; shall set forth minimum number and job titles subject to hire; availability of apprenticeship and training positions; the qualifications for each; the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

(4) The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 C.F.R. Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 C.F.R. Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 C.F.R. Part 135.

(5) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 C.F.R. Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 C.F.R. Part 135.

(6) Noncompliance with HUD's regulations in 24 C.F.R. Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

(7) With respect to work performed in connection with Section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian

organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

(xi) Labor Standards. The labor requirements set forth in 24 C.F.R. Section 570.603; the prevailing wage requirements of the Davis-Bacon Act and implementing rules and regulations (40 U.S.C. 3141-3148); the Copeland "Anti-Kickback" Act (40 U.S.C. 276(c)) which requires that workers be paid at least once a week without any deductions or rebates except permissible deductions; the Contract Work Hours and Safety Standards Act – CWHSSA (40 U.S.C. 3701-3708) which requires that workers receive "overtime" compensation at a rate of 1-1/2 times their regular hourly wage after they have worked forty (40) hours in one (1) week; and Title 29, Code of Federal Regulations, Subtitle A, Parts 1, 3 and 5 are the regulations and procedures issued by the Secretary of Labor for the administration and enforcement of the Davis-Bacon Act, as amended.

(xii) Drug Free Workplace. The requirements of the Drug Free Workplace Act of 1988 (P.L. 100-690) and implementing regulations at 24 C.F.R. Part 24.

(xiii) Anti-Lobbying; Disclosure Requirements. The disclosure requirements and prohibitions of 31 U.S.C. 1352 and implementing regulations at 24 C.F.R. Part 87.

(xiv) Historic Preservation. The historic preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. Section 470) and the procedures set forth in 36 C.F.R. Part 800. If archeological, cultural, or historic period resources are discovered during construction, all construction work must come to a halt and BORROWER shall immediately notify the County. BORROWER shall not shall alter or move the discovered material(s) until all appropriate procedures for "post-review discoveries" set forth in Section 106 of the National Historic Preservation Act have taken place, which include, but are not limited to, consultation with the California State Historic Preservation Officer and evaluation of the discovered material(s) by a qualified professional archeologist.

(xv) Flood Disaster Protection. The requirements of the Flood Disaster Protection Act of 1973 (P.L. 93-234) (the "Flood Act"). No portion of the assistance provided under this NSP2 Loan Agreement is approved for acquisition or construction purposes as defined under Section 3(a) of the Flood Act, for use in an area identified by HUD as having special flood hazards which is not then in compliance with the requirements for participation in the national flood insurance program pursuant to Section 201(d) of the Flood Act. The use of any assistance provided under this NSP2 Loan Agreement for such acquisition or construction in such identified areas in communities then participating in the National Flood Insurance Program is subject to the mandatory purchase of flood insurance requirements of Section 102(a) of the Flood Act. If the Property is located in an area identified by HUD as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4001 et seq., the property owner and its successors or assigns must obtain and maintain, during the ownership of the Property, such flood

insurance as required with respect to financial assistance for acquisition or construction purposes under Section 102(s) of the Flood Act. Such provisions are required notwithstanding the fact that the construction on the Property is not itself funded with assistance provided under this NSP2 Loan Agreement.

(xvi) Procurement.

(1) Compliance. CITY has the right to require BORROWER to comply with any or all current CITY's NSP2 Policies and Procedures Manual concerning the purchase of equipment and shall maintain an inventory record of all non-expendable personal property (as defined by CITY policy) as may be procured with funds provided herein. All property assets (unexpended program income, property, equipment, etc.) shall revert to CITY upon termination of this NSP2 Loan Agreement.

(2) OMB Standards. BORROWER shall procure materials in accordance with the requirements of 24 C.F.R. 84.40-48 and the procurement standards set forth in OMB Circular A-133, and shall subsequently follow the property standards, covering utilization and disposal of property, set forth in OMB Circular A-133.

(xvii) Documentation and Record-Keeping.

(1) Records to be Maintained. BORROWER shall maintain all records required by the federal regulations specified in 24 C.F.R. Part 570.506 and the NSP2 Requirements, and satisfactory to CITY staff, and that are pertinent to the activities to be funded under this NSP2 Loan Agreement. Such records include but are not be limited to:

(A) Records providing a full description of each activity undertaken;

(B) Certification executed by BORROWER in substantially the same form as attached as Exhibit E, demonstrating that each activity undertaken meets one of the National Objectives of the CDBG and NSP2 Program;

(C) Records required to determine the eligibility of activities;

(D) Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG and NSP2 assistance;

(E) Records documenting compliance with the fair housing and equal opportunity components of the CDBG and NSP2 Program;

(F) Records documenting compliance with the changes in use restrictions specified in 24 C.F.R. Part 570.505 (for any properties that are retained).

(G) Records as required by 24 C.F.R. Part 570.502, 24 C.F.R. 84.21-28 and OMB Circular A-133; and

(H) Other records necessary to document compliance with Subpart K of 24 C.F.R. 570 and the NSP2 Requirements.

(2) Insufficient Records. CITY shall notify BORROWER of any records it deems insufficient. BORROWER shall have thirty (30) calendar days after the receipt of such a notice to correct any deficiency in the records specified by CITY in such notice, or if a period longer than thirty (30) days is reasonably necessary to correct the deficiency, then BORROWER shall begin to correct the deficiency within thirty (30) days and correct the deficiency as soon as reasonably possible.

(3) Retention of Records. BORROWER shall retain all financial records, supporting documents, statistical records, and all other records pertinent to services performed and expenditures incurred under this NSP2 Loan Agreement for a period of five (5) years after the termination of all activities funded under this NSP2 Loan Agreement, or after the resolution of all litigation, claims, federal audits, negotiation or other actions that involve any of the records cited, whichever occurs later. BORROWER shall retain records for non-expendable property acquired with funds under this NSP2 Loan Agreement for five (5) years after final disposition of such property. Records for any displaced person must be kept for five (5) years after he/she has received final payment.

(4) National Objectives. Pursuant to subsection (1)(B) above, BORROWER shall execute and submit to CITY a certification in substantially the same form as attached as Exhibit E, for approval by the City that the activities carried out with funds provided under this NSP2 Loan Agreement meet the low/moderate/middle income national objective under the NSP2 Program.

(5) Close-Outs. BORROWER's obligation to CITY does not end until all close-out requirements are completed. Close-out period requirements include, but are not limited to: submission of close-out report; making final payments; disposing of property assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and receivable accounts to CITY); and determining the custodianship of records.

(6) Audits and Inspections. CITY shall notify BORROWER of any records it deems insufficient. BORROWER shall have fifteen (15) calendar days after the receipt of such a notice to correct any deficiency in the records specified by CITY in such notice, or if a period longer than fifteen (15) days is reasonably necessary to correct the deficiency, then BORROWER shall begin to correct the deficiency within fifteen (15) days and correct the deficiency as soon as reasonably possible.

(xviii) Hatch Act. BORROWER agrees that no funds provided, nor personnel employed under this NSP2 Loan Agreement, shall be in any way, or to any extent engaged, in the conduct of political activities in violation of 5 U.S.C. 15.

(xix) Conflict of Interest. BORROWER agrees to abide by the provisions of 24 C.F.R. 84.42 and 24 C.F.R. 570.611 with respect to conflicts of interest, which include (but are not limited to) the following:

(1) BORROWER shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by federal funds.

(2) In accordance with Government Code Section 1090 and the Political Reform Act, Government Code Section 87100 et seq., no person who is a director, officer, partner, trustee or employee or consultant of BORROWER, or immediate family member of any of the preceding, shall make or participate in a decision, made by CITY or a CITY board, commission or committee, if it is reasonably foreseeable that the decision will have a material effect on any source of income, investment or interest in real property of that person or BORROWER. Interpretation of this Section shall be governed by the definitions and provisions used in the Political Reform Act, Government Code Section 87100 et seq., its implementing regulations manual and codes, and Government Code Section 1090.

(3) No employee, officer or agent of BORROWER shall participate in the selection, or in the award, or administration of, a contract supported by federal funds if a conflict of interest, real or apparent, would be involved.

(4) BORROWER covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this NSP2 Loan Agreement. BORROWER further covenants that in the performance of this NSP2 Loan Agreement no person having such a financial interest shall be employed or retained by BORROWER hereunder.

(5) Except for approved eligible administrative or personnel costs, no person described in this subsection who exercises or has exercised any functions or responsibilities with respect to the activities funded pursuant to this NSP2 Loan Agreement or who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during, or at any time after, such person's tenure. BORROWER shall exercise due diligence to ensure that the prohibition in this subsection is followed. The conflict of interest provisions of this subsection apply to any person who is an employee, agent, consultant, officer, or any immediate family member of such person, or any elected or appointed official of CITY, or any person related within the third (3rd) degree of such person.

(xx) Section 2304 Requirements. BORROWER shall comply with Section 2304 of Title III of Division B of the Housing and Economic Recovery Act of 2008, which states that no NSP2 Funds may be distributed to: (a) an organization that has been indicted for a violation under federal law relating to an election for federal office; or (b) an organization that employs applicable individuals. An "applicable individual" means an individual who has been indicted for a violation under federal law relating to an election for federal office and is: (a) employed by the organization in a permanent or temporary capacity or is contracted or retained by the organization; or (b) acting on behalf of, or with the express or apparent authority of the organization.

(xxi) Recovery of Capital Costs. BORROWER shall not attempt to recover any capital costs of public improvements assisted with CDBG or NSP2 Funds, including Section 108 loan guaranteed funds, by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements. However, if NSP2 Funds are used to pay the proportion of a fee or assessment attributable to the capital costs of public improvements (assisted in part with NSP2 Funds) financed from other revenue sources, an assessment or charge may be made against the Property Parcel with respect to the public improvement financed by a source other than CDBG or NSP2 Funds.

(xxii) Subcontracts.

(1) Approvals. BORROWER may not enter into any subcontracts in an amount greater than Ten Thousand Dollars (\$10,000) with any entity or individual in the performance of this NSP2 Loan Agreement without the written consent of CITY prior to the execution of such subcontract.

(2) Monitoring. BORROWER shall monitor all subcontracted services on a regular basis to assure contract compliance. BORROWER shall summarize the results of monitoring efforts in written reports that are supported by documented evidence of follow-up actions taken to correct any areas of noncompliance.

(3) Content. BORROWER shall cause all of the provisions of this NSP2 Loan Agreement in its entirety to be included in and made a part of any subcontract executed in the performance of this NSP2 Loan Agreement.

(4) Selection Process. BORROWER shall undertake to ensure that all subcontracts let in the performance of this NSP2 Loan Agreement are awarded on a fair and open competitive basis in accordance with applicable procurement requirements. BORROWER shall forward executed copies of all subcontracts to CITY along with documentation concerning the selection process.

(xxiii) Lobbying. BORROWER hereby certifies that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of CITY, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

(2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of CITY, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(3) It will require that the following language be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-contractors shall certify and disclose accordingly:

"This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure."

(4) This certification is a material representation of fact upon which reliance was placed when this NSP2 Loan Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this NSP2 Loan Agreement imposed by 31 U.S.C. Section 1352. Any person who fails to file the required certification will be subject to a civil penalty of not less than Ten Thousand Dollars (\$10,000) and not more than One Hundred Thousand Dollars (\$100,000) for such failure.

(xxiv) Religious Organization. BORROWER agrees that funds provided under this NSP2 Loan Agreement will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with the federal regulations specified in 24 C.F.R. 570.200(j).

(xxv) Buy American. BORROWER shall comply with Section 1605 of the NSP2 Act which offers government-wide guidance at 2 CFR 176, with regards to the Buy American Program and the responsibilities and compliance requirements connected thereto. BORROWER assumes responsibility for the acts of its employees and sub-contractors as they relate to the procurement of building materials in connection to the "Buy American" Program.

(xxvi) HUD Regulations. Any other HUD regulations present or as may be amended, added, or waived in the future pertaining to the NSP2 Loan funds.

Section 7.4 Progress Reports.

Until such time as BORROWER has sold the Property, BORROWER shall provide CITY with certified quarterly progress reports regarding the status of its acquisition, **[INSERT, if applicable: rehabilitation]**, rental, and sale.

Section 7.5 Environmental Indemnity.

As an inducement to CITY to enter into this NSP2 Loan Agreement, BORROWER agrees that from and after the close of escrow for purchase of the Property, BORROWER assumes the risk of and agrees to indemnify and hold CITY harmless, and to defend CITY against and from any and all claims, liabilities, judgments, damages, losses, administrative actions, litigation, response costs, penalties, expenses (including without limitation costs and attorneys fees), or demands CITY might otherwise incur to any party, including any applicable federal, state or local governmental body which relate to the existence, presence, storage, lease, discharge, emission or disposal of hazardous and toxic materials or otherwise harmful substances of any kind whatsoever on, under or above the property or which come into contact with the property and affect other properties, regardless of when such condition came into existence. This indemnification shall attach and bind BORROWER under BORROWER's ownership of the Property and shall also serve, as between CITY and BORROWER, to fully insulate CITY from liability and responsibility under any future third party ownership of the Property to the fullest extent under applicable law.

Section 7.6 Inspections. Right of Access.

For purposes of assuring compliance with the Loan Documents, authorized representatives and agents of CITY shall have reasonable right of access to the Property, without charges or fees, to conduct inspection of the use, operation and maintenance of the Property.

Section 7.7 Prohibition Against Transfer and Assignment of Agreement

(a) For purposes of this NSP2 Loan Agreement, "Transfer" means any sale, assignment, or transfer, whether voluntary or involuntary, of (i) any rights and/or duties under this NSP2 Loan Agreement, and/or (ii) any interest in the Property, including (but not limited to) a fee simple interest, a joint tenancy interest, a life estate, a partnership interest, a leasehold interest, a security interest, or an interest evidenced by a land contract by which possession of the Property is transferred and BORROWER retains title. The term "Transfer" excludes the sale to a Qualified Homebuyer or lease to a Qualified Tenant of the Property in compliance with the NSP2 Regulatory Agreement.

(b) No Transfer is permitted without the prior written consent of CITY, which CITY may withhold in its sole discretion. The NSP2 Loan will automatically accelerate and be due in full upon any Transfer made without the prior written consent of CITY.

(c) In the absence of specific written agreement by CITY, no Transfer or the approval thereof by CITY, shall be deemed to relieve BORROWER or any other party from any obligations under this NSP2 Loan Agreement.

(d) BORROWER acknowledges and understands in the event of a Transfer, without advance written consent of CITY, any proceeds received in excess of the unpaid balance of the NSP2 Loan is subject to recapture by CITY pursuant to regulations governing NSP2 funds.

Section 7.8 Obligation to Refrain from Discrimination.

BORROWER covenants and agrees for itself, its successors, its assigns and every successor in interest to the Property or any part thereof, that there shall be no discrimination against or segregation of any person, or group of persons on account of race, color, creed, religion, sex, age, marital status, ancestry, national origin, physical handicap or other arbitrary factor in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property or any part thereof, nor shall BORROWER itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the Property or any part thereof. The foregoing covenants shall run with the land and shall remain in effect in perpetuity. The NSP2 Regulatory Agreement shall contain appropriate reference and provision to carry out the purpose of this Section.

Section 7.9 Maintenance of the Property.

(a) BORROWER agrees to maintain the improvements and landscaping on the Property in a clean and orderly condition and in good condition and repair and keep the Property free from any accumulation of debris and waste materials. If there arises a condition in contravention of this requirement, and if BORROWER has not cured such condition within thirty (30) days after receiving a CITY notice of such a condition, then in addition to any other rights available to CITY, CITY may perform all acts necessary to cure such condition, and to establish or enforce a lien or other encumbrance against the Property, subject to the provisions provided in subsection (b) below.

(b) Subject to the requirements of senior lenders, and if economically feasible in CITY's judgment after consultation with BORROWER, if any improvement now or in the future on the Property is damaged or destroyed, then BORROWER shall, at its cost and expense, diligently undertake to repair or restore such improvement consistent with the plans and specifications approved by CITY with such changes as have been approved by CITY. Such work or repair is to be commenced no later than the later of one hundred twenty (120) days, or such longer period approved by CITY in writing, after the damage or loss occurs or thirty (30)

days following receipt of the insurance proceeds, and is to be complete within one (1) year thereafter. Any insurance proceeds collected for such damage or destruction are to be applied to the cost of such repairs or restoration and, if such insurance proceeds are insufficient for such purpose, then BORROWER shall make up the deficiency. If BORROWER does not promptly make such repairs then any insurance proceeds collected for such damage or destruction are to be promptly delivered by BORROWER to CITY as a special repayment of the Loan, subject to the rights of any senior lenders, if any.

Section 7.10 Books and Accounts.

BORROWER shall maintain complete books of accounts and other records for the project and for the use of the Loan Funds; including, but not limited to, records of preliminary notices, lien releases, invoices, receipts and certificates of insurance pertaining to the contractor and each subcontractor; and the same shall be available for inspection and copying by CITY upon reasonable notice to BORROWER.

Section 7.11 Fees and Taxes.

BORROWER is solely responsible for payment of all fees, assessments, taxes, charges, and levies imposed by any public authority or utility company with respect to the Property, and shall pay such charges prior to delinquency. However, BORROWER is not required to pay and discharge any such charge so long as (i) the legality thereof is being contested diligently and in good faith and by appropriate proceedings, and (ii) if requested by CITY, BORROWER deposits with CITY any funds or other forms of assurance that the County in good faith from time to time determines appropriate to protect CITY from the consequences of the contest being unsuccessful.

Section 7.12 Notice of Litigation.

BORROWER shall promptly notify CITY in writing of any litigation that has the potential to materially affect BORROWER or the Property and of any claims or disputes that involve a material risk of such litigation.

Section 7.13 Insurance Requirements.

BORROWER shall provide at its own expense and maintain at all times through the term of the NSP2 Note, an all-risk property insurance policy with an insurance company licensed in the State of California insuring the Property in an amount equal to the full replacement value of the structures on the Property. The policy shall name CITY as loss payee and shall contain a statement of obligation on behalf of the insurer to notify CITY of any material change, cancellation or termination of coverage at least thirty (30) days in advance of the effective date of such material change, cancellation or termination. The notices required by the preceding sentence shall be given to the Risk Manager of the City of Modesto by certified mail, return receipt requested. BORROWER shall deliver a copy of the certificate of insurance and loss payee endorsement to the Risk Manager of the City of Modesto within (30) days of the Effective Date, and BORROWER shall annually deliver a copy of the certificate of insurance and a loss

payee endorsement, signed by an authorized agent of the insurer setting forth the general provisions of coverage.

In addition, BORROWER shall provide at its own expense and maintain at all times through the term of the Note, the following insurance with insurance companies licensed in the State of California and shall provide written evidence of such insurance to the Risk Manager of the City of Modesto no later than the Effective Date, and annually thereafter within thirty (15) days of the renewal of such policies. The policies or certificates thereof shall provide that thirty (30) days prior to cancellation or material change in the policy, notices of same shall be given to the Risk Manager of the City of Modesto by certified mail, return receipt requested, for all of the following stated insurance policies:

(a) General Liability insurance with a minimum limit of liability per occurrence of \$1,000,000.00 for bodily injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. This insurance shall indicate on the certificate of insurance the following coverages and indicate the policy aggregate limit applying to: premises and operation; broad form contractual; independent consultants and subcontractors; products and completed operations as applicable.

(b) Worker's Compensation insurance in compliance with the statutes of the State of California, plus employer's liability with a minimum limit of liability of \$1,000,000.00.

(c) Automobile Liability insurance with a minimum limit of liability per occurrence of \$1,000,000.00 for bodily injury and property damage. This insurance shall cover any automobile used in the course and scope of BORROWER's business for bodily injury and property damage.

(d) Except for Workers Compensation, each policy of insurance shall name CITY, its agents, officers and employees as an additional insured. BORROWER shall provide CITY with separate endorsements evidencing proof of CITY's additional insured status as to both the general liability and automobile liability insurance policies. In addition, BORROWER shall provide CITY with a Workers Compensation subrogation waiver by way of a separate endorsement. All endorsements referenced above must include the applicable policy number. BORROWER shall deliver all certificates of the existence of insurance, loss payee endorsements and additional insured certificates to the Risk Manager of CITY on or before the Effective Date, and annually thereafter within thirty (30) days of the renewal of such policies, signed by an authorized agent of the insurance carrier setting forth the general provisions of coverage. BORROWER's insurance policies shall include a provision that the coverage is primary as respects to CITY and shall include no special limitations to coverage provided to additional insured; and shall be placed with insurer(s) with acceptable Best's rating of A:VII or with approval of the Risk Manager.

If at any time any of said policies shall be unsatisfactory to CITY, as to form or substance, or if a company issuing such policy shall be unsatisfactory to CITY, the BORROWER shall promptly obtain a new policy, submit the same to the Risk Manager for approval and submit a certificate thereof as hereinabove provided. Upon failure of the BORROWER to furnish, deliver or maintain such insurance and certificates as above provided, this NSP2 Loan Agreement, at the election of CITY, may be forthwith declared suspended or terminated. Failure of the BORROWER to obtain and/or maintain any required insurance shall not relieve the BORROWER from any liability under this NSP2 Loan Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations of the BORROWER concerning indemnification. The CITY, its agents, officers, employees and volunteers shall be named as an additional insured on all the insurance policies required herein, except the Workers Compensation. The Workers Compensation insurer shall agree to waive all rights of subrogation against CITY, its agents, officers, employees and volunteers for losses arising from work performed by BORROWER for CITY or in relation to the project.

For any claims related to the Property or the rehabilitation or operation of the Property, BORROWER's insurance coverage shall be primary insurance as respects CITY, its agents, officers, employees and volunteers. Any insurance or self-insurance maintained by CITY, its officers, employees or volunteers shall be excess of the BORROWER's insurance and shall not contribute with it.

Failure of BORROWER to obtain and/or maintain any required insurance shall not relieve BORROWER from any liability under this NSP2 Loan Agreement nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations of BORROWER relating to indemnification.

SECTION 8. REPRESENTATIONS, WARRANTIES AND CERTIFICATIONS.

BORROWER represents, warrants, and certifies to CITY as follows:

Section 8.1 Organization. BORROWER is duly organized, validly existing and in good standing under the laws of the State of California and has the power and authority to own, [INSERT, if applicable: rehabilitate], operate and maintain the Property.

Section 8.2 Authority of BORROWER. BORROWER has full power and authority to execute and deliver this NSP2 Loan Agreement, the Regulatory Agreement all other Loan Documents or instruments executed and delivered, or to be executed and delivered, pursuant to this NSP2 Loan Agreement, and to perform and observe the terms and provisions of all of the above.

Section 8.3 Authority of Persons Executing Documents. The Loan documents and all documents or instruments executed and delivered, or to be executed and delivered, pursuant to this NSP2 Loan Agreement, have been executed and delivered by persons who are duly authorized to execute and deliver the same for and on behalf of BORROWER. All actions required under BORROWER's organizational documents and applicable governing law for the

authorization, execution, delivery and performance of this NSP2 Loan Agreement, the other Loan Documents and all documents or instruments executed and delivered, or to be executed and delivered, pursuant to this NSP2 Loan Agreement, have been duly taken.

Section 8.4 Valid Binding Agreements. The Loan Documents and all documents or instruments executed and delivered pursuant to or in connection with this NSP2 Loan Agreement constitute or, if not yet executed or delivered, will when so executed and delivered, constitute legal, valid and binding obligations of BORROWER, enforceable against BORROWER in accordance with their respective terms.

Section 8.5 No Breach of Law or Agreement. None of the execution or delivery of the Loan Documents or of any document or instrument executed and delivered, or to be executed or delivered, pursuant to this NSP2 Loan Agreement, or the performance of any provision, condition, covenant or other term hereof or thereof, will conflict with or result in a breach of any statute, rule or regulation, or any judgment, decree or order of any court, board, commission, or agency whatsoever binding on BORROWER or any provision of the organizational documents of BORROWER, will conflict with or constitute a breach of or a default under any agreement to which BORROWER is a party, or will result in the creation or imposition of any lien upon any assets or property of BORROWER, other than the liens approved by CITY.

Section 8.6 Compliance with Laws: Consents and Approvals. BORROWER will comply with all applicable laws, ordinances, rules and regulations of federal (including, but not limited, to the HUD Housing Quality Standards pursuant to 24 C.F.R. 887.109, Section 504 of the Rehabilitation Act of 1973 as amended and the American with Disabilities Act of 1992), state and local governments and agencies having jurisdiction over either BORROWER or the Property and with all applicable directions, rules and regulations of the fire marshal, health officer, building inspector and other officers of any such government or agency including, but not limited, to the HUD Housing Quality Standards pursuant to 24 C.F.R. 92.251, 24 C.F.R. 887.109 and Section 504 of the Rehabilitation Act of 1973 as amended and the American with Disabilities Act of 1992.

Section 8.7 Permits. All permits, consents, permissions and licenses required by any federal, state or local government or agency to which BORROWER or the Property is subject, which may be necessary in relation to this NSP2 Loan Agreement or the development, construction, operation or ownership of the Property, at, prior, or subsequent to the commencement of construction, have been, or will be, obtained, and none of such consents, permissions and licenses are subject to appeal or to conditions which have not been met.

Section 8.8 Pending Proceedings. BORROWER is not in default under any law or regulation or under any order of any court, board, commission or agency whatsoever, and there are no claims, actions, suits or proceedings pending or, to the knowledge of BORROWER, threatened against or affecting BORROWER or the Property, at law or in equity, before or by any court, board, commission or agency whatsoever which might, if determined adversely to BORROWER, materially affect BORROWER's ability to rehabilitate or operate the Property or repay the loan or impair the security to be given to CITY pursuant hereto.

Section 8.9 Hazardous Materials. BORROWER shall perform a due diligence review of the condition of the Property including a review to disclose the possible existence of asbestos, lead, and toxic or hazardous materials prior to the acquisition of the Property.

Section 8.10 Violations of Law. BORROWER is not presently disbarred, suspended, proposed for debarment, declared ineligible, or involuntarily excluded from covered transactions (see Title 24 C.F.R.24) by any federal department or agency; has not within a three (3) year period preceding this NSP2 Loan Agreement, been convicted of or had a civil judgment rendered against it for commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission or any of the offenses enumerated in this paragraph; and has not within a three (3) year period preceding this NSP2 Loan Agreement had one or more public transactions (federal, state or local) terminated for cause or default.

Section 8.11 Adequacy of Loan. The amount of the Loan, together with any funds to be provided by BORROWER or to BORROWER from any other source, is adequate to purchase the Property and complete rehabilitation thereof in accordance with this NSP2 Loan Agreement. BORROWER will be responsible for all construction and operational costs greater than the NSP2 Loan.

Section 8.12 Availability of Utilities. All utilities necessary for the operation of the Property are available at or within the boundaries of the Property and all steps necessary to assure that such utility services will be available upon occupancy.

Section 8.13 Title to Property. Upon recordation of the NSP2 Deed of Trust, BORROWER shall have good and marketable title to the Property.

Section 8.14 Eligible Property. The Property is an Eligible Property as defined in the MOU and as required by regulations and laws governing receipt and use of NSP2 Loan funds.

SECTION 9. EVENT OF DEFAULT.

The occurrence of any of the following shall constitute an "Event of Default" under this NSP2 Loan Agreement and the NSP2 Loan Documents, following notice to BORROWER by CITY, specifying (a) the applicable event; (b) the action required to cure the default; and (c) a date, which shall not be fewer than thirty (30) days after the date of notice is mailed to BORROWER, by which such action must be taken by BORROWER to cure the default, unless CITY extends the cure period.

(a) Performance of Obligations. BORROWER's default under any of the Loan Documents, or BORROWER's failure to perform its obligations under this NSP2 Loan Agreement within the cure period.

(b) Sale of Property. BORROWER sells the Property to a person who is not a Qualified Homebuyer.

(c) Rental of Property. BORROWER rents the Property to a person who is not a Qualified Tenant.

(d) Transfer. BORROWER sells, transfers, conveys, assigns, encumbers or leases the Property, or any part thereof, without written consent of CITY.

(e) Insurance. BORROWER fails to obtain or maintain insurance coverage as required and specified in Section 7.15.

(f) Liens. Attachment of an involuntary lien or liens of any kind or character to the Property.

(g) Representation and Warranties. Any of BORROWER's representations, warranties or certifications herein were untrue when made by BORROWER and cease to be true thereafter;

(h) Voluntary Bankruptcy; Insolvency; Dissolution. BORROWER's (i) filing of a petition for relief under any state or federal law regarding bankruptcy, reorganization or other relief to debtors; (ii) filing any pleading in any involuntary proceeding under any state or federal law regarding bankruptcy, reorganization or other relief to debtors which admits the jurisdiction of the court or the petition's material allegations regarding BORROWER's insolvency; (iii) making a general assignment for the benefit of creditors; (iv) applying for, or the appointment of, a receiver, trustee, custodian or liquidator of BORROWER, or any of its properties; (v) inability or admission in writing of its inability to pay debts as they are due; or (6) filing by BORROWER of a petition seeking the liquidation or dissolution of BORROWER or the commencement of any other procedures to liquidate or dissolve BORROWER; or

(i) Involuntary Bankruptcy. BORROWER's failure to effect a full dismissal of any involuntary (i) petition under any state or federal law regarding bankruptcy, reorganization or other relief to debtor; (ii) proceeding for the appointment of a receiver, trustee or liquidator for BORROWER or all or a material part of the assets of BORROWER; or (iii) petition or proceeding under other state or federal law regarding bankruptcy, reorganization or other relief to debtors that is filed against BORROWER.

SECTION 10. NOTICE OF DEFAULT.

Upon the occurrence of an Event of Default, CITY shall give BORROWER written Notice of Default by specifying:

(a) The nature of the event, deficiency or noncompliance giving rise to the default; and

(b) The action required to cure the default if action to cure is possible; and

(c) A date, which shall be not fewer than thirty (30) calendar days from the date the written notice of default was provided to BORROWER, by which such action to cure must be taken. CITY, in its reasonable discretion, may provide additional time to cure if BORROWER has commenced and is diligently pursuing a cure in good faith.

If BORROWER fails to take corrective action to cure the default within the time specified, CITY may, without further notice, seek any remedies available under this MOU or applicable law.

SECTION 11. DEFAULT REMEDIES.

On the happening of an Event of Default under Section 9 of this NSP2 Loan Agreement, and the expiration of the applicable cure period, CITY's obligation to disburse proceeds of the NSP2 Loan shall terminate and CITY shall have the right to either apply all or part of the remaining proceeds of the NSP2 Loan to payment of accrued interest and principal due under any obligations of BORROWER hereunder. On the happening of an Event of Default, and the expiration of the applicable cure period, CITY may, in addition to other rights and remedies permitted by the NSP2 Loan Agreement or applicable law, proceed with any or all of the following remedies in any order or combination CITY may choose in its sole discretion:

(a) Terminate this NSP2 Loan Agreement in which event the entire unpaid principal amount under the NSP2 Note shall immediately become due and payable at the option of CITY; or

(b) Bring an action in equitable relief seeking specific performance by BORROWER of the terms and conditions of this NSP2 Loan Agreement or enjoining, abating, or preventing any violation of said terms and conditions of this MOU or seeking declaratory relief; or

(c) Institute legal action to cure, correct or remedy any default, to recover damages for any default or to obtain any other remedy consistent with the purpose of this NSP2 Loan Agreement; or

(d) Initiate and pursue any private and/or judicial foreclosure action allowed under applicable law and the owner of sale provision in the NSP2 Deed of Trust; or

(e) Compel BORROWER to convey and transfer the Property to CITY in exchange for the cancelation of BORROWER's obligation to repay the unpaid balance of NSP2 Note; or

(f) Pursue any other remedy allowed at law or equity.

Nothing in this section is intended or shall be construed as precluding CITY from proceeding with a non-judicial foreclosure under the power of sale contained in the NSP2 Deed of Trust in the event of default by BORROWER or its assignee.

SECTION 12. LEGAL ACTION OR OTHER ACTION TO ENFORCE AGREEMENT OR SEEK REMEDY.

In the event any party to this NSP2 Loan Agreement institutes a lawsuit or other action to enforce or interpret any part of this NSP2 Loan Agreement or the Loan Documents, or to seek a remedy for any breach of any Loan Document, the prevailing party shall recover, in addition to any other remedies, all costs of suit, including reasonable attorneys fees (to include the reasonable costs of in-house attorneys) and costs.

SECTION 13. NOTICES.

All notices pursuant to this NSP2 Loan Agreement shall be in writing and served on the other party (a) by personal delivery or (b) by certified mail, return receipt requested, to the respective addresses as set forth below. Receipt shall be deemed to have occurred on the date shown on a written receipt as the date of delivery or refusal of delivery (or attempted delivery if undeliverable).

CITY:

By Personal Delivery:

City of Modesto
Parks, Recreation & Neighborhoods Department
Attn: Director of Parks, Recreation, & Neighborhoods
1010 Tenth Street, Suite 4400
Modesto, CA 95354

By Mail:

City of Modesto
Parks, Recreation and Neighborhoods Department
P O Box 642
Modesto, CA 95353
Attn: Director of Parks, Recreation, & Neighborhoods

BORROWER:

By Personal Delivery or Mail:

Housing Authority of the County of Stanislaus
1701 Robertson Road
Modesto, CA 95351
Attn: Executive Director

SECTION 14. INDEMNIFICATION.

BORROWER shall indemnify and hold CITY and its officers, agents, officials, and employees free and harmless against any losses, damages, liability, claims, demands, judgments, actions, court costs, and legal or other expenses (including attorney's fees) which arise out of or in connection with this NSP2 Loan Agreement or the acquisition, use or operation of the Property. This indemnity obligation shall not extend to any claim arising from the gross negligence or willful misconduct of CITY, its officers, agents, officials and employees. The provisions of this section shall survive the expiration of the term of this NSP2 Loan Agreement.

SECTION 15. PUBLICITY.

Any publicity generated by BORROWER for the Property funded herein during the term of this NSP2 Loan Agreement and for one year thereafter, shall make reference to the contribution of CITY in making the project possible. The words "City of Modesto, Parks, Recreation and Neighborhoods Department" shall be explicitly stated in any and all pieces of publicity, including, but not limited to, flyers, press releases, and posters.

SECTION 16. SUCCESSORS AND ASSIGNS.

The terms of this NSP2 Loan Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties.

SECTION 17. RELATIONSHIP OF PARTIES.

The relationship of BORROWER and CITY under the Loan Documents, is, and shall at all times remain, solely that of borrower and lender. CITY neither undertakes nor assumes any responsibility or duty to BORROWER or to any third party with respect to the Property, except expressly provided in the Loan Documents. Nothing contained in this NSP2 Loan Agreement shall be interpreted or understood by any of the parties, or by any third person, as creating the relationship of employer and employee, principal and agent, limited or general partnership, or joint venture between CITY and BORROWER or its agents, employees or contractors. Except as CITY may specify in writing, BORROWER shall have no authority to act as an agent of CITY or to bind CITY to any obligation.

SECTION 18. AMENDMENTS.

This NSP2 Loan Agreement, including other Loan Documents, shall not be altered or amended except in writing, signed by the parties. Any amendment or addendum to the Loan Documents shall expressly refer to the Loan Document being amended. BORROWER agrees that any other agreement entered into by BORROWER relating to the performance of this NSP2 Loan Agreement shall be subject to the written approval of CITY.

SECTION 19. NON-LIABILITY OF OFFICIALS, EMPLOYEES AND AGENTS.

Section 19.1 No member, official, employee or agent of CITY shall be personally liable to BORROWER in the event of any default or breach by CITY or for any amount that may become due to BORROWER or any obligation under the terms of this NSP2 Loan Agreement.

Section 19.2 No member, official, employee or agent of BORROWER shall be personally liable to CITY the event of any default or breach by BORROWER or for any amount that may become due to CITY or any obligation under the terms of this NSP2 Loan Agreement.

SECTION 20. GOVERNING LAW.

The Loan Documents shall be governed by, and construed in accordance with, the laws of the State of California, except to the extent preempted by federal laws.

SECTION 21. VENUE.

Should either party institute suit or arbitration for enforcement or interpretation of any provision contained herein, the venue of such action shall be in Stanislaus County, California.

SECTION 22. SEVERABILITY.

If any provision of the Loan Documents shall be determined by a court of competent jurisdiction to be invalid, illegal, or unenforceable, that portion shall be deemed severed from the Loan Documents and the remaining parts shall remain in full force as though the invalid, illegal or unenforceable portion had never been part of the Loan Documents.

SECTION 23. RIGHTS CUMULATIVE. NO WAIVER.

All CITY's rights and remedies provided in the Loan Documents, granted by law or otherwise, are cumulative and, except as provided herein, may be exercised by CITY at any time. Any waiver by CITY of any obligation or condition in this NSP2 Loan Agreement must be in writing and shall be limited to its specific terms. No waiver will be implied from any delay or failure by CITY to take action on any breach or default of BORROWER or to pursue any remedy allowed hereunder or applicable law. Any extension of time granted to BORROWER to perform any obligation hereunder shall not operate as a waiver or release from any of its obligations under this NSP2 Loan Agreement. Consent by CITY to any act or omission by BORROWER shall not be construed to be a consent to any other or subsequent act or omission or to waive the requirement for CITY's written consent to future waivers.

SECTION 24. TITLE OF PARTS AND SECTIONS.

Any titles of the sections or subsections of this NSP2 Loan Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of the Agreement's provisions.

SECTION 25. LANGUAGE CONSTRUCTION.

The language of each and all paragraphs, terms and/or provisions of this NSP2 Loan Agreement, shall, in all cases and for any and all purposes, and in any way and all circumstances whatsoever, be construed as a whole, according to its fair meaning, and not for or against any party hereto and with no regard whatsoever to the identity or status of any person or persons who drafted all or any portion of this NSP2 Loan Agreement.

SECTION 26. AUTHORITY OF THE PARTIES.

Each individual executing this NSP2 Loan Agreement on behalf of the respective parties represents and warrants that he/she is duly authorized to execute this NSP2 Loan Agreement on behalf of the respective parties.

SECTION 27. NO THIRD PARTIES BENEFITTED.

No person other than CITY and BORROWER and their permitted successors and assigns shall have any right of action under any of the Loan Documents.

SECTION 28. PARTIES BOUND; COVENANTS RUNNING WITH THE LAND; EFFECT AND DURATION OF COVENANTS.

Except as otherwise limited herein, the provisions of this NSP2 Loan Agreement shall be binding upon and inure to the benefit of the parties and their heirs, executors, administrators, legal representatives, successors, transferees, and all assigns.

SECTION 29. NO ENCUMBRANCES.

Save and except the NSP2 Deed of Trust, BORROWER shall not create, permit, file or record against the Property without the prior written consent of CITY any deed of trust lien or other lien, inferior or superior to the lien of the NSP2 Deed of Trust in favor of CITY, other than liens for taxes not yet due and payable.

Any transaction in violation of this Section 30 will cause all indebtedness, irrespective of the maturity dates, at the option of CITY and without demand or notice, to be immediately due and payable to CITY.

SECTION 30. APPROVAL OF CITY COUNCIL.

This NSP2 Loan Agreement shall not be binding until approved by the City Council of the City of Modesto, as evidenced by a resolution adopted by the City Council.

SECTION 31. FORCE MAJEURE.

In addition to specific provisions of this NSP2 Loan Agreement, performance by either Party will not be deemed to be in default where delays or defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; quarantine restrictions; freight embargoes; lack of transportation; or court order; or any other similar causes (other than lack of funds of BORROWER or BORROWER's inability to finance the rehabilitation of the Property) beyond the control or without the fault of the Party claiming an extension of time to perform. An extension of time for any cause will be deemed granted if notice by the Party claiming such extension is sent to the other within ten (10) days from the commencement of the cause and such extension of time is not rejected in writing by the other Party within ten (10) days of receipt of the notice. In no event is CITY required to agree to cumulative delays in excess of one hundred eighty (180) days.

SECTION 32. MULTIPLE ORIGINALS; COUNTERPART.

This NSP2 Loan Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

SECTION 33. ENTIRE AGREEMENT.

This NSP2 Loan Agreement, and any exhibits attached hereto or documents referred to herein, constitute the sole and entire Agreement of the parties hereto with respect to the matters herein and correctly sets forth the rights, duties, and obligations of each to the other as of the date first written above.

SECTION 34. TIME.

Time is the essence of each item of the Loan Documents.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the City of Modesto, a municipal corporation, has authorized the execution of this NSP2 Loan Agreement by its City Manager and attestation by its City Clerk by Resolution No. _____ adopted by the Council on the _____ day of, 2012, and BORROWER has caused this NSP2 Loan Agreement to be duly executed.

CITY OF MODESTO, a municipal corporation

HOUSING AUTHORITY OF THE
COUNTY OF STANISLAUS

By _____
GREG NYHOFF
City Manager

By _____
Name: _____
Title: _____

Date _____

By _____
Name: _____
Title: _____

ATTEST:

By _____
STEPHANIE LOPEZ
City Clerk

(SEAL)

APPROVED AS TO LEGAL FORM:

SUSANA ALCALA WOOD, City Attorney

By _____
RICHARD B. EVANS
Senior Deputy City Attorney

APPROVED AS TO RISK MANAGEMENT:

By _____
MARY AKIN, Risk Manager

EXHIBIT A

Legal Description of Property

EXHIBIT B

Project Budget

EXHIBIT C

Project Timeline

EXHIBIT D

City of Modesto Neighborhood Stabilization Program 2 Memorandum of Understanding

EXHIBIT E

NSP2 National Objectives Certification

Free recording in accordance with
California Government Code §§6103 and 27383

NO FEE

**RECORDING REQUESTED BY AND
WHEN RECORDED, PLEASE RETURN TO:**

City of Modesto
Parks, Recreation and Neighborhoods Department
1010 10th Street
P. O. Box 642
Modesto, CA 95353

SPACE ABOVE THIS LINE FOR RECORDER'S USE

CITY OF MODESTO

NEIGHBORHOOD STABILIZATION PROGRAM 2

REGULATORY AGREEMENT

(NSP2 Regulatory Agreement)

This CITY OF MODESTO NEIGHBORHOOD STABILIZATION PROGRAM 3
REGULATORY AGREEMENT (the "NSP2 Regulatory Agreement") is entered into this _____
day of _____, 20_____, by and between the CITY OF MODESTO, a municipal
corporation of the State of California (the "CITY") and HOUSING AUTHORITY OF THE
COUNTY OF STANISLAUS, a California public entity (the "BORROWER") with reference to
the following:

RECITALS

A. WHEREAS, CITY and BORROWER are concurrently with the execution
herewith entering into that certain City of Modesto Neighborhood Stabilization Program 2 Loan

Agreement of even date herewith (the "NSP2 Loan Agreement") which is incorporated herein by reference.

B. WHEREAS, CITY desires to increase the supply of affordable ownership and rental housing for Very Low Income Households, Low Income Households, and Middle Income Households in the City of Modesto.

C. WHEREAS, pursuant to the NSP2 Loan Agreement, CITY has made a loan to BORROWER in the sum of _____ (_____) ("NSP2 Loan") for the purpose of assisting BORROWER in the purchase **[INSERT, if applicable: and rehabilitation]** of certain real property located in the City of Modesto, County of Stanislaus, State of California (the "Property") as more fully described in Exhibit "A" attached hereto.

D. WHEREAS, the Property is being purchased **[INSERT, if applicable: and rehabilitated]** by BORROWER for the sole purpose of selling the Property at an affordable cost to a qualified Very Low Income Household, Low Income Household, or Middle Income Household, also referred to as a Qualified Homebuyer, or upon mutual agreement by BORROWER and CITY, BORROWER may rent the Property as affordable rental housing to a qualified Very Low Income Household, Low Income Household, or Middle Income Household, also referred to as a Qualified Tenant.

E. WHEREAS, it is the intent of the parties hereto that the Property remain affordable and available exclusively to a qualified Very Low Income Household, Low Income Household, or Middle Income Household for an affordability period of no less than twenty (20) consecutive years from the close of escrow on the sale of the Property by BORROWER to a Qualified Homebuyer or in the event BORROWER is unable to sell the Property to a Qualified Homebuyer pursuant to the NSP2 Loan Agreement, the date this Regulatory Agreement is

recorded against the Property. This shall be known as the "Continued Affordability Period."

F. WHEREAS, as a condition of receiving NSP2 Loan, BORROWER must agree to place specified restrictions upon the use and transfer of the Property (24 CFR Sec. 92.252 and 92.254). It is the intent of the parties hereto to evidence BORROWER's compliance with the NSP2 Requirements, as defined in the NSP2 Loan Agreement, and place such restrictions upon the use and transfer of the Property to ensure continued affordability, as required by the NSP2 Requirements.

NOW, THEREFORE, in consideration of the foregoing covenants and other consideration, and in order to induce CITY to enter into the NSP2 Loan with BORROWER, the receipt and sufficiency of which are hereby acknowledged, CITY and BORROWER agree as follows:

1. **Recitals.** The foregoing recitals are part of this NSP2 Regulatory Agreement.
2. **Definitions.** Unless definitions of terms have been expressly set out herein, each term shall have the same definition as set forth in the NSP2 Loan Agreement and that certain City of Modesto Neighborhood Stabilization Program 2 Memorandum of Understanding between CITY and BORROWER, dated _____ ("MOU"). The NSP2 Loan Agreement and MOU are incorporated herein by this reference.
3. **Declarations.** The Property is and shall be subject to the covenants and restrictions hereafter set forth, and shall be binding on and enforceable against BORROWER and any future owner of the Property. The covenants and restrictions herein are established and agreed upon for the purpose of expanding and preserving the availability of affordable ownership and rental housing for Very Low Income Households, Low Income Households, and Middle Income Households in the City of Modesto.

4. [DELETE IF NO REHAB]Use Restrictions and Covenants During Rehabilitation of the Property. During the period of rehabilitation of the Property, BORROWER covenants and agrees that it shall not rent, lease, license, or transfer the Property, or use the Property, or any part thereof, for any commercial purpose, including the production of income, or for any other purposes unrelated to the provisions of the NSP2 Loan.

5. Continued Use Restrictions and Covenants of the Property. The following covenants and restrictions on the use and enjoyment of the Property shall be in addition to any other covenants and restrictions affecting the Property, and all such covenants and restrictions are for the benefit and protection of CITY, and shall run with the land and be binding on BORROWER, its successors, assigns, transferees and future owner(s) of the Property and enure to the benefit of and be enforceable by CITY.

BORROWER, on behalf of itself and its successors and assigns, and, hereby covenants and agrees:

(a) Subject to subsection (d) below, BORROWER shall sell the Property at affordable sales price to a Qualified Homebuyer in accordance with the NSP2 Loan Agreement. The sale shall be completed within twelve (12) months of the date of [INSERT: acquisition or completion of rehabilitation] of the Property.

(b) BORROWER shall require the Qualified Homebuyer to secure a CITY Second Mortgage Loan to purchase the Property and execute a promissory note, in favor of the CITY and evidencing the CITY Second Mortgage Loan (the "Homebuyer Note"), and a deed of trust, securing the Homebuyer Note to be recorded against the Property. Pursuant to the Homebuyer Note, the Qualified Homebuyer must occupy the Property as his or her primary residence and repay all or a portion of the CITY Second Mortgage Loan upon sale of the

Property to a non-eligible third-party during the Continued Affordability Period.

(c) Upon sale of the Property to a Qualified Homebuyer and the execution of the CITY Second Mortgage Loan Documents by the Qualified Homebuyer, the CITY shall execute and record a reconveyance of this NSP2 Regulatory Agreement and the NSP2 Deed of Trust.

(d) Upon mutual agreement by BORROWER and CITY, BORROWER may rent the Property to a Qualified Tenant for the entire Continued Affordability Period in accordance with Section 6.4 of the NSP2 Loan Agreement, subject to the following additional requirements:

(1) Occupancy Requirements. The Property shall be rented to and occupied by households that qualify as a Very Low Income Household, Low Income Households, and Middle Income Household.

(2) Affordable Rent. In accordance with subsection 2, the monthly rent paid by the Qualified Tenant to occupy the Property shall not exceed the maximum rent set forth in 24 CFR 92.252.

(i) Very Low Income Rent. The rent ("Very Low Income Rent") paid by a Very Low Income Household shall not exceed thirty percent (30%) of fifty percent (50%) of the area median income adjusted for family size based on guidelines published by HUD ("Median Income").

(ii) Low Income Rent. The rent ("Low Income Rent") paid by Low Income Households shall not exceed thirty percent (30%) of sixty-five percent (65%) of the Median Income.

(iii) Middle Income Rent. The rent ("Middle Income Rent")

paid by Middle Income Households shall not exceed thirty percent (30%) of the annual income of all persons in the Middle Income Households as calculated in accordance with 24 C.F.R. Section 5.611 (the "Adjusted Income").

(iv) Approval of Initial and Subsequent Rents. Rents for all NSP2 Assisted Units are subject to CITY approval prior to occupancy by Qualified Tenants, and are subject to the NSP2 Requirements

(v) Rent Increases. All rent increases for the NSP2 Assisted Units are subject to CITY approval and are subject to the NSP2 Requirements. Such rent may not be increased more often than once every twelve (12) months. BORROWER will provide each Qualified Tenant with at least sixty (60) days written notice of any increase in rent applicable to such Qualified Tenant.

(3) Increased Income of Qualified Tenants.

(i) Increased income above Very Low but below Low Income Limit. Subject to subsection 2(v) above, in the event that, upon recertification of the income of a Very Low Income Household, the Borrower determines that such household no longer qualifies as a Very Low Income Household, but does qualify as a Low Income Household, such household may continue to occupy the NSP2 Assisted Unit and, upon sixty (60) days written notice to the such household, BORROWER may increase the household's rent to the maximum rent published by HUD for a Low Income Household for the applicable bedroom size as set forth in 24 C.F.R. 92.252(a) (also known as "High HOME Rent"). Borrower shall then rent the next available NSP2-Assisted Unit designated as a NSP2 Rental Unit to a Very Low Income Household.

(ii) Increased Income Above Low But Below Middle Income

Limit. Subject to subsection 2(v) above, in the event that, upon recertification of the income of a Low Income Household, BORROWER determines that such household no longer qualifies as a Low Income Household, but does qualify as a Middle Income Household, such household may continue to occupy the NSP2 Assisted Unit and, upon sixty (60) days written notice to such household, Borrower may increase the household's rent to the lesser of one-twelfth (1/12th) of thirty percent (30%) of actual Adjusted Income of the household, or fair market rent (subject to 24 C.F.R. 92.252(i)(2) regarding low income housing tax credit requirements). Borrower shall then rent the next available NSP2 Assisted Unit designated as a NSP2 Rental Unit to a Low Income Household.

(iii) Non-Qualifying Household. If, upon recertification of the income of a Qualified Tenant, BORROWER determines that a former Low Income Household has an Adjusted Income exceeding the maximum qualifying income for a Low Income Household, such household shall be permitted to continue occupying the NSP2 Assisted Unit and, upon expiration of the household's lease and upon sixty (60) days written notice, the rent shall be increased to the lesser of one-twelfth (1/12th) of thirty percent (30%) of the actual Adjusted Income of the household, or fair market rent. When the household vacates the NSP2 Assisted Unit, BORROWER shall rent such NSP2 Assisted Unit to a Middle Income Household.

(iv) Termination of Occupancy. Upon termination of occupancy of a NSP2 Assisted Unit by a Qualified Tenant, such unit shall be deemed to be continuously occupied by a household of the same income level as the initial income level of the vacating Qualified Tenant, until such unit is reoccupied, at which time the income character of the NSP2 Assisted Unit shall be redetermined to meet the occupancy requirements set forth herein.

(4) Income Certification. BORROWER will obtain, complete and maintain on file, immediately prior to initial occupancy and annually thereafter, income certifications from each Qualified Tenant's household. BORROWER shall make a good faith effort to verify the accuracy of the income provided by the applicant or occupying household, as the case may be, in an income certification. To verify the information, BORROWER shall take two or more of the following steps: (i) obtain a pay stub for the most recent pay period; (ii) obtain an income tax return for the most recent tax year; (iii) conduct a credit agency or similar search; (iv) obtain an income verification form from the applicant's current employer; (v) obtain an income verification form from the Social Security Administration and/or the California Department of Social Services if the applicant receives assistance from either of such agencies; or (vi) if the applicant is unemployed and does not have a tax return, obtain another form of independent verification. Copies of Qualified Tenant income certifications shall be available to CITY upon request.

(5) Qualified Tenant Selection Plan. BORROWER shall not make material modifications to its tenant selection plan without the prior written approval of CITY, which approval shall not be unreasonably withheld. Such tenant selection plan shall comply with the NSP2 Requirements.

(6) Lease Provisions. In leasing the Property, BORROWER shall use a form of Qualified Tenant lease approved by CITY. The form of Qualified Tenant lease shall also comply with all requirements of this NSP2 Regulatory Agreement and the NSP2 Loan Agreement, and shall, among other matters:

(i) provide for termination of the lease and consent by a Qualified Tenant to immediate eviction for failure: (a) to provide any information required

under this NSP2 Regulatory Agreement or reasonably requested by BORROWER to establish or recertify a Qualified Tenant's qualification, or the qualification of a Qualified Tenant's household, for occupancy in the Property in accordance with the standards set forth in this NSP2 Regulatory Agreement, or (b) to qualify as a Very Low Income Household, Low Income Household, or Middle Income Household, as applicable, as a result of any material misrepresentation made by such Qualified Tenant with respect to the income computation.

(ii) be for an initial term of not less than one (1) year, unless by mutual agreement between a Qualified Tenant and BORROWER, and provide for no increase in the Affordable Rent during such year. After the initial year of tenancy, the lease may be month-to-month by mutual agreement of BORROWER and a Qualified Tenant.

(7) Lease Termination. Any termination of a lease or refusal to renew a lease for the Property shall be in conformance with the NSP2 Requirements, including, but not limited to, 24 C.F.R. 253(c), and the requirements of applicable state law.

(8) Nondiscrimination. The Property shall be available for occupancy on a continuous basis to members of the general public who are income eligible. BORROWER shall not give preference to any particular class or group of persons in renting or selling the Property, except as may be required pursuant to this NSP2 Regulatory Agreement.

BORROWER herein covenants by and for BORROWER, assigns, and all persons claiming under or through BORROWER, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, source of income (e.g., SSI), ancestry, or disability, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the Property nor shall BORROWER or any person claiming under or through BORROWER, establish or permit any

such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of the Property or in connection with the employment of persons for the construction, operation and management of the Property.

(9) Section 8 Tenants. BORROWER will accept as Qualified Tenants, on the same basis as all other prospective Qualified Tenants, persons who are recipients of federal certificates for rent subsidies pursuant to the existing housing program under Section 8 of the United States Housing Act, or its successor. BORROWER shall not apply selection criteria to Section 8 certificate or voucher holders that are more burdensome than criteria applied to all other prospective Qualified Tenants, nor shall BORROWER apply or permit the application of management policies or lease provisions with respect to the Property which have the effect of precluding occupancy of the Property by such prospective Qualified Tenants.

(10) Records. BORROWER shall maintain complete, accurate and current records pertaining to the Property, and shall permit any duly authorized representative of CITY to inspect records, including records pertaining to income and household size of Qualified Tenant. All Qualified Tenant lists, applications and waiting lists relating to the Property shall at all times be kept separate and identifiable from any other business of BORROWER and shall be maintained as required by CITY, in a reasonable condition for proper audit and subject to examination during business hours by representatives of CITY. BORROWER shall retain copies of all materials obtained or produced with respect to occupancy of the Property for a period of at least five (5) years.

(11) Management Responsibilities. BORROWER is responsible for all management functions with respect to the Property, including without limitation the selection of

Qualified Tenants, certification and recertification of household size and income, evictions, collection of rents and deposits, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security. CITY shall have no responsibility over management of the Property. BORROWER shall retain a professional property management company approved by CITY in its reasonable discretion to perform its management duties hereunder. BORROWER may request CITY for written approval to self-manage the Property.

(12) Management Agent; Periodic Reports. The Property shall at all times be managed by an experienced management agent reasonably acceptable to CITY, with demonstrated ability to operate residential facilities like the Property in a manner that will provide decent, safe, and sanitary housing (as approved, the "Management Agent"). CITY hereby pre-approves BORROWER as the Management Agent).

(13) Periodic Performance Review. CITY reserves the right to conduct an annual (or more frequently, if deemed necessary by CITY) review of the management practices and financial status of the Property. The purpose of each periodic review will be to enable CITY to determine if the Property is being operated and managed in accordance with the NSP2 Requirements and the provisions of this NSP2 Regulatory Agreement. BORROWER shall cooperate with CITY in such reviews.

(14) Replacement of Management Agent. If, as a result of a periodic review, CITY determines in its reasonable judgment that the Property is not being operated and managed in accordance with any of the material requirements and standards of this NSP2 Regulatory Agreement, CITY shall deliver notice to BORROWER of its determination that the Property does not satisfy the requirements of this NSP2 Regulatory Agreement, such notice may include a request to cause replacement of the Management Agent, including the reasons therefor.

Within fifteen (15) days after receipt by BORROWER of such written notice, CITY staff and BORROWER shall meet in good faith to consider methods for improving the financial and operating status of the Property, including, without limitation, replacement of the Management Agent.

If, after such meeting, CITY staff recommends in writing the replacement of the Management Agent, BORROWER shall be dismissed as the Management Agent, and CITY shall appoint as the Management Agent a person or entity meeting the standards for a management agent set forth in subsection (12) above. Failure to remove the Management Agent in accordance with the provisions of this Section shall constitute default under this NSP2 Regulatory Agreement, and CITY may enforce this provision through legal proceedings as specified in Section 10 below.

(f) On-site Inspection. CITY shall have the right to perform an on-site inspection of the Property when deemed necessary by CITY, and subject to the rights of a Qualified Homebuyer or Qualified Tenant, upon delivery of reasonable notice to BORROWER, subject to the requirements of state law. BORROWER agrees to cooperate in and attend such inspection and request Qualified Homebuyers or Qualified Tenants cooperate with such inspections.

(g) Annual Report. BORROWER shall submit to CITY annual reports in a form approved by CITY, no later than two hundred seventy (270) days after the end of BORROWER's fiscal year. The reports shall contain such information as CITY may require, including, but not limited to, the following:

(i) A statement of the fiscal condition of the Property, including a financial statement indicating surpluses or deficits in operating accounts for the period covered, a

detailed itemized listing of income and expenses, and the amounts of the Property reserves. The report due after the end of each fiscal year shall contain an audited version of this statement.

Such audit shall be prepared in accordance with the requirements of CITY and certified at BORROWER's expense by an independent Certified Public Accountant licensed by the State of California. BORROWER shall also follow audit requirements of the Single Audit Act and OMB Circulars A-122 and 110; and

(ii) The substantial physical defects in the Property, if any, including a description of any major repair or maintenance work undertaken in the reporting period; and

(iii) Information concerning the occupancy of the Property.

Upon request of CITY, BORROWER shall furnish, within fifteen (15) days, any other information or completed form requested by CITY.

(h) Additional Information. BORROWER shall provide any additional information reasonably requested by CITY. CITY shall have the right to examine and make copies of all books, records or other documents of BORROWER which pertain to the Property.

(i) Taxes and Assessments. If applicable, BORROWER shall pay all real and personal property taxes, assessments and charges and all franchise, income, employment, old age benefit, withholding, sales, and other taxes assessed against it, or payable by it, at such times and in such manner as to prevent any penalty from accruing, or any lien or charge from attaching to the Property; provided, however, that BORROWER may contest in good faith, any such taxes, assessments, or charges. In the event BORROWER exercises its right to contest any tax, assessment, or charge against it, BORROWER, on final determination of the proceeding or contest, shall immediately pay or discharge any decision or judgment rendered against it, together with all costs, charges and interest.

(j) Property Maintenance. BORROWER agrees, for the entire Term of this NSP2 Regulatory Agreement, to maintain all interior and exterior improvements, including landscaping, on the Property in good condition and repair (and, as to landscaping, in a healthy condition) and in accordance with all applicable laws, rules, ordinances, orders and regulations of all federal, state, county, municipal, and other governmental agencies and bodies having or claiming jurisdiction and all their respective departments, bureaus, and officials, and in accordance with the following maintenance conditions:

CITY places prime importance on quality maintenance to protect its investment and to ensure that all CITY-assisted affordable housing projects are not allowed to deteriorate due to below-average maintenance. Normal wear and tear of the Property will be acceptable to CITY assuming BORROWER agrees to provide all necessary improvements to assure the Property is maintained in good condition. BORROWER shall make all repairs and replacements necessary to keep the improvements in good condition and repair.

In the event that BORROWER breaches any of the covenants contained in this subsection and such default continues for a period of fifteen business (15) days after written notice from CITY with respect to graffiti, debris, waste material, and general maintenance or thirty (30) days after written notice from CITY with respect to landscaping and building improvements, then CITY, in addition to whatever other remedy it may have at law or in equity, shall have the right to enter upon the Property and perform or cause to be performed all such acts and work necessary to cure the default. Pursuant to such right of entry, CITY shall be permitted (but is not required) to enter upon the Property and perform all acts and work necessary to protect, maintain, and preserve the improvements and landscaped areas on the Property, and to attach a lien on the Property, or to assess the Property, in the amount of the expenditures arising

from such acts and work of protection, maintenance, and preservation by CITY and/or costs of such cure, which amount shall be promptly paid by BORROWER to CITY upon demand.

(k) Asset Management. BORROWER is responsible for all asset management functions with respect to the Property, including without limitation the oversight of the Management Agent, as applicable, maintaining accurate and current books and records for the Property and promptly paying costs incurred in connection with the Property. CITY shall have no responsibility over asset management of the Property.

6. Term of Use Restrictions and Covenants. The covenants and restrictions established in Section 5 of this NSP2 Regulatory Agreement shall, without regard to technical classification and designation, be binding on BORROWER, its successors and assigns and each future owner of the Property, for the benefit of and in favor of the CITY, and shall remain in effect and enforceable until the twentieth (20th) anniversary of the date of recordation of this NSP2 Regulatory Agreement or reconveyance of this NSP2 Regulatory Agreement by CITY. This NSP2 Regulatory Agreement shall remain without regard to the term of any mortgage or deed of trust or the transfer of ownership, excluding the sale of the Property to a Qualified Homebuyer.

7. Written Notifications. BORROWER, and any future owner of the Property, covenants and agrees to include the requirements and restrictions contained in this NSP2 Regulatory Agreement and any document transferring title of the Property to another person, to the end that such transferee has notice of, and is bound by, such restrictions and covenants, and to obtain the agreement from any transferee to abide by all the covenants and restrictions of this NSP2 Regulatory Agreement.

8. Acceptance and Ratification. BORROWER and future owners of the Property

shall be subject to and shall comply with the Use Restrictions and Covenants herein. The acceptance of a deed of conveyance to the Property shall constitute an agreement that the Use Restrictions and Covenants are accepted and ratified by such future owners, and such Use Restrictions and Covenants shall run with the land and bind such future owners.

9. **Enforcement of Restrictions and Covenants.** If BORROWER or any future owner defaults in the performance or observance of any covenant or restriction set forth in this NSP2 Regulatory Agreement and if such default remains uncured for a period of thirty (30) days after notice thereof shall have been given by CITY, then CITY acting on its own behalf may declare an Event of Default to have occurred, and, at its option, may take any one or more of the following steps:

(a) By mandamus, or other suit, action or proceeding at law or in equity, require BORROWER or any future owner of the Property to perform its obligations and covenants hereunder, including the remedy of specific performance, or to enjoin any act or thing in violation of any covenant or restriction of this NSP2 Regulatory Agreement; or

(b) Subject to the provisions of the NSP2 Loan Agreement, and the NSP2 Note entered into by BORROWER and CITY evidencing BORROWER's indebtedness to CITY for NSP2 Loan, declare a default and accelerate the indebtedness evidenced by the NSP2 Note;

or

(c) Take such other action at law or in equity as may appear necessary or desirable to enforce the obligations, covenants and restrictions hereunder, including (i) compelling BORROWER to sell the Property to CITY at a sales price equal to the unpaid balance of amount of NSP2 Loan, or (ii) the commencement of foreclosure proceedings; or

(d) Exercise any other remedy provided under the NSP2 Loan Agreement.

10. **Notices.** All notices pursuant to this NSP2 Regulatory Agreement shall be in writing and served on the other party (a) by personal delivery or (b) by certified mail, return receipt requested, to the respective addresses as set forth below. Receipt shall be deemed to have occurred on the date shown on a written receipt as the date of delivery or refusal of delivery (or attempted delivery if undeliverable).

CITY: By Personal Delivery

CITY OF MODESTO
Parks, Recreation & Neighborhoods Department
Attn: Director of Parks, Recreation, & Neighborhoods
1010 Tenth Street, Suite 4400
Modesto, CA 95354

By Mail:

CITY OF MODESTO
Parks, Recreation and Neighborhoods Department
P O Box 642
Modesto, CA 95353
Attn: Director of Parks, Recreation, & Neighborhoods
Attention: Parks, Recreation and Neighborhoods Department

BORROWER: By Personal Delivery or Mail:

HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS
1701 Robertson Road
Modesto, CA 95351
Attn: Executive Director

11. **Indemnity.** BORROWER shall indemnify and hold CITY, and their officers, agents, officials, and employees free and harmless against any losses, damages, liability, claims, demands, judgments, actions, court costs, and legal or other expenses (including attorney's fees) which arise out of or in connection with this NSP2 Regulatory Agreement. This indemnity obligation shall not extend to any claim arising solely from the negligence or willful misconduct of CITY, their officers, agents, officials and employees. The provisions of this section shall

survive the expiration of the term of this NSP2 Regulatory Agreement.

12. **Relationship of Parties.** Nothing contained in this NSP2 Regulatory Agreement shall be interpreted or understood by any of the parties, or by any third person, as creating the relationship of employer and employee, principal and agent, limited or general partnership, or joint venture between CITY and BORROWER or its agents, employees or contractors. Except as CITY may specify in writing, BORROWER shall have no authority to act as an agent of CITY or to bind CITY to any obligation.

13. **Superiority of Agreement.** BORROWER covenants that BORROWER has not, and shall not, enter into or execute any other agreement with provisions contrary to the provision of this NSP2 Regulatory Agreement, or contrary to the intent of maintaining the affordability restrictions for the full Continued Affordability Period.

14. **Parties Bound; Covenants Running with the Land.** Except as otherwise limited in Section 7 herein, the provisions of this NSP2 Regulatory Agreement shall be binding upon and enure to the benefit of the parties and their successors, transferees, and assigns. This NSP2 Regulatory Agreement is intended to run with the land and shall bind BORROWER and its successors, assigns, transferees in the Property and future owners of the Property for the entire Continued Affordability Period regardless of any assignment, payment, expiration, extinguishment of any loan or note, any reconveyance of deed of trust, or any conveyance or transfer of the Property, and the benefits hereof shall enure to the benefit of City and its successors and assigns.

15. **Interpretation: Affordability.** It is the intention of the parties to this NSP2 Regulatory Agreement that affordability be interpreted in view of the express goals of the NSP2 Requirements and specifically including the affordability regulations of Title 24 CFR Part 92. It

is the purpose of this NSP2 Regulatory Agreement to limit and restrict the use and resale of the Property in order to maintain the Property's affordability for the entire Continued Affordability Period.

16. **Amendments.** This NSP2 Regulatory Agreement, including any exhibits hereto, shall not be amended except in writing, signed by the Parties. Any amendment or addendum hereto shall expressly refer to this NSP2 Regulatory Agreement.

17. **No Liability.** No member, official, employee or agent of CITY shall be personally liable to BORROWER in the event of any default or breach by CITY or for any amount that may become due to BORROWER or any obligation under the terms of this NSP2 regulatory Agreement. No member, official, employee or agent of BORROWER shall be personally liable to CITY in the event of any default or breach by BORROWER or for any amount that may become due to CITY or any obligation under the terms of this NSP2 regulatory Agreement.

18. **Governing Law.** This NSP2 Regulatory Agreement shall be interpreted under and be governed by the laws of the State of California.

19. **Venue.** Should either party institute suit or arbitration for enforcement or interpretation of any provision contained herein, the venue of such action shall be in Stanislaus County, California.

20. **Costs and Attorney Fees.** In the event that any legal or administrative action is commenced to interpret or to enforce the terms of this NSP2 Regulatory Agreement, the prevailing party in such action shall be entitled to recover all reasonable attorney's fees and costs incurred in such action.

21. **Severability.** Every provision of this NSP2 regulatory Agreement is intended to

be severable. If any provision of this NSP2 Regulatory Agreement shall be held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

22. **No Waiver.** Any waiver by CITY of any obligation or condition in this NSP2 Regulatory Agreement must be in writing. No waiver will be implied from any delay or failure by CITY to take action on any breach or default of BORROWER, its assignee or transferee, or to pursue any remedy allowed under this NSP2 Regulatory Agreement or applicable law. Any extension of time granted to BORROWER, its assignee or transferee, to perform any obligation hereunder shall not operate as a waiver or release from any of its obligations under this NSP2 Regulatory Agreement. Consent by CITY to any act or omission by BORROWER, its assignee or transferee, shall not be construed to be a consent to any other or subsequent act or omission or to waive the requirement for CITY's written consent to future waivers.

23. **Titles.** Any titles of the sections or subsections of this NSP2 Regulatory Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of the NSP2 Regulatory Agreement's provisions.

24. **Interpretation.** The language of each and all paragraphs, terms and/or provisions of this NSP2 Regulatory Agreement, shall, in all cases and for any and all purposes, and in any way and all circumstances whatsoever, be construed as a whole, according to its fair meaning, and not for or against any party hereto and with no regard whatsoever to the identity or status of any person or persons who drafted all or any portion of this agreement.

25. **Discretion Retained by CITY.** CITY's execution of this NSP2 Regulatory Agreement in no way limits the discretion of CITY in the permit and approval process in connection with any improvements by BORROWER.

26. **Recordation.** BORROWER acknowledges and agrees that this NSP2 Regulatory Agreement shall be recorded against the Property in the Office of the Recorder of the County of Stanislaus.

27. **Authority to Execute.** Each individual executing this NSP2 Regulatory Agreement on behalf of BORROWER represents and warrants that he/she is duly authorized to execute this NSP2 Regulatory Agreement on behalf of BORROWER

28. **Compliance With NSP2 Requirements.** BORROWER agrees that at all times its acts regarding the property and the use of NSP2 funds shall be in conformity with the NSP2 Requirements. BORROWER acknowledges that it is familiar with such applicable provisions and has been professionally advised to the extent necessary for the purpose of enabling BORROWER to fully comply with such provisions.

IN WITNESS WHEREOF, the City of Modesto, a municipal corporation, has authorized the execution of this NSP2 Regulatory Agreement by its City Manager and attestation by its City Clerk by Resolution No. _____ adopted by the Council on the _____ day of _____, and BORROWER has caused this NSP2 Regulatory Agreement to be duly executed.

CITY OF MODESTO, a municipal corporation

HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS

By _____
GREG NYHOFF
City Manager

By _____
Name: _____
Title: _____

Date _____

By _____
Name: _____
Title: _____

ATTEST:

By _____
STEPHANIE LOPEZ
City Clerk

(SEAL)

APPROVED AS TO LEGAL FORM:

SUSANA ALCALA WOOD, City Attorney

By _____
RICHARD B. EVANS
Senior Deputy City Attorney

STATE OF CALIFORNIA)
)
COUNTY OF STANISLAUS)

On _____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public

STATE OF CALIFORNIA)
)
COUNTY OF STANISLAUS)

On _____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public

EXHIBIT A

Legal Description of Property

**CITY OF MODESTO
NEIGHBORHOOD STABILIZATION PROGRAM 2**

PROMISSORY NOTE

(insert address of property)

\$ _____
[insert loan amount]

_____ (insert date)

FOR VALUE RECEIVED, the undersigned HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS, a California public entity (the "Borrower") hereby promises to pay to the order of the CITY OF MODESTO, a municipal corporation (the "Holder"), 1010 Tenth Street, Suite _____, Modesto, California 95354, Attention: Director of Parks, Recreation and Neighborhoods Department, a principal amount equal to _____ Dollars (\$ _____), plus interest thereon pursuant to Section 2 below.

1. Borrower's Obligation. This promissory note (the "Note") evidences the Borrower's obligation to pay the Holder the principal amount of _____ Dollars (\$ _____) (the "NSP2 Loan") for the funds loaned to the Borrower by Holder to finance the acquisition [INSERT, if applicable: and rehabilitation] of the Property located at _____ pursuant to the City of Modesto Neighborhood Stabilization Program 2 Loan Agreement between the Borrower and the Holder of even date herewith (the "Loan Agreement"). All capitalized terms not otherwise defined in this Note shall have the meanings set forth in the Loan Agreement.

2. Interest.

(a) Subject to the provisions of subsection (b) below, the outstanding principal balance of this Note shall bear no interest.

(b) Upon the occurrence of an Event of Default, the interest on the principal balance of this Note will begin to accrue, as of the date of the Event of Default and continue until such time as the NSP2 Loan is repaid in full or the Event of Default is cured, at the default rate of ten percent (10%), simple interest annually.

3. Term and Repayment Requirements. Payments due under this Note are due in accordance with Section 3.9 of the Loan Agreement.

4. No Assumption. This Note shall not be assumable by the successors and assigns of Borrower without the prior written consent of the Holder.

5. Security. This Note is secured by a Deed of Trust with Assignment of Rents, Security Agreement, and Fixture Filing (the "Deed of Trust"), of even date herewith, wherein the Borrower is the Trustor and the Holder is the Beneficiary, covering the Property.

6. Terms of Payment.

(a) All payments due under this Note shall be paid in currency of the United States of America, which at the time of payment is lawful for the payment of public and private debts.

(b) All payments on this Note shall be paid to Holder at City of Modesto, 1010 Tenth Street, Suite _____, Modesto, California 95354, Attention:: Director of Parks, Recreation and Neighborhoods Department, or to such other place as the Holder of this Note may from time to time designate.

(c) All payments on this Note shall be without expense to the Holder, and the Borrower agrees to pay all costs and expenses, including re-conveyance fees and reasonable attorney's fees of the Holder, incurred in connection with the payment of this Note and the release of any security hereof.

(d) Notwithstanding any other provision of this Note, or any instrument securing the obligations of the Borrower under this Note, if, for any reason whatsoever, the payment of any sums by the Borrower pursuant to the terms of this Note would result in the payment of interest which would exceed the amount that the Holder may legally charge under the laws of the State of California, then the amount by which payments exceeds the lawful interest rate shall automatically be deducted from the principal balance owing on this Note, so that in no event shall the Borrower be obligated under the terms of this Note to pay any interest which would exceed the lawful rate.

7. Default.

(a) Any of the following shall constitute an event of default under this Note:

(i) Any failure to pay, in full, any payment required under this Note on the date such payment is due;

(ii) Any failure in the performance by the Borrower of any other term, condition, provision or covenant set forth in this Note, subject to the notice and cure period set forth in Section 9 of the Loan Agreement;

(iii) The occurrence of any event of default under the Loan Agreement, the Deed of Trust, or other instrument securing the obligations of the Borrower under this Note or under any other promissory notes hereafter issued by the Borrower to the Holder pursuant to the Loan Agreement or the Deed of Trust, subject to notice and cure periods, if any, set forth therein.

(b) Upon the occurrence of such an event of default, the entire unpaid principal balance, together with all interest thereon, and together with all other sums then payable under this Note and the Deed of Trust shall at the option of the Holder become immediately due and payable upon written notice by the Holder to the Borrower without further demand.

(c) The failure to exercise the remedy set forth in Subsection 7(b) above or any other remedy provided by law upon the occurrence of one or more of the foregoing events of default shall not constitute a waiver of the right to exercise any remedy at any subsequent time in respect to the same or any other default. The acceptance by Holder hereof of any payment which is less than the total of all amounts due and payable at the time of such payment shall not constitute a waiver of the right to exercise any of the foregoing remedies or options at that time or at any subsequent time, or nullify any prior exercise of any such remedy or option, without the express consent of the Holder, except as and to the extent otherwise provided by law.

8. Waivers.

(a) The Borrower hereby waives diligence, presentment, protest and demand, and notice of protest, notice of demand, and notice of dishonor of this Note. The Borrower expressly agrees that this Note or any payment hereunder may be extended from time to time, and that the Holder may accept further security or release any security for this Note, all without in any way affecting the liability of the Borrower.

(b) No extension of time for payment of this Note or any installment hereof made by agreement by the Holder with any person now or hereafter liable for payment of this note shall operate to release, discharge, modify, change or affect the original liability of the Borrower under this Note, either in whole or in part.

(c) The obligations of the Borrower under this Note shall be absolute and the Borrower waives any and all rights to offset, deduct or withhold any payments or charges due under this Note for any reason whatsoever.

9. Miscellaneous Provisions.

(a) All notices to the Holder or the Borrower shall be given in the manner and at the addresses set forth in the Loan Agreement, or to such addresses as the Holder and the Borrower may hereinafter designate. Copies of notices to Borrower from Holder shall also be provided by Holder to any limited partner of Borrower who requests such notice in writing and provides the Holder with written notice of its address.

(b) The Borrower promises to pay all costs and expenses, including reasonable attorney's fees, incurred by the Holder in the enforcement of the provision of this Note, regardless of whether suit is filed to seek enforcement.

(c) This Note may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

(d) This Note shall be governed by and construed in accordance with the laws of the State of California.

(e) The times for the performance of any obligations hereunder shall be strictly construed, time being of the essence.

(f) This document, together with the Loan Documents, contains the entire agreement between the parties as to the Loan. It may not be modified except upon written consent of the parties.

BORROWER:

HOUSING AUTHORITY OF THE COUNTY OF
STANISLAUS, a California public entity

By: _____

Its: _____

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Modesto
Parks, Recreation and Neighborhoods Department
P O Box 642
Modesto, CA 95353
Attn: Director

No fee for recording pursuant to
Government Code Section 27383

DEED OF TRUST WITH ASSIGNMENT OF RENTS, SECURITY AGREEMENT, AND
FIXTURE FILING

(NSP2 Loan)

(Insert address)

THIS DEED OF TRUST WITH ASSIGNMENT OF RENTS, SECURITY AGREEMENT, AND FIXTURE FILING ("Deed of Trust") is made as of _____, 20___, by and among the Housing Authority of the County of Stanislaus, a California public entity ("Trustor"), _____ Title Company [INSERT NAME OF TITLE COMPANY], a California corporation ("Trustee"), and the City of Modesto, a municipal corporation of the State of California ("Beneficiary").

FOR GOOD AND VALUABLE CONSIDERATION, including the indebtedness herein recited and the trust herein created, the receipt of which is hereby acknowledged, Trustor hereby irrevocably grants, transfers, conveys and assigns to Trustee, IN TRUST, WITH POWER OF SALE, for the benefit and security of Beneficiary, under and subject to the terms and conditions hereinafter set forth, Trustor's fee interest in the property located in the City of Modesto, Stanislaus County, State of California, that is described in the attached Exhibit A, incorporated herein by this reference (the "Property"). **[If the property is a condominium unit, then include the following sentence: "A condominium rider is attached hereto as Exhibit B and incorporated herein by this reference."]**

TOGETHER WITH all interest, estates or other claims, both in law and in equity which Trustor now has or may hereafter acquire in the Property and the rents;

TOGETHER WITH all easements, rights-of-way and rights used in connection therewith or as a means of access thereto, including (without limiting the generality of the foregoing) all tenements, hereditaments and appurtenances thereof and thereto;

TOGETHER WITH any and all buildings and improvements of every kind and description now or hereafter erected thereon, and all property of the Trustor now or hereafter affixed to or placed upon the Property;

TOGETHER WITH all building materials and equipment now or hereafter delivered to said property and intended to be installed therein;

TOGETHER WITH all right, title and interest of Trustor, now owned or hereafter acquired, in and to any land lying within the right-of-way of any street, open or proposed, adjoining the Property, and any and all sidewalks, alleys and strips and areas of land adjacent to or used in connection with the Property;

TOGETHER WITH all estate, interest, right, title, other claim or demand, of every nature, in and to such property, including the Property, both in law and in equity, including, but not limited to, all deposits made with or other security given by Trustor to utility companies, the proceeds from any or all of such property, including the Property, claims or demands with respect to the proceeds of insurance in effect with respect thereto, which Trustor now has or may hereafter acquire, any and all awards made for the taking by eminent domain or by any proceeding or purchase in lieu thereof of the whole or any part of such property, including without limitation, any awards resulting from a change of grade of streets and awards for severance damages to the extent Beneficiary has an interest in such awards for taking as provided in Paragraph 4.1 herein;

TOGETHER WITH all of Trustor's interest in all articles of personal property or fixtures now or hereafter attached to or used in and about the building or buildings now erected or hereafter to be erected on the Property which are necessary to the complete and comfortable use and occupancy of such building or buildings for the purposes for which they were or are to be erected, including all other goods and chattels and personal property as are ever used or furnished in operating a building, or the activities conducted therein, similar to the one herein described and referred to, and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are, or shall be attached to said building or buildings in any manner; and

TOGETHER WITH all of Trustor's interest in all building materials, fixtures, equipment, work in process and other personal property to be incorporated into the Property; all goods, materials, supplies, fixtures, equipment, machinery, furniture and furnishings, signs and other personal property now or hereafter appropriated for use on the Property, whether stored on the Property or elsewhere, and used or to be used in connection with the Property; all rents, issues and profits, and all inventory, accounts, accounts receivable, contract rights, general intangibles, chattel paper, instruments, documents, notes drafts, letters of credit, insurance policies, insurance and condemnation awards and proceeds, trade names, trademarks and service marks arising from or related to the Property and any business conducted thereon by Trustor; all replacements, additions, accessions and proceeds; and all books, records and files relating to any of the foregoing.

All of the foregoing, together with the Property, is herein referred to as the "Security." To have and to hold the Security together with acquittances to the Trustee, its successors and assigns forever.

FOR THE PURPOSE OF SECURING:

A. Payment of just indebtednesses of Trustor to Beneficiary as set forth in the Note (defined in Article 1 below) until paid or cancelled. Said principal and other payments shall be due and payable as provided in the Note. Said Note and all its terms are incorporated herein by reference, and this conveyance shall secure any and all extensions thereof, however evidenced; and

B. Payment of any sums advanced by Beneficiary to protect the Security pursuant to the terms and provisions of this Deed of Trust following a breach of Trustor's obligation to advance said sums and the expiration of any applicable cure period, with interest thereon as provided herein; and

C. Performance of every obligation, covenant or agreement of Trustor contained herein and in the Loan Documents (defined in Article 1 below).

AND TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR COVENANTS AND AGREES:

ARTICLE 1:
DEFINITIONS

In addition to the terms defined elsewhere in this Deed of Trust, the following terms shall have the following meanings in this Deed of Trust:

Section 1.1 [If the property is a condominium unit, then include the following sentence: "The term "Condominium Rider" means that certain Condominium Rider attached hereto as Exhibit B in the event the Security is a condominium unit."]

Section 1.2 The term "Loan Agreement" means that certain City of Modesto Neighborhood Stabilization Program 2 Loan Agreement between Trustor and Beneficiary, of even date herewith, providing for the Beneficiary to loan to the Trustor _____ Dollars (\$) [insert loan amount] for the acquisition of the Property.

Section 1.3 The term "Loan Documents" means this Deed of Trust, [If the property is a condominium unit add "the Condominium Rider,"], the Loan Agreement, the MOU, the Note, and the Regulatory Agreement and any other debt, loan or security instruments between Trustor and the Beneficiary relating to the Property.

Section 1.4 The term "MOU" means the "City of Modesto Neighborhood Stabilization Program 2 Memorandum of Understanding" dated _____, 20____ by and between the Beneficiary and the Trustor.

Section 1.5 The term "Note" means that certain promissory note in the amount of _____ Dollars (\$_____) [insert loan amount], of even date herewith, executed by the Trustor in favor of the Beneficiary, the payment of which is secured by this Deed of Trust. (Copies of the Note are on file with the Beneficiary and terms and provisions of the Note are incorporated herein by reference.)

Section 1.6 The term "Principal" means the aggregate of the amounts required to be paid under the Note.

Section 1.7 The term "Regulatory Agreement" means the City of Modesto Neighborhood Stabilization Program 2 Regulatory Agreement of even date herewith and recorded against the Property concurrently herewith.

ARTICLE 2:
MAINTENANCE AND MODIFICATION OF THE PROPERTY AND SECURITY

Section 2.1 Maintenance and Modification of the Property by Trustor.

The Trustor agrees that at all times prior to full payment of the sum owed under the Note, the Trustor will, at the Trustor's own expense, maintain, preserve and keep the Security or cause the Security to be maintained and preserved in good condition. The Trustor will from time to time make or cause to be made all repairs, replacements and renewals deemed proper and necessary by it. The Beneficiary shall have no responsibility in any of these matters or for the making of improvements or additions to the Security.

Trustor agrees to pay fully and discharge (or cause to be paid fully and discharged) all claims for labor done and for material and services furnished in connection with the Security, diligently to file or procure the filing of a valid notice of cessation upon the event of a cessation of labor on the work or construction on the Security for a continuous period of thirty (30) days or more, and to take all other reasonable steps to forestall the assertion of claims of lien against the Security of any part thereof. Trustor irrevocably appoints, designates and authorizes Beneficiary as its agent (said agency being coupled with an interest) with the authority, but without any obligation, to file for record any notices of completion or cessation of labor or any other notice that Beneficiary deems necessary or desirable to protect its interest in and to the Security or the Loan Documents; provided, however, that Beneficiary shall exercise its rights as agent of Trustor only in the event that Trustor shall fail to take, or shall fail to diligently continue to take, those actions as hereinbefore provided.

Upon demand by Beneficiary, Trustor shall make or cause to be made such demands or claims as Beneficiary shall reasonably specify upon laborers, materialmen, subcontractors or other persons who have furnished or claim to have furnished labor, services or materials in connection with the Security. Nothing herein contained shall require Trustor to pay any claims

for labor, materials or services which Trustor in good faith disputes and is diligently contesting provided that Trustor shall, within thirty (30) days after the filing of any claim of lien, record in the Office of the Recorder of Stanislaus County, a surety bond in an amount 1 and 1/2 times the amount of such claim item to protect against a claim of lien.

Section 2.2 Granting of Easements.

Trustor may not grant easements, licenses, rights-of-way or other rights or privileges in the nature of easements with respect to any property or rights included in the Security except those required or desirable for installation and maintenance of public utilities including, without limitation, water, gas, electricity, sewer, telephone and telegraph, or those required by law and as approved, in writing, by Beneficiary.

Section 2.3 Assignment of Rents.

As part of the consideration for the indebtedness evidenced by the Note, Trustor hereby absolutely and unconditionally assigns and transfers to Beneficiary all the rents and revenues of the Property including those now due, past due, or to become due by virtue of any lease or other agreement for the occupancy or use of all or any part of the Property, regardless of to whom the rents and revenues of the Property are payable. Trustor hereby authorizes Beneficiary or Beneficiary's agents to collect the aforesaid rents and revenues and hereby directs each tenant of the Property to pay such rents to Beneficiary or Beneficiary's agents; provided, however, that prior to written notice given by Beneficiary to Trustor of the breach by Trustor of any covenant or agreement of Trustor in the Loan Documents, Trustor shall collect and receive all rents and revenues of the Property as trustee for the benefit of Beneficiary and Trustor to apply the rents and revenues so collected to the sums secured by this Deed of Trust with the balance, so long as no such breach has occurred, to the account of Trustor, it being intended by Trustor and Beneficiary that this assignment of rents constitutes an absolute assignment and not an assignment for additional security only. Upon delivery of written notice by Beneficiary to Trustor of the breach by Trustor of any covenant or agreement of Trustor in the Loan Documents, and without the necessity of Beneficiary entering upon and taking and maintaining full control of the Property in person, by agent or by a court-appointed receiver, Beneficiary shall immediately be entitled to possession of all rents and revenues of the Property as specified in this Section 2.3 as the same becomes due and payable, including but not limited to rents then due and unpaid, and all such rents shall immediately upon delivery of such notice be held by Trustor as trustee for the benefit of Beneficiary only; provided, however, that the written notice by Beneficiary to Trustor of the breach by Trustor shall contain a statement that Beneficiary exercises its rights to such rents. Trustor agrees that commencing upon delivery of such written notice of Trustor's breach by Beneficiary to Trustor, each tenant of the Property shall make such rents payable to and pay such rents to Beneficiary or Beneficiary's agents on Beneficiary's written demand to each tenant therefor, delivered to each tenant personally, by mail or by delivering such demand to each rental unit, without any liability on the part of said tenant to inquire further as to the existence of a default by Trustor.

Trustor hereby covenants that Trustor has not executed any prior assignment of said rents, that Trustor has not performed, and will not perform, any acts or has not executed and will not execute, any instrument which would prevent Beneficiary from exercising its rights under

this Section 2.3, and that at the time of execution of this Deed of Trust, there has been no anticipation or prepayment of any of the rents of the Property for more than two (2) months prior to the due dates of such rents. Trustor covenants that Trustor will not hereafter collect or accept payment of any rents of the Property more than two (2) months prior to the due dates of such rents. Trustor further covenant that Trustor will execute and deliver to Beneficiary such further assignments of rents and revenues of the Property as Beneficiary may from time to time request.

Upon Trustor's breach of any covenant or agreement of Trustor in the Loan Documents, Beneficiary may in person, by agent or by a court-appointed receiver, regardless of the adequacy of Beneficiary's security, enter upon and take and maintain full control of the Property in order to perform all acts necessary and appropriate for the operation and maintenance thereof including, but not limited to, the execution, cancellation or modification of leases, the collection of all rents and revenues of the Property, the making of repairs to the Property and the execution or termination of contracts providing for the management or maintenance of the Property, all on such terms as are deemed best to protect the security of this Deed of Trust. In the event Beneficiary elects to seek the appointment of a receiver for the Property upon Trustor's breach of any covenant or agreement of Trustor in this Deed of Trust, Trustor hereby expressly consents to the appointment of such receiver. Beneficiary or the receiver shall be entitled to receive a reasonable fee for so managing the Property.

All rents and revenues collected subsequent to delivery of written notice by Beneficiary to Trustor of the breach by Trustor of any covenant or agreement of Trustor in the Loan Documents shall be applied first to the costs, if any, of taking control of and managing the Property and collecting the rents, including, but not limited to, attorney's fees, receiver's fees, premiums on receiver's bonds, costs of repairs to the Property, premiums on insurance policies, taxes, assessments and other charges on the Property, and the costs of discharging any obligation or liability of Trustor as lessor or landlord of the Property and then to the sums secured by this deed of Trust. Beneficiary or the receiver shall have access to the books and records used in the operation and maintenance of the Property and shall be liable to account only for those rents actually received. Beneficiary shall not be liable to Trustor, anyone claiming under or through Trustor or anyone having an interest in the Property by reason of anything done or left undone by Beneficiary under this Section 2.3.

If the rents of the Property are not sufficient to meet the costs, if any, of taking control of and managing the Property and collecting the rents, any funds expended by Beneficiary for such purposes shall become indebtedness of Trustor to Beneficiary secured by this Deed of Trust pursuant to Section 3.3 hereof. Unless Beneficiary and Trustor agree in writing to other terms of payment, such amounts shall be payable upon notice from Beneficiary to Trustor requesting payment thereof and shall bear interest from the date of disbursement at the rate stated in Section 3.3.

Any entering upon and taking and maintaining of control of the Property by Beneficiary or the receiver and any application of rents as provided herein shall not cure or waive any default hereunder or invalidate any other right or remedy of Beneficiary under applicable law or provided herein. This assignment of rents of the Property shall terminate at such time as this Deed of Trust ceases to secure indebtedness held by Beneficiary.

ARTICLE 3:
TAXES AND INSURANCE; ADVANCES

Section 3.1 Taxes, Other Governmental Charges and Utility Charges.

Trustor shall pay, or cause to be paid, at least fifteen (15) days prior to the date of delinquency, all taxes, assessments, charges and levies imposed by any public authority or utility company which are or may become a lien affecting the Security or any part thereof; provided, however, that Trustor shall not be required to pay and discharge any such tax, assessment, charge or levy so long as (a) the legality thereof shall be promptly and actively contested in good faith and by appropriate proceedings, and (b) Trustor maintains reserves adequate to pay any liabilities contested pursuant to this Section 3.1. With respect to taxes, special assessments or other similar governmental charges, Trustor shall pay such amount in full prior to the attachment of any lien therefor on any part of the Security; provided, however, if such taxes, assessments or charges may be paid in installments, Trustor may pay in such installments. Except as provided in clause (b) of the first sentence of this paragraph, the provisions of this Section 3.1 shall not be construed to require that Trustor maintain a reserve account, escrow account, impound account or other similar account for the payment of future taxes, assessments, charges and levies.

In the event that Trustor shall fail to pay any of the foregoing items required by this Section to be paid by Trustor, Beneficiary may (but shall be under no obligation to) pay the same, after the Beneficiary has notified the Trustor in writing of such failure to pay and the Trustor fails to fully pay such items within seven (7) business days after receipt of such notice. Any amount so advanced therefor by Beneficiary, together with interest thereon from the date of such advance at the maximum rate permitted by law, shall become an additional obligation of Trustor to the Beneficiary and shall be secured hereby, and Trustor agrees to pay all such amounts.

Section 3.2 Provisions Respecting Insurance.

Trustor agrees to provide insurance conforming in all respects to that required under the Loan Documents during the course of construction and following completion, and at all times until all amounts secured by this Deed of Trust have been paid and all other obligations secured hereunder fulfilled, and this Deed of Trust reconveyed.

All such insurance policies and coverages shall be maintained at Trustor's sole cost and expense. Certificates of insurance for all of the above insurance policies, showing the same to be in full force and effect, shall be delivered to the Beneficiary upon demand therefor at any time prior to the Beneficiary's receipt of the entire Principal and all amounts secured by this Deed of Trust.

The Trustor is aware that California Civil Code Section 2955.5(a) provides as follows: "No lender shall require a borrower, as a condition of receiving or maintaining a loan secured by real property, to provide hazard insurance coverage against risks to the improvements on that real property in an amount exceeding the replacement value of the improvements on the property."

Section 3.3 Advances.

In the event the Trustor shall fail to maintain the full insurance coverage required by this Deed of Trust or shall fail to keep the Security in accordance with the Loan Documents, the Beneficiary, after at least seven (7) days' prior written notice to Trustor, may (but shall be under no obligation to) take out the required policies of insurance and pay the premiums on the same or may make such repairs or replacements as are necessary and provide for payment thereof; and all amounts so advanced therefor by the Beneficiary shall become an additional obligation of the Trustor to the Beneficiary (together with interest as set forth below) and shall be secured hereby, which amounts the Trustor agrees to pay on the demand of the Beneficiary, and if not so paid, shall bear interest from the date of the advance at the lesser of ten percent (10%) per annum or the maximum rate permitted by law.

ARTICLE 4:
DAMAGE, DESTRUCTION OR CONDEMNATION

Section 4.1 Awards and Damages.

All judgments, awards of damages, settlements and compensation made in connection with or in lieu of (1) taking of all or any part of or any interest in the Property by or under assertion of the power of eminent domain, (2) any damage to or destruction of the Property or in any part thereof by insured casualty, and (3) any other injury or damage to all or any part of the Property ("Funds") are hereby assigned to and shall be paid to the Beneficiary by a check made payable to the Beneficiary. The Beneficiary is authorized and empowered (but not required) to collect and receive any funds and is authorized to apply them in whole or in part upon any indebtedness or obligation secured hereby, in such order and manner as the Beneficiary shall determine at its sole option. Following an Event of Default, the Beneficiary shall be entitled to settle and adjust all claims under insurance policies provided under this Deed of Trust and may deduct and retain from the proceeds of such insurance the amount of all expenses incurred by it in connection with any such settlement or adjustment. All or any part of the amounts so collected and recovered by the Beneficiary may be released to Trustor upon such conditions as the Beneficiary may impose for its disposition. Application of all or any part of the Funds collected and received by the Beneficiary or the release thereof shall not cure or waive any default under this Deed of Trust. The rights of the Beneficiary under this Section 4.1 are subject to the rights of any senior mortgage lender. The Beneficiary shall release the Funds to Trustor to be used to reconstruct the improvements on the Property provided that Beneficiary reasonably determines that Trustor (when taking into account the Funds) has sufficient funds to rebuild the improvements in substantially the form such improvements existed prior to the casualty or condemnation.

ARTICLE 5:
AGREEMENTS AFFECTING THE PROPERTY; FURTHER
ASSURANCES; PAYMENT OF PRINCIPAL AND INTEREST

Section 5.1 Other Agreements Affecting Property.

The Trustor shall duly and punctually perform all terms, covenants, conditions and agreements binding upon it under the Loan Documents and any other agreement of any nature whatsoever now or hereafter involving or affecting the Security or any part thereof.

Section 5.2 Agreement to Pay Attorneys' Fees and Expenses.

In the event of any Event of Default (as defined below) hereunder, and if the Beneficiary should employ attorneys or incur other expenses for the collection of amounts due or the enforcement of performance or observance of an obligation or agreement on the part of the Trustor in this Deed of Trust, the Trustor agrees that it will, on demand therefor, pay to the Beneficiary the reasonable fees of such attorneys and such other reasonable expenses so incurred by the Beneficiary (including, but not limited to, other professional services fees and costs); and any such amounts paid by the Beneficiary shall be added to the indebtedness secured by the lien of this Deed of Trust, and shall bear interest from the date such expenses are incurred at the lesser of ten percent (10%) per annum or the maximum rate permitted by law.

Section 5.3 Payment of the Principal.

The Trustor shall pay to the Beneficiary the Principal and any other payments as set forth in the Note in the amounts and by the times set out therein.

Section 5.4 Personal Property.

To the maximum extent permitted by law, the personal property subject to this Deed of Trust shall be deemed to be fixtures and part of the real property and this Deed of Trust shall constitute a fixtures filing under the California Commercial Code. As to any personal property not deemed or permitted to be fixtures, this Deed of Trust shall constitute a security agreement under the California Commercial Code. The Trustor hereby grants the Beneficiary a security interest in such items.

Section 5.5 Financing Statement.

The Trustor shall execute and deliver to the Beneficiary such financing statements pursuant to the appropriate statutes, and any other documents or instruments as are required to convey to the Beneficiary a valid perfected security interest in the Security. The Trustor agrees to perform all acts which the Beneficiary may reasonably request so as to enable the Beneficiary to maintain such valid perfected security interest in the Security in order to secure the payment of the Note in accordance with its terms. The Beneficiary is authorized to file a copy of any such financing statement in any jurisdiction(s) as it shall deem appropriate from time to time in order to protect the security interest established pursuant to this instrument. Trustor shall pay all costs of filing such financing statements and any extensions, renewals, amendments, and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements, and releases thereof, as the Beneficiary may reasonably require. Without the prior written consent of the Beneficiary, Trustor shall not create or suffer to be created pursuant to the

California Commercial Code any other security interest in the Security, including replacements and additions thereto.

Section 5.6 Operation of the Security.

The Trustor shall operate the Security (and, in case of a transfer of a portion of the Security subject to this Deed of Trust, the transferee shall operate such portion of the Security) in full compliance with the Loan Documents.

Section 5.7 Inspection of the Security.

At any and all reasonable times upon seventy-two (72) hours' notice, the Beneficiary and its duly authorized agents, attorneys, experts, engineers, accountants and representatives, shall have the right, without payment of charges or fees, to inspect the Security.

Section 5.8 Nondiscrimination.

The Trustor herein covenants by and for itself, its heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Security, nor shall the Trustor itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the Security. The foregoing covenants shall run with the land.

Section 5.9 Relocation.

The Trustor shall comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. Section 4601, et seq.), and implementing regulations at 49 C.F.R. Part 24; Section 104(d) of the Housing and Community Development Act of 1974 and implementing regulations at 24 C.F.R. Part 42; 24 C.F.R. Section 570.606; and California Government Code Section 7260 et seq. and implementing regulations at 25 California Code of Regulations Section 6000 et seq. The Trustor acknowledges and agrees that the Security is required to be vacant in order to qualify for purchase under the Loan Agreement; however, if and to the extent that acquisition and rehabilitation of the Security results in the permanent or temporary displacement of residential tenants, homeowners, or businesses, then the Trustor shall comply with all applicable local, state, and federal statutes and regulations with respect to relocation planning, advisory assistance, and payment of monetary benefits. The Trustor shall be solely responsible for payment of any relocation benefits to any displaced persons and any other obligations associated with complying with such relocation laws. The Trustor shall indemnify, defend (with counsel reasonably chosen by the Beneficiary), and hold harmless the Beneficiary against all claims which arise out of relocation obligations to residential tenants, homeowners, or businesses permanently or temporarily displaced by the acquisition or rehabilitation of the Security.

ARTICLE 6:
HAZARDOUS WASTE

Trustor shall keep and maintain the Property in compliance with, and shall not cause or permit the Property to be in violation of any federal, state or local laws, ordinances or regulations relating to industrial hygiene or to the environmental conditions on, under or about the Property including, but not limited to, soil and ground water conditions. Trustor shall not use, generate, manufacture, store or dispose of on, under, or about the Property or transport to or from the Property any flammable explosives, radioactive materials, hazardous wastes, toxic substances or related materials, including without limitation, any substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," or "toxic substances" under any applicable federal or state laws or regulations (collectively referred to hereinafter as "Hazardous Materials") except such of the foregoing as are used in construction of projects of the improvements on the Property or as may be customarily kept and used in and about residential property.

Trustor shall immediately advise Beneficiary in writing if at any time it receives written notice of (i) any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened against Trustor or the Property pursuant to any applicable federal, state or local laws, ordinances, or regulations relating to any Hazardous Materials, ("Hazardous Materials Law"); (ii) all claims made or threatened by any third party against Trustor or the Property relating to damage, contribution, cost recovery compensation, loss or injury resulting from any Hazardous Materials (the matters set forth in clauses (i) and (ii) above are hereinafter referred to as "Hazardous Materials Claims"); and (iii) Trustor's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property that could cause the Property or any part thereof to be classified as "border-zone property" under the provision of California Health and Safety Code, Sections 25220 et seq., or any regulation adopted in accordance therewith, or to be otherwise subject to any restrictions on the ownership, occupancy, transferability or use of the Property under any Hazardous Materials Law.

Beneficiary shall have the right to join and participate in, as a party if it so elects, any legal proceedings or actions initiated in connection with any Hazardous Materials Claims and to have its reasonable attorneys' fees in connection therewith paid by Trustor. Trustor shall indemnify and hold harmless Beneficiary and its boardmembers, supervisors, directors, officers, employees, agents, successors and assigns from and against any loss, damage, cost, expense or liability directly or indirectly arising out of or attributable to the use, generation, storage, release, threatened release, discharge, disposal, or presence of Hazardous Materials on, under, or about the Property including without limitation: (a) all foreseeable consequential damages; (b) the costs of any required or necessary repair, cleanup or detoxification of the Property and the preparation and implementation of any closure, remedial or other required plans; and (c) all reasonable costs and expenses incurred by Beneficiary in connection with clauses (a) and (b), including but not limited to reasonable attorneys' fees and consultant's fees.

Without Beneficiary's prior written consent, which shall not be unreasonably withheld, Trustor shall not take any remedial action in response to the presence of any Hazardous Materials on, under or about the Property, nor enter into any settlement agreement, consent

decree, or other compromise in respect to any Hazardous Material Claims, which remedial action, settlement, consent decree or compromise might, in Beneficiary's reasonable judgment, impair the value of the Beneficiary's security hereunder; provided, however, that Beneficiary's prior consent shall not be necessary in the event that the presence of Hazardous Materials on, under, or about the Property either poses an immediate threat to the health, safety or welfare of any individual or is of such a nature that an immediate remedial response is necessary and it is not reasonably possible to obtain Beneficiary's consent before taking such action, provided that in such event Trustor shall notify Beneficiary as soon as practicable of any action so taken. Beneficiary agrees not to withhold its consent, where such consent is required hereunder, if either (i) a particular remedial action is ordered by a court of competent jurisdiction, (ii) Trustor will or may be subjected to civil or criminal sanctions or penalties if it fails to take a required action; (iii) Trustor establishes to the reasonable satisfaction of Beneficiary that there is no reasonable alternative to such remedial action which would result in less impairment of Beneficiary's security hereunder; or (iv) the action has been agreed to by Beneficiary.

The Trustor hereby acknowledges and agrees that (i) this Article is intended as the Beneficiary's written request for information (and the Trustor's response) concerning the environmental condition of the Property as required by California Code of Civil Procedure Section 726.5, and (ii) each representation and warranty in this Deed of Trust or any of the other Loan Documents (together with any indemnity applicable to a breach of any such representation and warranty) with respect to the environmental condition of the property is intended by the Beneficiary and the Trustor to be an "environmental provision" for purposes of California Code of Civil Procedure Section 736.

In the event that any portion of the Property is determined to be "environmentally impaired" (as that term is defined in California Code of Civil Procedure Section 726.5(e)(3)) or to be an "affected parcel" (as that term is defined in California Code of Civil Procedure Section 726.5(e)(1)), then, without otherwise limiting or in any way affecting the Beneficiary's or the Trustee's rights and remedies under this Deed of Trust, the Beneficiary may elect to exercise its rights under California Code of Civil Procedure Section 726.5(a) to (1) waive its lien on such environmentally impaired or affected portion of the Property and (2) exercise (a) the rights and remedies of an unsecured creditor, including reduction of its claim against the Trustor to judgment, and (b) any other rights and remedies permitted by law. For purposes of determining the Beneficiary's right to proceed as an unsecured creditor under California Code of Civil Procedure Section 726.5(a), the Trustor shall be deemed to have willfully permitted or acquiesced in a release or threatened release of hazardous materials, within the meaning of California Code of Civil Procedure Section 726.5(d)(1), if the release or threatened release of hazardous materials was knowingly or negligently caused or contributed to by any lessee, occupant, or user of any portion of the Property and the Trustor knew or should have known of the activity by such lessee, occupant, or user which caused or contributed to the release or threatened release. All costs and expenses, including (but not limited to) attorneys' fees, incurred by the Beneficiary in connection with any action commenced under this paragraph, including any action required by California Code of Civil Procedure Section 726.5(b) to determine the degree to which the Property is environmentally impaired, plus interest thereon at the lesser of ten percent (10%) or the maximum rate permitted by law, until paid, shall be added to the indebtedness secured by this Deed of Trust and shall be due and payable to the Beneficiary upon its demand made at any time following the conclusion of such action.

ARTICLE 7:
EVENTS OF DEFAULT AND REMEDIES

Section 7.1 Events of Default.

The following shall constitute Events of Default: (1) failure to make any payment to be paid by Trustor under the Loan Documents at the time such payment is due; (2) failure to observe or perform any of Trustor's other covenants, agreements or obligations under the Loan Documents, including, without limitation, the provisions concerning discrimination, subject to applicable notice and cure periods, if any, included in the Loan Documents; or (3) failure to make any payment or perform any of Trustor's other covenants, agreements, or obligations under any other debt instruments or regulatory agreement secured by the Property, which default shall not be cured within the times and in the manner provided therein.

Section 7.2 Acceleration of Maturity.

If an Event of Default shall have occurred and be continuing, then at the option of the Beneficiary, the amount of any payment related to the Event of Default and the unpaid Principal of the Note shall immediately become due and payable, upon written notice by the Beneficiary to the Trustor (or automatically where so specified in the Loan Documents), and no omission on the part of the Beneficiary to exercise such option when entitled to do so shall be construed as a waiver of such right.

Section 7.3 The Beneficiary's Right to Enter and Take Possession.

If an Event of Default shall have occurred and be continuing, the Beneficiary may:

(a) Either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court, and without regard to the adequacy of its security, enter upon the Security and take possession thereof (or any part thereof) and of any of the Security, in its own name or in the name of Trustee, and do any acts which it deems necessary or desirable to preserve the value or marketability of the Property, or part thereof or interest therein, increase the income therefrom or protect the security thereof. The entering upon and taking possession of the Security shall not cure or waive any Event of Default or Notice of Default (as defined below) hereunder or invalidate any act done in response to such Default or pursuant to such Notice of Default and, notwithstanding the continuance in possession of the Security, Beneficiary shall be entitled to exercise every right provided for in this Deed of Trust, or by law upon occurrence of any Event of Default, including the right to exercise the power of sale;

(b) Commence an action to foreclose this Deed of Trust as a mortgage, appoint a receiver, or specifically enforce any of the covenants hereof;

(c) Deliver to Trustee a written declaration of default and demand for sale, and a written notice of default and election to cause Trustor's interest in the Security to be sold

("Notice of Default and Election to Sell"), which notice Trustee or Beneficiary shall cause to be duly filed for record in the Official Records of Stanislaus County; or

(d) Exercise all other rights and remedies provided herein, in the instruments by which the Trustor acquires title to any Security, or in any other document or agreement now or hereafter evidencing, creating or securing all or any portion of the obligations secured hereby, or provided by law.

Section 7.4 Foreclosure By Power of Sale.

Should the Beneficiary elect to foreclose by exercise of the power of sale herein contained, the Beneficiary shall give notice to the Trustee (the "Notice of Sale") and shall deposit with Trustee this Deed of Trust which is secured hereby (and the deposit of which shall be deemed to constitute evidence that the unpaid Principal amount of the Note is immediately due and payable), and such receipts and evidence of any expenditures made that are additionally secured hereby as Trustee may require.

(a) Upon receipt of such notice from the Beneficiary, Trustee shall cause to be recorded, published and delivered to Trustor such Notice of Default and Election to Sell as then required by law and by this Deed of Trust. Trustee shall, without demand on Trustor, after lapse of such time as may then be required by law and after recordation of such Notice of Default and Election to Sell and after Notice of Sale having been given as required by law, sell the Security, at the time and place of sale fixed by it in said Notice of Sale, whether as a whole or in separate lots or parcels or items as Trustee shall deem expedient and in such order as it may determine unless specified otherwise by the Trustor according to California Civil Code Section 2924g(b), at public auction to the highest bidder, for cash in lawful money of the United States payable at the time of sale. Trustee shall deliver to such purchaser or purchasers thereof its good and sufficient deed or deeds conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed or any matters of facts shall be conclusive proof of the truthfulness thereof. Any person, including, without limitation, Trustor, Trustee or Beneficiary, may purchase at such sale, and Trustor hereby covenants to warrant and defend the title of such purchaser or purchasers.

(b) After deducting all reasonable costs, fees and expenses of Trustee, including costs of evidence of title in connection with such sale, Trustee shall apply the proceeds of sale to payment of: (i) the unpaid Principal amount of the Note; (ii) all other amounts owed to Beneficiary under the Loan Documents; (iii) all other sums then secured hereby; and (iv) the remainder, if any, to Trustor.

(c) Trustee may postpone sale of all or any portion of the Property by public announcement at such time and place of sale, and from time to time thereafter, and without further notice make such sale at the time fixed by the last postponement, or may, in its discretion, give a new Notice of Sale.

Section 7.5 Receiver.

If an Event of Default shall have occurred and be continuing, Beneficiary, as a matter of right and without further notice to Trustor or anyone claiming under the Security, and without regard to the then value of the Security or the interest of Trustor therein, shall have the right to apply to any court having jurisdiction to appoint a receiver or receivers of the Security (or a part thereof), and Trustor hereby irrevocably consents to such appointment and waives further notice of any application therefor. Any such receiver or receivers shall have all the usual powers and duties of receivers in like or similar cases, and all the powers and duties of Beneficiary in case of entry as provided herein, and shall continue as such and exercise all such powers until the date of confirmation of sale of the Security, unless such receivership is sooner terminated.

Section 7.6 Remedies Cumulative.

No right, power or remedy conferred upon or reserved to the Beneficiary by this Deed of Trust is intended to be exclusive of any other right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or now or hereafter existing at law or in equity.

Section 7.7 No Waiver.

(a) No delay or omission of the Beneficiary to exercise any right, power or remedy accruing upon any Event of Default shall exhaust or impair any such right, power or remedy, or shall be construed to be a waiver of any such Event of Default or acquiescence therein; and every right, power and remedy given by this Deed of Trust to the Beneficiary may be exercised from time to time and as often as may be deemed expeditious by the Beneficiary. Beneficiary's express or implied consent to breach, or waiver of, any obligation of the Trustor hereunder shall not be deemed or construed to be a consent to any subsequent breach, or further waiver, of such obligation or of any other obligations of the Trustor hereunder. Failure on the part of the Beneficiary to complain of any act or failure to act or to declare an Event of Default, irrespective of how long such failure continues, shall not constitute a waiver by the Beneficiary of its right hereunder or impair any rights, power or remedies consequent on any Event of Default by the Trustor.

(b) If the Beneficiary (i) grants forbearance or an extension of time for the payment of any sums secured hereby, (ii) takes other or additional security or the payment of any sums secured hereby, (iii) waives or does not exercise any right granted in the Loan Documents, (iv) releases any part of the Security from the lien of this Deed of Trust, or otherwise changes any of the terms, covenants, conditions or agreements in the Loan Documents, (v) consents to the granting of any easement or other right affecting the Security, or (vi) makes or consents to any agreement subordinating the lien hereof, any such act or omission shall not release, discharge, modify, change or affect the original liability under this Deed of Trust, or any other obligation of the Trustor or any subsequent purchaser of the Security or any part thereof, or any maker, co-signer, endorser, surety or guarantor (unless expressly released); nor shall any such act or omission preclude the Beneficiary from exercising any right, power or privilege herein granted or intended to be granted in any Event of Default then made or of any subsequent Event of Default, nor, except as otherwise expressly provided in an instrument or instruments executed by the Beneficiary shall the lien of this Deed of Trust be altered thereby.

Section 7.8 Suits to Protect the Security.

The Beneficiary shall have power to (a) institute and maintain such suits and proceedings as it may deem expedient to prevent any impairment of the Security and the rights of the Beneficiary as may be unlawful or any violation of this Deed of Trust, (b) preserve or protect its interest (as described in this Deed of Trust) in the Security, and (c) restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement for compliance with such enactment, rule or order would impair the Security thereunder or be prejudicial to the interest of the Beneficiary.

Section 7.9 Trustee May File Proofs of Claim.

In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting the Trustor, its creditors or its property, the Trustee and/or the Beneficiary, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of the Beneficiary allowed in such proceedings and for any additional amount which may become due and payable by the Trustor hereunder after such date.

Section 7.10 Waiver.

The Trustor waives presentment, demand for payment, notice of dishonor, notice of protest and nonpayment, protest, notice of interest on interest and late charges, and diligence in taking any action to collect any sums owing under the Note or in proceedings against the Security, in connection with the delivery, acceptance, performance, default, endorsement or guaranty of this Deed of Trust.

ARTICLE 8:
MISCELLANEOUS

Section 8.1 Amendments.

This instrument cannot be waived, changed, discharged or terminated orally, but only by an instrument in writing signed by Beneficiary and Trustor.

Section 8.2 Reconveyance by Trustee.

Upon written request of Beneficiary stating that all sums secured hereby have been paid or forgiven and all performance secured hereby has been satisfactorily completed, and upon surrender of this Deed of Trust to Trustee for cancellation and retention, and upon payment by Trustor of Trustee's reasonable fees, Trustee shall reconvey the Security to Trustor, or to the person or persons legally entitled thereto.

Section 8.3 Notices.

If at any time after the execution of this Deed of Trust it shall become necessary or convenient for one of the parties hereto to serve any notice, demand or communication upon the other party, such notice, demand or communication shall be in writing and shall be served personally, by reputable overnight delivery service (which provides a delivery receipt) or by depositing the same in the registered United States mail, return receipt requested, postage prepaid and (1) if intended for Beneficiary shall be addressed to:

By Personal Delivery:

City of Modesto
Parks, Recreation and Neighborhoods Department
Attn: Director
1010 Tenth Street, Suite _____
Modesto, CA 95354

By Mail:

City of Modesto
Parks, Recreation and Neighborhoods Department
P O Box 642
Modesto, CA 95353
Attn: Director

and (2) if intended for Trustor shall be addressed to:

By Personal Delivery or Mail:

Housing Authority of the County of Stanislaus
1701 Robertson Road
Modesto, CA 95351
Attn: Executive Director

Any notice, demand or communication shall be deemed given, received, made or communicated on the date personal delivery is effected or, if mailed in the manner herein specified, on the delivery date or date delivery is refused by the addressee, as shown on the return receipt. Either party may change its address at any time by giving written notice of such change to Beneficiary or Trustor as the case may be, in the manner provided herein, at least ten (10) days prior to the date such change is desired to be effective.

Section 8.4 Successors and Joint Trustors.

Where an obligation is created herein binding upon Trustor, the obligation shall also apply to and bind any transferee or successors in interest. Where the terms of the Deed of Trust have the effect of creating an obligation of the Trustor and a transferee, such obligation shall be deemed to be a joint and several obligation of the Trustor and such transferee. Where more than one entity or person is signing as Trustor, all obligations of Trustor shall be deemed to be a joint and several obligation of each and every entity and person signing as Trustor.

Section 8.5 Captions.

The captions or headings at the beginning of each Section hereof are for the convenience of the parties and are not a part of this Deed of Trust.

Section 8.6 Invalidity of Certain Provisions.

Every provision of this Deed of Trust is intended to be severable. In the event any term or provision hereof is declared to be illegal or invalid for any reason whatsoever by a court or other body of competent jurisdiction, such illegality or invalidity shall not affect the balance of the terms and provisions hereof, which terms and provisions shall remain binding and enforceable. If the lien of this Deed of Trust is invalid or unenforceable as to any part of the debt, or if the lien is invalid or unenforceable as to any part of the Security, the unsecured or partially secured portion of the debt, and all payments made on the debt, whether voluntary or under foreclosure or other enforcement action or procedure, shall be considered to have been first paid or applied to the full payment of that portion of the debt which is not secured or partially secured by the lien of this Deed of Trust.

Section 8.7 Governing Law.

This Deed of Trust shall be governed by and construed in accordance with the laws of the State of California.

Section 8.8 Gender and Number.

In this Deed of Trust the singular shall include the plural and the masculine shall include the feminine and neuter and vice versa, if the context so requires.

Section 8.9 Deed of Trust, Mortgage.

Any reference in this Deed of Trust to a mortgage shall also refer to a deed of trust and any reference to a deed of trust shall also refer to a mortgage.

Section 8.10 Actions.

Trustor agrees to appear in and defend any action or proceeding purporting to affect the Security.

Section 8.11 Substitution of Trustee.

Beneficiary may from time to time substitute a successor or successors to any Trustee named herein or acting hereunder to execute this Trust. Upon such appointment, and without conveyance to the successor trustee, the latter shall be vested with all title, powers, and duties conferred upon any Trustee herein named or acting hereunder. Each such appointment and substitution shall be made by written instrument executed by Beneficiary, containing reference to this Deed of Trust and its place of record, which, when duly recorded in the proper office of the

county or counties in which the Property is situated, shall be conclusive proof of proper appointment of the successor trustee.

Section 8.12 Statute of Limitations.

The pleading of any statute of limitations as a defense to any and all obligations secured by this Deed of Trust is hereby waived to the full extent permissible by law.

Section 8.13 Acceptance by Trustee.

Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made public record as provided by law. Except as otherwise provided by law the Trustee is not obligated to notify any party hereto of pending sale under this Deed of Trust or of any action of proceeding in which Trustor, Beneficiary, or Trustee shall be a party unless brought by Trustee.

IN WITNESS WHEREOF, Trustor has executed this Deed of Trust as of the day and year first above written.

TRUSTOR:

HOUSING AUTHORITY OF THE COUNTY
OF STANISLAUS, a California public entity

By: _____

Name: _____

Its: _____

By: _____

Name: _____

STATE OF CALIFORNIA)
)
COUNTY OF STANISLAUS)

On _____, before me, _____, Notary Public,
personally appeared _____, who proved to me on the
basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within
instrument and acknowledged to me that he/she/they executed the same in his/her/their
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or
the entity upon behalf of which the person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public

EXHIBIT A

LEGAL DESCRIPTION

The land is situated in the State of California, Stanislaus County, City of Modesto, and is described as follows:

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-363**

RESOLUTION AUTHORIZING THE AWARD OF CONTRACT FOR THE FURNISHING OF SECURITY GUARD SERVICES FOR CITYWIDE USE, TO CYPRESS PRIVATE SECURITY, SAN JOSE, CA, FOR A ONE-YEAR AGREEMENT WITH SIX (6) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO ISSUE AN AGREEMENT FOR AN ESTIMATED ANNUAL COST OF \$397,000

WHEREAS, Stanislaus County recently completed a competitive RFP process for security guard services, and

WHEREAS, one local vendor submitted a proposal, and

WHEREAS, based on being ranked highest in total evaluation criteria Stanislaus County Board of Supervisors, approved Board Action No. 2012-294, authorizing the award of a Master Agreement to Cypress Private Security, San Jose, CA, and

WHEREAS, by accessing the terms or “piggybacking”, City staff recommends the award of contract for the furnishing of security guard services for Citywide use to Cypress Private Security, San Jose, CA, and

WHEREAS, Modesto Municipal Code (MMC), Section 8-3.203, generally requires all purchases, which meet or exceed \$50,000.00 for material, equipment or contractual services to be formally bid. However, there are exceptions to the rule set forth in the Modesto Municipal Code. One exception, MMC 8-3.204 (d), is available where the Purchasing Manager, in his discretion, determines that a process other than the usual formal bid procedure set forth in Section MMC 8-3.203 will result in procurement for the City at the lowest possible cost commensurate with the desired quality. Acting within his discretion, the Purchasing Manager invoked that exception for this purchase. The furnishing of security guard services for Citywide use, by accessing the terms of a

competitively bid contract from Stanislaus County, Board Action No. 2012-294, to Cypress Private Security, San Jose, CA, conforms to code, and

WHEREAS, funds shall be budgeted for the furnishing of security guard services in Appropriation Units: 0100-33040-53300, 0100-35010-53300, 0100-35220-53300, 4000-53250-53300, 4100-55050-53300, 4100-55080-53300, 4100-55090-53300, 4210-54313-53300, and 4530-53474-53300.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of proposal for the furnishing of security guard services for Citywide use to Cypress Private Security, San Jose, CA.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to issue an agreement for an estimated annual cost of \$397,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh


NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-364**

RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE PURCHASE OF FEDERAL BRAND AMMUNITION FOR THE MODESTO POLICE DEPARTMENT TO SAN DIEGO POLICE EQUIPMENT CO., INC., SAN DIEGO, CA, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF \$92,307

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of Federal Brand ammunition, and

WHEREAS, the Purchasing Division issued RFB No. 1213-02 Federal Brand Ammunition to seven (7) prospective bidders, none of which were local vendors, posted the RFB on the City's website and formally advertised as required by law, and

WHEREAS, bids were formally opened in the City Clerk's Office. One company chose to respond. The company provided a responsive and responsible bid, and

WHEREAS, based on providing a responsive and responsive bid, City staff recommends the award of bid for the purchase of Federal Brand ammunition to San Diego Police Equipment Co., Inc, San Diego, CA, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. The award of bid for the purchase of Federal Brand ammunition for the Modesto Police Department to San Diego Police Equipment, Co., Inc, San Diego, CA, conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted in Fiscal Year 2012-13 for the purchase of Federal Brand ammunition in Appropriation Unit: 0100-19420-52300.

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

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase agreement for an estimated annual cost of \$92,307.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-365**

RESOLUTION AUTHORIZING THE AWARD OF CONTRACT FOR THE PURCHASE OF A PACKER TRUCK FOR THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT, PRUNED REFUSE COLLECTION DIVISION, THROUGH THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, BY "PIGGYBACKING" OFF THE CITY'S OWN COMPETITIVELY BID CONTRACT, TO WESTERN TRUCK CENTER, STOCKTON, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR A TOTAL ESTIMATED COST OF \$197,269

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, throughout FY 12/13 through various competitive processes, with the Purchasing Division coming back to Council for award authorization. The packer truck is included in the FY 12/13 new vehicles and heavy equipment list authorized by the City Manager, and

WHEREAS, packer trucks are used by the Parks, Recreation and Neighborhoods Department, Pruned Refuse Collection Division. The packer truck has been subjected to a thorough evaluation and has met or exceeded the replacement criteria before being placed on the replacement list. The packer truck falls under the City's compliance program, approved by the California Air Resources Board, requiring a progressive program to remove older diesel trucks from service, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of contract for the purchase of a packer truck for the Parks, Recreation and Neighborhoods Department, Pruned Refuse Collection Division, by "piggybacking" off the City's own competitively bid contract, Council Resolution 2012-57, to Western Truck Center, Stockton, CA, for a total estimated cost of \$197,269, and

WHEREAS, in order to provide sufficient funding for the equipment purchase, a budget amendment is necessary in the Fleet Replacement Fund (5409-53246-57003), which is an increase of \$200,000 for Fiscal Year 2012-13. Adequate funding currently exists in the Parks, Recreation and Neighborhoods Department, Solid Waste Pruned Refuse Collection Division equipment replacement fund 4899-53235-45012, to reimburse Fleet for these purchases, and

WHEREAS, The Modesto Municipal Code (MMC), Section 8-3.203, generally requires all purchases, which meet or exceed \$50,000.00 for material, equipment or contractual services to be formally bid. However, there are exceptions to the rule set forth in the Modesto Municipal Code. One exception, MMC 8-3.204 (d), is available where the Purchasing Manager, in his discretion, determines that a process other than the usual formal bid procedure set forth in Section MMC 8-3.203 will result in procurement for the City at the lowest possible cost commensurate with the desired quality. Acting within his discretion, the Purchasing Manager invoked that exception for this purchase.

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 a packer truck for the Parks, Recreation and Neighborhoods Department, Pruned Refuse Collection Division, through the Public Works Department, Fleet Services Division, by “piggybacking” off the City’s own competitively bid contract, to Western Truck Center, Stockton, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager or his designee to issue a purchase order for a total estimated cost of \$197,269.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-366**

**RESOLUTION AMENDING THE FISCAL YEAR 2012-2013 ADOPTED
OPERATING BUDGET TO INCREASE THE FLEET REPLACEMENT FUND
FROM FLEET RESERVES BY \$200,000 FOR THE PURCHASE OF A PACKER
TRUCK**

WHEREAS, a budget amendment is necessary in the Fleet Replacement Fund 5409-53246-57003, by an increase of \$200,000 for Fiscal Year 2012-13, to provide sufficient funding for the equipment purchase of a packer truck, and

WHEREAS, the initial purchase of the equipment takes place in the Fleet Replacement Fund. After the purchase has been completed, the Fleet Replacement Fund is reimbursed by the departmental replacement fund. Adequate funding currently exists in the Parks, Recreation and Neighborhoods Department, Solid Waste Pruned Refuse Collection Division replacement fund 4899-53235-45012 to reimburse Fleet, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the annual Fleet Replacement Fund 5409-53246-57003, budget by increasing the budget for the purchase of a packer truck by \$200,000.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-367**

**RESOLUTION APPROVING FIRST AMENDMENT TO THE CITY OF
MODESTO NSP2 LOAN AGREEMENT BETWEEN THE CITY OF MODESTO
AND THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS
(HACS) TO INCORPORATE THE “BUY AMERICAN” REQUIREMENT IN
ACCORDANCE WITH NSP REGULATIONS FOR THE DEVELOPMENT OF
AFFORDABLE HOUSING FOR THE EMANCIPATED FOSTER AND
HOMELESS YOUTH PROGRAM AND AUTHORIZING THE CITY MANAGER,
OR HIS DESIGNEE, TO EXECUTE THE FIRST AMENDMENT TO THE NSP2
LOAN AGREEMENT AND RELATED DOCUMENTS**

WHEREAS, on January 14, 2010, the City of Modesto (City) was granted \$25 million under the Neighborhood Stabilization Program 2 of which \$6 million was specifically set-aside for an innovative program under the Housing Authority of the County of Stanislaus (HACS) and

WHEREAS, on January 11, 2011, the City and the HACS entered into a MOU to implement the Emancipated Foster Youth and/or Homeless Youth Program (EFY&HYP), and

WHEREAS, on March 27, 2012, by Resolution No. 2012-122, Council approved a NSP2 loan to the HACS in the amount of \$4.8 million for the construction of a 32 unit housing project for Emancipated Foster Youth and Homeless Youth Program, also known as Meadow Glen Apartments.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a first amendment to the NSP2 loan agreement between the City of Modesto and the Housing Authority of the County of Stanislaus (HACS) for the Meadow Glen Project to incorporate the “Buy American” requirement in accordance with NSP regulations.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the amendment to the NSP2 loan agreement and all related documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-368**

**RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE
EMERALD & MAZE STORM DRAIN PROJECT, ACCEPTING THE BID, AND
APPROVING A CONTRACT WITH ALLEN A. WAGGONER
CONSTRUCTION, INC. OF RIPON, CALIFORNIA IN THE AMOUNT OF
\$183,288, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO
EXECUTE THE CONTRACT**

WHEREAS, plans and specifications have been prepared for the Maze & Emerald Storm Drain Project, and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Maze & Emerald Storm Drain Project were opened at 11:00 a.m. on August 28, 2012, and later tabulated by the Director of Utility Planning and Projects for the consideration of the Council, and

WHEREAS, the Director of Utility Planning and Projects has recommended that the bid of \$183,288 received from Allen A. Waggoner Construction, Inc. of Ripon, California be accepted as the lowest responsible bid and the contract be awarded to Allen A. Waggoner Construction, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Maze & Emerald Storm Drain Project, accepts the bid of Allen A. Waggoner Construction, Inc. of Ripon, California, in the amount of \$183,288, and awards Allen A. Waggoner Construction, Inc. the contract for the Maze & Emerald Storm Drain Project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

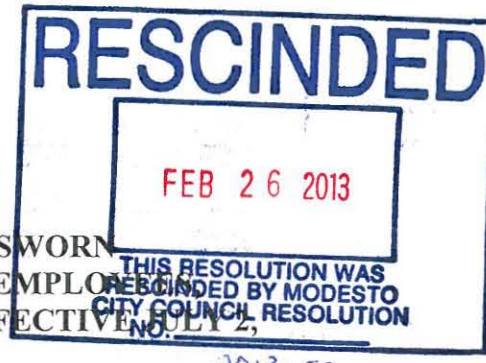
(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-369

A RESOLUTION GRANTING SALARY CHANGES TO NON-SWORN UNREPRESENTED MANAGEMENT AND CONFIDENTIAL EMPLOYEES INCLUDING CHARTER OFFICERS AND EXECUTIVES, EFFECTIVE JULY 2, 2013, AND RESCINDING RESOLUTION NO. 2007-384



WHEREAS, by Resolution No. 2007-384 which became effective on June 26, 2007, the City Council amended the salary schedules for unrepresented Management and Confidential employees including Charter Officers and Executives, and

WHEREAS, the Council of the City of Modesto desires to approve a one and one-half (1.5%) percent across-the-board salary increase for non-sworn unrepresented Management and Confidential employees, including Executives and Charter Officers, effective July 2, 2013, and

WHEREAS, the salary schedule for the Management /Confidential non-sworn unrepresented employees is the only remaining salary schedule with a nine-step salary range, and

WHEREAS, the City desires consistency in the application of merit increases and therefore will modify the Management/Confidential non-sworn unrepresented salary schedule from a nine (9) step plan to a five (5) step plan, and

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

SECTION 1. SALARY RANGES, RATES AND EFFECTIVE DATES. The salary rates, salary ranges and salary steps as set forth in the following **exhibits** which are **attached** hereto and made a part hereof provide for a one and one half (1.5%) percent across-the-board salary adjustment for non-sworn unrepresented Management and

Confidential employees effective July 2, 2013, subject to Pay-for-Performance criteria. For non-sworn Executive Management and Charter Officers, salary ranges shall be increased by one and one half (1.5%) percent effective July 2, 2013. For sworn unrepresented Management and Executives, salary ranges shall remain unchanged.

1. **Exhibit "A"** entitled "City Of Modesto Class Range Table, Unrepresented Management And Confidential Non-Sworn Classes, Effective July 2, 2013."
2. **Exhibit "B"** entitled "City Of Modesto Schedule Of Salary Ranges In City Service For FY 13/14 Effective July 2, 2013 - Schedule H Management/Confidential – Non-Sworn Unrepresented."
3. **Exhibit "C"** entitled "City Of Modesto Class Range Table, Executive Management, Effective July 2, 2013" which includes Charter Officers.
4. **Exhibit "D"** entitled "City Of Modesto Schedule Of Salary Ranges In City Service For FY 13/14, Effective July 2, 2013 - Executive Management."
5. **Exhibit "E"** entitled "City of Modesto Class Range Table, Fire Management Classes, Effective June 26, 2007.
6. **Exhibit "F"** entitled "City of Modesto Schedule Of Salary Ranges in City Service For FY 07/08, Effective June 26, 2007 – Schedule X, Fire Management – 80 Hrs. – Battalion Chief and Schedule Y, Fire Management – 112 Hrs. – Battalion Chief.
7. **Exhibit "G"** entitled "City of Modesto Schedule Of Salary Ranges in City Service For FY 07/08, Effective June 26, 2007 – Schedule E Management/Confidential – Fire – 80 hours – Division Chief."
8. **Exhibit "H"** entitled "City of Modesto Class Range Table, Police Management Classes (Unrepresented), Effective June 26, 2007."
9. **Exhibit "I"** City of Modesto Schedule Of Salary Ranges In City Service For FY 07/08, Effective June 26, 2007 – Schedule G Management/Confidential – Police – Unrepresented."

SECTION 2. CHARTER OFFICERS. The salaries for the positions of the Charter Officers shall be as follows:

<u>TITLE</u>	<u>HOURLY</u>	<u>BI-WEEKLY</u>	<u>MONTHLY</u>	<u>EFFECTIVE</u>
City Manager Greg Nyhoff	94.80	7,584.00	16,495.19	July 2, 2013
City Attorney Susana Alcalá Wood	76.44	6,115.20	13,300.55	July 2, 2013
City Clerk Stephanie Lopez	46.77	3,741.60	8,137.98	July 2, 2013

SECTION 3. USE OF CLASSES. The designated classes of positions may be used in any organizational unit of the City deemed proper by the City Manager.

SECTION 4. POSITIONS. The City Council authorizes and directs the City Manager, within the limits of funds budgeted therefor, to appoint employees in such number and in such classes in each department as may be necessary to properly operate the department under the Charter, ordinances and resolutions adopted by the City Council, including, but not limited to, creating additional positions to replace employees who are on disability leave or other leaves of absence.

SECTION 5. APPOINTMENTS AND SALARIES. The City Manager is hereby authorized to appoint, in accordance with the applicable provisions of the Modesto Municipal Code and Personnel Rules and within the limits of funds budgeted therefor, any person to a position in a class for which he is the appointing authority and for which the salary is hereby provided, to designate the definite salary rate or salary step at which such person is appointed, and the salary so designated is hereby fixed as the salary of such employee for the position.

SECTION 6. SPECIAL SALARY RATES. The City Manager is further authorized, subject to budgetary appropriation control by the City Council, to fix the salary range or rate for part-time, hourly or special positions in the Unclassified Service

for which the City Manager is the appointing authority and which are not designated herein.

SECTION 7. PART-TIME EMPLOYMENT. Employees appointed to any of the positions referred to herein who, with the approval of the City Manager, regularly work less hours per week than established for their class by rule 13.1 of the Personnel Rules, shall be paid in approximate proportion of the time worked.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that Resolution No. 2007-384 is hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
CLASS RANGE TABLE
UNREPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES
Effective July 2, 2013

RANGE TITLE

2420 Executive Assistant

2422 Office Supervisor - Personnel

2425 Executive Assistant to the City Council
Executive Assistant to the City Manager
Paralegal

2427 Legal Services Administrator

2431 Equal Opportunity Analyst/Paralegal

2434 Senior Auditor

2439 **Employee Benefits Manager**
Employee Relations Coordinator

2444 Deputy City Attorney I
Risk Manager

2448 Deputy City Attorney II

2452 Deputy Chief Information Officer
Deputy City Attorney III
Deputy Director of Community and Economic Development
Deputy Director of Cultural and Enterprise Services
Deputy Director of Finance
Deputy Director of Human Resources
Deputy Director of Public Works – Operations
Deputy Director of Recreation and Neighborhoods

2455 Deputy Director of Utility Planning and Projects

2456 Senior Deputy City Attorney

2462 Assistant City Attorney

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 13/14
EFFECTIVE July 2, 2013

SCHEDULE - H

MANAGEMENT/CONFIDENTIAL NON-SWORN UNREPRESENTED

1.50%

Hourly Range	A		B		C		D		E
	1	2	3	4	5	6	7	8	9
2419	21.32	21.85	22.40	22.96	23.53	24.12	24.72	25.34	25.97
2420	21.85	22.40	22.96	23.53	24.12	24.72	25.34	25.97	26.62
2421	22.39	22.95	23.52	24.11	24.71	25.33	25.96	26.61	27.28
2422	22.96	23.53	24.12	24.72	25.34	25.97	26.62	27.29	27.97
2423	23.53	24.12	24.72	25.34	25.97	26.62	27.29	27.97	28.67
2424	24.12	24.72	25.34	25.97	26.62	27.29	27.97	28.67	29.39
2425	24.72	25.34	25.97	26.62	27.29	27.97	28.67	29.39	30.12
2426	25.33	25.96	26.61	27.28	27.96	28.66	29.38	30.11	30.86
2427	25.97	26.62	27.29	27.97	28.67	29.39	30.12	30.87	31.64
2428	26.62	27.29	27.97	28.67	29.39	30.12	30.87	31.64	32.43
2429	27.28	27.96	28.66	29.38	30.11	30.86	31.63	32.42	33.23
2430	27.96	28.66	29.38	30.11	30.86	31.63	32.42	33.23	34.06
2431	28.66	29.38	30.11	30.86	31.63	32.42	33.23	34.06	34.91
2432	29.38	30.11	30.86	31.63	32.42	33.23	34.06	34.91	35.78
2433	30.12	30.87	31.64	32.43	33.24	34.07	34.92	35.79	36.68
2434	30.87	31.64	32.43	33.24	34.07	34.92	35.79	36.68	37.60
BIWEEKLY	A		B		C		D		E
	1	2	3	4	5	6	7	8	9
2419	1,705.60	1,748.00	1,792.00	1,836.80	1,882.40	1,929.60	1,977.60	2,027.20	2,077.60
2420	1,748.00	1,792.00	1,836.80	1,882.40	1,929.60	1,977.60	2,027.20	2,077.60	2,129.60
2421	1,791.20	1,836.00	1,881.60	1,928.80	1,976.80	2,026.40	2,076.80	2,128.80	2,182.40
2422	1,836.80	1,882.40	1,929.60	1,977.60	2,027.20	2,077.60	2,129.60	2,183.20	2,237.60
2423	1,882.40	1,929.60	1,977.60	2,027.20	2,077.60	2,129.60	2,183.20	2,237.60	2,293.60
2424	1,929.60	1,977.60	2,027.20	2,077.60	2,129.60	2,183.20	2,237.60	2,293.60	2,351.20
2425	1,977.60	2,027.20	2,077.60	2,129.60	2,183.20	2,237.60	2,293.60	2,351.20	2,409.60
2426	2,026.40	2,076.80	2,128.80	2,182.40	2,236.80	2,292.80	2,350.40	2,408.80	2,468.80
2427	2,077.60	2,129.60	2,183.20	2,237.60	2,293.60	2,351.20	2,409.60	2,469.60	2,531.20
2428	2,129.60	2,183.20	2,237.60	2,293.60	2,351.20	2,409.60	2,469.60	2,531.20	2,594.40
2429	2,182.40	2,236.80	2,292.80	2,350.40	2,408.80	2,468.80	2,530.40	2,593.60	2,658.40
2430	2,236.80	2,292.80	2,350.40	2,408.80	2,468.80	2,530.40	2,593.60	2,658.40	2,724.80
2431	2,292.80	2,350.40	2,408.80	2,468.80	2,530.40	2,593.60	2,658.40	2,724.80	2,792.80
2432	2,350.40	2,408.80	2,468.80	2,530.40	2,593.60	2,658.40	2,724.80	2,792.80	2,862.40
2433	2,409.60	2,469.60	2,531.20	2,594.40	2,659.20	2,725.60	2,793.60	2,863.20	2,934.40
2434	2,469.60	2,531.20	2,594.40	2,659.20	2,725.60	2,793.60	2,863.20	2,934.40	3,008.00
MONTHLY	A		B		C		D		E
	1	2	3	4	5	6	7	8	9
2419	3,709.68	3,801.90	3,897.60	3,995.04	4,094.22	4,196.88	4,301.28	4,409.16	4,518.78
2420	3,801.90	3,897.60	3,995.04	4,094.22	4,196.88	4,301.28	4,409.16	4,518.78	4,631.88
2421	3,895.86	3,993.30	4,092.48	4,195.14	4,299.54	4,407.42	4,517.04	4,630.14	4,746.72
2422	3,995.04	4,094.22	4,196.88	4,301.28	4,409.16	4,518.78	4,631.88	4,748.46	4,866.78
2423	4,094.22	4,196.88	4,301.28	4,409.16	4,518.78	4,631.88	4,748.46	4,866.78	4,988.58
2424	4,196.88	4,301.28	4,409.16	4,518.78	4,631.88	4,748.46	4,866.78	4,988.58	5,113.86
2425	4,301.28	4,409.16	4,518.78	4,631.88	4,748.46	4,866.78	4,988.58	5,113.86	5,240.88
2426	4,407.42	4,517.04	4,630.14	4,746.72	4,865.04	4,986.84	5,112.12	5,239.14	5,369.64
2427	4,518.78	4,631.88	4,748.46	4,866.78	4,988.58	5,113.86	5,240.88	5,371.38	5,505.36
2428	4,631.88	4,748.46	4,866.78	4,988.58	5,113.86	5,240.88	5,371.38	5,505.36	5,642.82
2429	4,746.72	4,865.04	4,986.84	5,112.12	5,239.14	5,369.64	5,503.62	5,641.08	5,782.02
2430	4,865.04	4,986.84	5,112.12	5,239.14	5,369.64	5,503.62	5,641.08	5,782.02	5,926.44
2431	4,986.84	5,112.12	5,239.14	5,369.64	5,503.62	5,641.08	5,782.02	5,926.44	6,074.34
2432	5,112.12	5,239.14	5,369.64	5,503.62	5,641.08	5,782.02	5,926.44	6,074.34	6,225.72
2433	5,240.88	5,371.38	5,505.36	5,642.82	5,783.76	5,928.18	6,076.08	6,227.46	6,382.32
2434	5,371.38	5,505.36	5,642.82	5,783.76	5,928.18	6,076.08	6,227.46	6,382.32	6,542.40

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 13/14
EFFECTIVE July 2, 2013

SCHEDULE - H
MANAGEMENT/CONFIDENTIAL NON-SWORN UNREPRESENTED

1.50%

HOURLY	A		B		C		D		E
Range	1	2	3	4	5	6	7	8	9
2435	31.64	32.43	33.24	34.07	34.92	35.79	36.68	37.60	38.54
2436	32.43	33.24	34.07	34.92	35.79	36.68	37.60	38.54	39.50
2437	33.24	34.07	34.92	35.79	36.68	37.60	38.54	39.50	40.49
2438	34.07	34.92	35.79	36.68	37.60	38.54	39.50	40.49	41.50
2439	34.93	35.80	36.70	37.62	38.56	39.52	40.51	41.52	42.56
2440	35.80	36.70	37.62	38.56	39.52	40.51	41.52	42.56	43.62
2441	36.69	37.61	38.55	39.51	40.50	41.51	42.55	43.61	44.70
2442	37.62	38.56	39.52	40.51	41.52	42.56	43.62	44.71	45.83
2443	38.55	39.51	40.50	41.51	42.55	43.61	44.70	45.82	46.97
2444	39.51	40.50	41.51	42.55	43.61	44.70	45.82	46.97	48.14
2445	40.50	41.51	42.55	43.61	44.70	45.82	46.97	48.14	49.34
2446	41.51	42.55	43.61	44.70	45.82	46.97	48.14	49.34	50.57
2447	42.55	43.61	44.70	45.82	46.97	48.14	49.34	50.57	51.83
2448	43.61	44.70	45.82	46.97	48.14	49.34	50.57	51.83	53.13
BIWEEKLY	A		B		C		D		E
	1	2	3	4	5	6	7	8	9
2435	2,531.20	2,594.40	2,659.20	2,725.60	2,793.60	2,863.20	2,934.40	3,008.00	3,083.20
2436	2,594.40	2,659.20	2,725.60	2,793.60	2,863.20	2,934.40	3,008.00	3,083.20	3,160.00
2437	2,659.20	2,725.60	2,793.60	2,863.20	2,934.40	3,008.00	3,083.20	3,160.00	3,239.20
2438	2,725.60	2,793.60	2,863.20	2,934.40	3,008.00	3,083.20	3,160.00	3,239.20	3,320.00
2439	2,794.40	2,864.00	2,936.00	3,009.60	3,084.80	3,161.60	3,240.80	3,321.60	3,404.80
2440	2,864.00	2,936.00	3,009.60	3,084.80	3,161.60	3,240.80	3,321.60	3,404.80	3,489.60
2441	2,935.20	3,008.80	3,084.00	3,160.80	3,240.00	3,320.80	3,404.00	3,488.80	3,576.00
2442	3,009.60	3,084.80	3,161.60	3,240.80	3,321.60	3,404.80	3,489.60	3,576.80	3,666.40
2443	3,084.00	3,160.80	3,240.00	3,320.80	3,404.00	3,488.80	3,576.00	3,665.60	3,757.60
2444	3,160.80	3,240.00	3,320.80	3,404.00	3,488.80	3,576.00	3,665.60	3,757.60	3,851.20
2445	3,240.00	3,320.80	3,404.00	3,488.80	3,576.00	3,665.60	3,757.60	3,851.20	3,947.20
2446	3,320.80	3,404.00	3,488.80	3,576.00	3,665.60	3,757.60	3,851.20	3,947.20	4,045.60
2447	3,404.00	3,488.80	3,576.00	3,665.60	3,757.60	3,851.20	3,947.20	4,045.60	4,146.40
2448	3,488.80	3,576.00	3,665.60	3,757.60	3,851.20	3,947.20	4,045.60	4,146.40	4,250.40
MONTHLY	A		B		C		D		E
	1	2	3	4	5	6	7	8	9
2435	5,505.36	5,642.82	5,783.76	5,928.18	6,076.08	6,227.46	6,382.32	6,542.40	6,705.96
2436	5,642.82	5,783.76	5,928.18	6,076.08	6,227.46	6,382.32	6,542.40	6,705.96	6,873.00
2437	5,783.76	5,928.18	6,076.08	6,227.46	6,382.32	6,542.40	6,705.96	6,873.00	7,045.26
2438	5,928.18	6,076.08	6,227.46	6,382.32	6,542.40	6,705.96	6,873.00	7,045.26	7,221.00
2439	6,077.82	6,229.20	6,385.80	6,545.88	6,709.44	6,876.48	7,048.74	7,224.48	7,405.44
2440	6,229.20	6,385.80	6,545.88	6,709.44	6,876.48	7,048.74	7,224.48	7,405.44	7,589.88
2441	6,384.06	6,544.14	6,707.70	6,874.74	7,047.00	7,222.74	7,403.70	7,588.14	7,777.80
2442	6,545.88	6,709.44	6,876.48	7,048.74	7,224.48	7,405.44	7,589.88	7,779.54	7,974.42
2443	6,707.70	6,874.74	7,047.00	7,222.74	7,403.70	7,588.14	7,777.80	7,972.68	8,172.78
2444	6,874.74	7,047.00	7,222.74	7,403.70	7,588.14	7,777.80	7,972.68	8,172.78	8,376.36
2445	7,047.00	7,222.74	7,403.70	7,588.14	7,777.80	7,972.68	8,172.78	8,376.36	8,585.16
2446	7,222.74	7,403.70	7,588.14	7,777.80	7,972.68	8,172.78	8,376.36	8,585.16	8,799.18
2447	7,403.70	7,588.14	7,777.80	7,972.68	8,172.78	8,376.36	8,585.16	8,799.18	9,018.42
2448	7,588.14	7,777.80	7,972.68	8,172.78	8,376.36	8,585.16	8,799.18	9,018.42	9,244.62

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 13/14
EFFECTIVE July 2, 2013

SCHEDULE - H

MANAGEMENT/CONFIDENTIAL NON-SWORN UNREPRESENTED

1.50%

ANNUAL RANGE	A		B		C		D		E
	1	2	3	4	5	6	7	8	9
2449	44.71	45.83	46.98	48.15	49.35	50.58	51.84	53.14	54.47
2450	45.83	46.98	48.15	49.35	50.58	51.84	53.14	54.47	55.83
2451	46.97	48.14	49.34	50.57	51.83	53.13	54.46	55.82	57.22
2452	48.14	49.34	50.57	51.83	53.13	54.46	55.82	57.22	58.65
2453	49.35	50.58	51.84	53.14	54.47	55.83	57.23	58.66	60.13
2454	50.58	51.84	53.14	54.47	55.83	57.23	58.66	60.13	61.63
2455	51.85	53.15	54.48	55.84	57.24	58.67	60.14	61.64	63.18
2456	53.15	54.48	55.84	57.24	58.67	60.14	61.64	63.18	64.76
2457	54.48	55.84	57.24	58.67	60.14	61.64	63.18	64.76	66.38
2458	55.84	57.24	58.67	60.14	61.64	63.18	64.76	66.38	68.04
2459	57.23	58.66	60.13	61.63	63.17	64.75	66.37	68.03	69.73
2460	58.66	60.13	61.63	63.17	64.75	66.37	68.03	69.73	71.47
2461	60.13	61.63	63.17	64.75	66.37	68.03	69.73	71.47	73.26
2462	61.63	63.17	64.75	66.37	68.03	69.73	71.47	73.26	75.09
BIWEEKLY	A		B		C		D		E
	1	2	3	4	5	6	7	8	9
2449	3,576.80	3,666.40	3,758.40	3,852.00	3,948.00	4,046.40	4,147.20	4,251.20	4,357.60
2450	3,666.40	3,758.40	3,852.00	3,948.00	4,046.40	4,147.20	4,251.20	4,357.60	4,466.40
2451	3,757.60	3,851.20	3,947.20	4,045.60	4,146.40	4,250.40	4,356.80	4,465.60	4,577.60
2452	3,851.20	3,947.20	4,045.60	4,146.40	4,250.40	4,356.80	4,465.60	4,577.60	4,692.00
2453	3,948.00	4,046.40	4,147.20	4,251.20	4,357.60	4,466.40	4,578.40	4,692.80	4,810.40
2454	4,046.40	4,147.20	4,251.20	4,357.60	4,466.40	4,578.40	4,692.80	4,810.40	4,930.40
2455	4,148.00	4,252.00	4,358.40	4,467.20	4,579.20	4,693.60	4,811.20	4,931.20	5,054.40
2456	4,252.00	4,358.40	4,467.20	4,579.20	4,693.60	4,811.20	4,931.20	5,054.40	5,180.80
2457	4,358.40	4,467.20	4,579.20	4,693.60	4,811.20	4,931.20	5,054.40	5,180.80	5,310.40
2458	4,467.20	4,579.20	4,693.60	4,811.20	4,931.20	5,054.40	5,180.80	5,310.40	5,443.20
2459	4,578.40	4,692.80	4,810.40	4,930.40	5,053.60	5,180.00	5,309.60	5,442.40	5,578.40
2460	4,692.80	4,810.40	4,930.40	5,053.60	5,180.00	5,309.60	5,442.40	5,578.40	5,717.60
2461	4,810.40	4,930.40	5,053.60	5,180.00	5,309.60	5,442.40	5,578.40	5,717.60	5,860.80
2462	4,930.40	5,053.60	5,180.00	5,309.60	5,442.40	5,578.40	5,717.60	5,860.80	6,007.20
MONTHLY	A		B		C		D		E
	1	2	3	4	5	6	7	8	9
2449	7,779.54	7,974.42	8,174.52	8,378.10	8,586.90	8,800.92	9,020.16	9,246.36	9,477.78
2450	7,974.42	8,174.52	8,378.10	8,586.90	8,800.92	9,020.16	9,246.36	9,477.78	9,714.42
2451	8,172.78	8,376.36	8,585.16	8,799.18	9,018.42	9,244.62	9,476.04	9,712.68	9,956.28
2452	8,376.36	8,585.16	8,799.18	9,018.42	9,244.62	9,476.04	9,712.68	9,956.28	10,205.10
2453	8,586.90	8,800.92	9,020.16	9,246.36	9,477.78	9,714.42	9,958.02	10,206.84	10,462.62
2454	8,800.92	9,020.16	9,246.36	9,477.78	9,714.42	9,958.02	10,206.84	10,462.62	10,723.62
2455	9,021.90	9,248.10	9,479.52	9,716.16	9,959.76	10,208.58	10,464.36	10,725.36	10,993.32
2456	9,248.10	9,479.52	9,716.16	9,959.76	10,208.58	10,464.36	10,725.36	10,993.32	11,268.24
2457	9,479.52	9,716.16	9,959.76	10,208.58	10,464.36	10,725.36	10,993.32	11,268.24	11,550.12
2458	9,716.16	9,959.76	10,208.58	10,464.36	10,725.36	10,993.32	11,268.24	11,550.12	11,838.96
2459	9,958.02	10,206.84	10,462.62	10,723.62	10,991.58	11,266.50	11,548.38	11,837.22	12,133.02
2460	10,206.84	10,462.62	10,723.62	10,991.58	11,266.50	11,548.38	11,837.22	12,133.02	12,435.78
2461	10,462.62	10,723.62	10,991.58	11,266.50	11,548.38	11,837.22	12,133.02	12,435.78	12,747.24
2462	10,723.62	10,991.58	11,266.50	11,548.38	11,837.22	12,133.02	12,435.78	12,747.24	13,065.66

CITY OF MODESTO
CLASS RANGE TABLE
EXECUTIVE MANAGEMENT
Effective July 2, 2013

RANGE	TITLE
1414	City Auditor City Clerk
1420	Director of Finance Director of Human Resources
1422	Chief Information Officer Director of Community and Economic Development Director of Parks, Recreation and Neighborhoods Director of Public Works Director of Utility Planning and Projects
1427	Chief of Police Deputy City Manager Fire Chief
1428	City Attorney
1436	City Manager

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 13/14
EFFECTIVE July 2, 2013

Executive Management

		HOURLY		Bi-weekly		Monthly	
1405		37.45	46.81	2,996.00	3,744.80	6,516.30	8,144.94
6		38.39	47.98	3,071.20	3,838.40	6,679.86	8,348.52
7		39.34	49.18	3,147.20	3,934.40	6,845.16	8,557.32
1408		40.33	50.42	3,226.40	4,033.60	7,017.42	8,773.08
1409		41.34	51.67	3,307.20	4,133.60	7,193.16	8,990.58
1410		42.37	52.96	3,389.60	4,236.80	7,372.38	9,215.04
1411		43.43	54.28	3,474.40	4,342.40	7,556.82	9,444.72
1412		44.52	55.64	3,561.60	4,451.20	7,746.48	9,681.36
1413		45.62	57.03	3,649.60	4,562.40	7,937.88	9,923.22
1414	City Clerk	46.77	58.46	3,741.60	4,676.80	8,137.98	10,172.04
	City Auditor	46.77	58.46	3,741.60	4,676.80	8,137.98	10,172.04
1415		47.94	59.93	3,835.20	4,794.40	8,341.56	10,427.82
1416		49.14	61.42	3,931.20	4,913.60	8,550.36	10,687.08
1417		50.36	62.95	4,028.80	5,036.00	8,762.64	10,953.29
1418		51.62	64.52	4,129.60	5,161.60	8,981.88	11,226.47
1419		52.91	66.14	4,232.80	5,291.20	9,206.34	11,508.35
1420	Director of Finance	54.24	67.79	4,339.20	5,423.20	9,437.76	11,795.45
	Director of Human Resources	54.24	67.79	4,339.20	5,423.20	9,437.76	11,795.45
1421		55.59	69.49	4,447.20	5,559.20	9,672.66	12,091.25
1422	Chief Information Officer	56.98	71.22	4,558.40	5,697.60	9,914.52	12,392.27
	Director of Community and Economic Deve	56.98	71.22	4,558.40	5,697.60	9,914.52	12,392.27
	Director of Public Works	56.98	71.22	4,558.40	5,697.60	9,914.52	12,392.27
	Director of Parks, Recreation & Neighborho	56.98	71.22	4,558.40	5,697.60	9,914.52	12,392.27
	Director of Utility Planning and Projects	56.98	71.22	4,558.40	5,697.60	9,914.52	12,392.27
1423		58.40	73.01	4,672.00	5,840.80	10,161.60	12,703.73
1424		59.86	74.84	4,788.80	5,987.20	10,415.64	13,022.15
1425		61.37	76.70	4,909.60	6,136.00	10,678.38	13,345.79
1426		62.90	78.62	5,032.00	6,289.60	10,944.59	13,679.87
1427	Deputy City Manager	64.47	80.58	5,157.60	6,446.40	11,217.77	14,020.91
	Chief of Police	64.47	80.58	5,157.60	6,446.40	11,217.77	14,020.91
	Fire Chief	64.47	80.58	5,157.60	6,446.40	11,217.77	14,020.91
1428	City Attorney	66.08	82.60	5,286.40	6,608.00	11,497.91	14,372.39
1429		67.73	84.66	5,418.40	6,772.80	11,785.01	14,730.83
1430		69.43	86.78	5,554.40	6,942.40	12,080.81	15,099.71
1431		71.16	88.95	5,692.80	7,116.00	12,381.83	15,477.29
1432		72.94	91.18	5,835.20	7,294.40	12,691.55	15,865.31
1433		74.76	93.45	5,980.80	7,476.00	13,008.23	16,260.29
1434		76.63	95.79	6,130.40	7,663.20	13,333.61	16,667.45
1435		78.55	98.18	6,284.00	7,854.40	13,667.69	17,083.31
1436	City Manager	80.51	100.64	6,440.80	8,051.20	14,008.73	17,511.35
1437		82.53	103.15	6,602.40	8,252.00	14,360.21	17,948.09
8		84.59	105.73	6,767.20	8,458.40	14,718.65	18,397.01
9		86.70	108.38	6,936.00	8,670.40	15,085.79	18,858.11
1440		88.87	111.08	7,109.60	8,886.40	15,463.37	19,327.91
1441		91.10	113.86	7,288.00	9,108.80	15,851.39	19,811.63

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 11/12
EFFECTIVE July 2, 2013

Executive Management

	HOURLY		Bi-weekly		Monthly	
1405	37.45	46.81	2,996.00	3,744.80	6,516.30	8,144.94
1406	38.39	47.98	3,071.20	3,838.40	6,679.86	8,348.52
1407	39.34	49.18	3,147.20	3,934.40	6,845.16	8,557.32
1408	40.33	50.42	3,226.40	4,033.60	7,017.42	8,773.08
1409	41.34	51.67	3,307.20	4,133.60	7,193.16	8,990.58
1410	42.37	52.96	3,389.60	4,236.80	7,372.38	9,215.04
1411	43.43	54.28	3,474.40	4,342.40	7,556.82	9,444.72
1412	44.52	55.64	3,561.60	4,451.20	7,746.48	9,681.36
1413	45.62	57.03	3,649.60	4,562.40	7,937.88	9,923.22
1414	46.77	58.46	3,741.60	4,676.80	8,137.98	10,172.04
1415	47.94	59.93	3,835.20	4,794.40	8,341.56	10,427.82
1416	49.14	61.42	3,931.20	4,913.60	8,550.36	10,687.08
1417	50.36	62.95	4,028.80	5,036.00	8,762.64	10,953.29
1418	51.62	64.52	4,129.60	5,161.60	8,981.88	11,226.47
1419	52.91	66.14	4,232.80	5,291.20	9,206.34	11,508.35
1420	54.24	67.79	4,339.20	5,423.20	9,437.76	11,795.45
1421	55.59	69.49	4,447.20	5,559.20	9,672.66	12,091.25
1422	56.98	71.22	4,558.40	5,697.60	9,914.52	12,392.27
1423	58.40	73.01	4,672.00	5,840.80	10,161.60	12,703.73
1424	59.86	74.84	4,788.80	5,987.20	10,415.64	13,022.15
1425	61.37	76.70	4,909.60	6,136.00	10,678.38	13,345.79
1426	62.90	78.62	5,032.00	6,289.60	10,944.59	13,679.87
1427	64.47	80.58	5,157.60	6,446.40	11,217.77	14,020.91
1428	66.08	82.60	5,286.40	6,608.00	11,497.91	14,372.39
1429	67.73	84.66	5,418.40	6,772.80	11,785.01	14,730.83
1430	69.43	86.78	5,554.40	6,942.40	12,080.81	15,099.71
1431	71.16	88.95	5,692.80	7,116.00	12,381.83	15,477.29
1432	72.94	91.18	5,835.20	7,294.40	12,691.55	15,865.31
1433	74.76	93.45	5,980.80	7,476.00	13,008.23	16,260.29
1434	76.63	95.79	6,130.40	7,663.20	13,333.61	16,667.45
1435	78.55	98.18	6,284.00	7,854.40	13,667.69	17,083.31
1436	80.51	100.64	6,440.80	8,051.20	14,008.73	17,511.35
1437	82.53	103.15	6,602.40	8,252.00	14,360.21	17,948.09
1438	84.59	105.73	6,767.20	8,458.40	14,718.65	18,397.01
1439	86.70	108.38	6,936.00	8,670.40	15,085.79	18,858.11
1440	88.87	111.08	7,109.60	8,886.40	15,463.37	19,327.91
1441	91.10	113.86	7,288.00	9,108.80	15,851.39	19,811.63

CITY OF MODESTO
CLASS RANGE TABLE
FIRE MANAGEMENT CLASSES
Effective January 6, 2009

RANGE	TITLE
518	Fire Division Chief
813	Fire Battalion Chief (112 hrs)
1813	Fire Battalion Chief (80 hrs)

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 11/12
Effective June 26, 2007

SCHEDULE - X

FIRE MANAGEMENT - 80 HRS

BATTALION CHIEF

5.50%

Range	1	2	3	4	5	6	7	8	9
-------	---	---	---	---	---	---	---	---	---

HOURLY

1812	41.85	42.89	43.97	45.07	46.19	47.35	48.53	49.74	50.99
1813	42.89	43.97	45.07	46.19	47.35	48.53	49.74	50.99	52.26
1814	43.97	45.07	46.19	47.35	48.53	49.74	50.99	52.26	53.57
1815	45.07	46.19	47.35	48.53	49.74	50.99	52.26	53.57	54.91
1816	46.19	47.35	48.53	49.74	50.99	52.26	53.57	54.91	56.28
1817	47.35	48.53	49.74	50.99	52.26	53.57	54.91	56.28	57.69
1818	48.53	49.74	50.99	52.26	53.57	54.91	56.28	57.69	59.13
1819	49.74	50.99	52.26	53.57	54.91	56.28	57.69	59.13	60.61
1820	50.99	52.26	53.57	54.91	56.28	57.69	59.13	60.61	62.12
1821	52.26	53.57	54.91	56.28	57.69	59.13	60.61	62.12	63.67
1822	53.57	54.91	56.28	57.69	59.13	60.61	62.12	63.67	65.27
1823	54.91	56.28	57.69	59.13	60.61	62.12	63.67	65.27	66.90
1824	56.28	57.69	59.13	60.61	62.12	63.67	65.27	66.90	68.57

BIWEEKLY

	1	2	3	4	5	6	7	8	9
1812	3,348.00	3,431.20	3,517.60	3,605.60	3,695.20	3,788.00	3,882.40	3,979.20	4,079.20
1813	3,431.20	3,517.60	3,605.60	3,695.20	3,788.00	3,882.40	3,979.20	4,079.20	4,180.80
1814	3,517.60	3,605.60	3,695.20	3,788.00	3,882.40	3,979.20	4,079.20	4,180.80	4,285.60
1815	3,605.60	3,695.20	3,788.00	3,882.40	3,979.20	4,079.20	4,180.80	4,285.60	4,392.80
1816	3,695.20	3,788.00	3,882.40	3,979.20	4,079.20	4,180.80	4,285.60	4,392.80	4,502.40
1817	3,788.00	3,882.40	3,979.20	4,079.20	4,180.80	4,285.60	4,392.80	4,502.40	4,615.20
1818	3,882.40	3,979.20	4,079.20	4,180.80	4,285.60	4,392.80	4,502.40	4,615.20	4,730.40
1819	3,979.20	4,079.20	4,180.80	4,285.60	4,392.80	4,502.40	4,615.20	4,730.40	4,848.80
1820	4,079.20	4,180.80	4,285.60	4,392.80	4,502.40	4,615.20	4,730.40	4,848.80	4,969.60
1821	4,180.80	4,285.60	4,392.80	4,502.40	4,615.20	4,730.40	4,848.80	4,969.60	5,093.60
1822	4,285.60	4,392.80	4,502.40	4,615.20	4,730.40	4,848.80	4,969.60	5,093.60	5,221.60
1823	4,392.80	4,502.40	4,615.20	4,730.40	4,848.80	4,969.60	5,093.60	5,221.60	5,352.00
1824	4,502.40	4,615.20	4,730.40	4,848.80	4,969.60	5,093.60	5,221.60	5,352.00	5,485.60

MONTHLY

	1	2	3	4	5	6	7	8	9
1812	7,281.90	7,462.86	7,650.78	7,842.18	8,037.06	8,238.90	8,444.22	8,654.76	8,872.26
1813	7,462.86	7,650.78	7,842.18	8,037.06	8,238.90	8,444.22	8,654.76	8,872.26	9,093.24
1814	7,650.78	7,842.18	8,037.06	8,238.90	8,444.22	8,654.76	8,872.26	9,093.24	9,321.18
1815	7,842.18	8,037.06	8,238.90	8,444.22	8,654.76	8,872.26	9,093.24	9,321.18	9,554.34
1816	8,037.06	8,238.90	8,444.22	8,654.76	8,872.26	9,093.24	9,321.18	9,554.34	9,792.72
1817	8,238.90	8,444.22	8,654.76	8,872.26	9,093.24	9,321.18	9,554.34	9,792.72	10,038.06
1818	8,444.22	8,654.76	8,872.26	9,093.24	9,321.18	9,554.34	9,792.72	10,038.06	10,288.62
1819	8,654.76	8,872.26	9,093.24	9,321.18	9,554.34	9,792.72	10,038.06	10,288.62	10,546.14
1820	8,872.26	9,093.24	9,321.18	9,554.34	9,792.72	10,038.06	10,288.62	10,546.14	10,808.88
1821	9,093.24	9,321.18	9,554.34	9,792.72	10,038.06	10,288.62	10,546.14	10,808.88	11,078.58
1822	9,321.18	9,554.34	9,792.72	10,038.06	10,288.62	10,546.14	10,808.88	11,078.58	11,356.98
1823	9,554.34	9,792.72	10,038.06	10,288.62	10,546.14	10,808.88	11,078.58	11,356.98	11,640.60
1824	9,792.72	10,038.06	10,288.62	10,546.14	10,808.88	11,078.58	11,356.98	11,640.60	11,931.18

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 11/12
Effective June 26, 2007

SCHEDULE - X

FIRE MANAGEMENT - 80 HRS

BATTALION CHIEF

5.50%

Range	1	2	3	4	5	6	7	8	9
-------	---	---	---	---	---	---	---	---	---

HOURLY

1825	57.69	59.13	60.61	62.12	63.67	65.27	66.90	68.57	70.28
1826	59.13	60.61	62.12	63.67	65.27	66.90	68.57	70.28	72.04
1827	60.61	62.12	63.67	65.27	66.90	68.57	70.28	72.04	73.84
1828	62.12	63.67	65.27	66.90	68.57	70.28	72.04	73.84	75.69

BIWEEKLY

	1	2	3	4	5	6	7	8	9
1825	4,615.20	4,730.40	4,848.80	4,969.60	5,093.60	5,221.60	5,352.00	5,485.60	5,622.40
1826	4,730.40	4,848.80	4,969.60	5,093.60	5,221.60	5,352.00	5,485.60	5,622.40	5,763.20
1827	4,848.80	4,969.60	5,093.60	5,221.60	5,352.00	5,485.60	5,622.40	5,763.20	5,907.20
1828	4,969.60	5,093.60	5,221.60	5,352.00	5,485.60	5,622.40	5,763.20	5,907.20	6,055.20

MONTHLY

	1	2	3	4	5	6	7	8	9
1825	10,038.06	10,288.62	10,546.14	10,808.88	11,078.58	11,356.98	11,640.60	11,931.18	12,228.72
1826	10,288.62	10,546.14	10,808.88	11,078.58	11,356.98	11,640.60	11,931.18	12,228.72	12,534.96
1827	10,546.14	10,808.88	11,078.58	11,356.98	11,640.60	11,931.18	12,228.72	12,534.96	12,848.16
1828	10,808.88	11,078.58	11,356.98	11,640.60	11,931.18	12,228.72	12,534.96	12,848.16	13,170.06

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 11/12
Effective June 26, 2007

SCHEDULE - Y

FIRE MANAGEMENT - 112 HRS

BATTALION CHIEF

5.50%

Range	1	2	3	4	5	6	7	8	9
-------	---	---	---	---	---	---	---	---	---

HOURLY

812	29.89	30.64	31.41	32.19	33.00	33.82	34.67	35.53	36.42
813	30.64	31.41	32.19	33.00	33.82	34.67	35.53	36.42	37.33
814	31.41	32.19	33.00	33.82	34.67	35.53	36.42	37.33	38.26
815	32.19	33.00	33.82	34.67	35.53	36.42	37.33	38.26	39.22
816	33.00	33.82	34.67	35.53	36.42	37.33	38.26	39.22	40.20
817	33.82	34.67	35.53	36.42	37.33	38.26	39.22	40.20	41.21
818	34.67	35.53	36.42	37.33	38.26	39.22	40.20	41.21	42.24
819	35.53	36.42	37.33	38.26	39.22	40.20	41.21	42.24	43.29
820	36.42	37.33	38.26	39.22	40.20	41.21	42.24	43.29	44.37
821	37.33	38.26	39.22	40.20	41.21	42.24	43.29	44.37	45.48
822	38.26	39.22	40.20	41.21	42.24	43.29	44.37	45.48	46.62
823	39.22	40.20	41.21	42.24	43.29	44.37	45.48	46.62	47.79
824	40.20	41.21	42.24	43.29	44.37	45.48	46.62	47.79	48.98

BIWEEKLY

	1	2	3	4	5	6	7	8	9
812	3,347.68	3,431.68	3,517.92	3,605.28	3,696.00	3,787.84	3,883.04	3,979.36	4,079.04
813	3,431.68	3,517.92	3,605.28	3,696.00	3,787.84	3,883.04	3,979.36	4,079.04	4,180.96
814	3,517.92	3,605.28	3,696.00	3,787.84	3,883.04	3,979.36	4,079.04	4,180.96	4,285.12
815	3,605.28	3,696.00	3,787.84	3,883.04	3,979.36	4,079.04	4,180.96	4,285.12	4,392.64
816	3,696.00	3,787.84	3,883.04	3,979.36	4,079.04	4,180.96	4,285.12	4,392.64	4,502.40
817	3,787.84	3,883.04	3,979.36	4,079.04	4,180.96	4,285.12	4,392.64	4,502.40	4,615.52
818	3,883.04	3,979.36	4,079.04	4,180.96	4,285.12	4,392.64	4,502.40	4,615.52	4,730.88
819	3,979.36	4,079.04	4,180.96	4,285.12	4,392.64	4,502.40	4,615.52	4,730.88	4,848.48
820	4,079.04	4,180.96	4,285.12	4,392.64	4,502.40	4,615.52	4,730.88	4,848.48	4,969.44
821	4,180.96	4,285.12	4,392.64	4,502.40	4,615.52	4,730.88	4,848.48	4,969.44	5,093.76
822	4,285.12	4,392.64	4,502.40	4,615.52	4,730.88	4,848.48	4,969.44	5,093.76	5,221.44
823	4,392.64	4,502.40	4,615.52	4,730.88	4,848.48	4,969.44	5,093.76	5,221.44	5,352.48
824	4,502.40	4,615.52	4,730.88	4,848.48	4,969.44	5,093.76	5,221.44	5,352.48	5,485.76

MONTHLY

	1	2	3	4	5	6	7	8	9
812	7,281.20	7,463.90	7,651.48	7,841.48	8,038.80	8,238.55	8,445.61	8,655.11	8,871.91
813	7,463.90	7,651.48	7,841.48	8,038.80	8,238.55	8,445.61	8,655.11	8,871.91	9,093.59
814	7,651.48	7,841.48	8,038.80	8,238.55	8,445.61	8,655.11	8,871.91	9,093.59	9,320.14
815	7,841.48	8,038.80	8,238.55	8,445.61	8,655.11	8,871.91	9,093.59	9,320.14	9,553.99
816	8,038.80	8,238.55	8,445.61	8,655.11	8,871.91	9,093.59	9,320.14	9,553.99	9,792.72
817	8,238.55	8,445.61	8,655.11	8,871.91	9,093.59	9,320.14	9,553.99	9,792.72	10,038.76
818	8,445.61	8,655.11	8,871.91	9,093.59	9,320.14	9,553.99	9,792.72	10,038.76	10,289.66
819	8,655.11	8,871.91	9,093.59	9,320.14	9,553.99	9,792.72	10,038.76	10,289.66	10,545.44
820	8,871.91	9,093.59	9,320.14	9,553.99	9,792.72	10,038.76	10,289.66	10,545.44	10,808.53
821	9,093.59	9,320.14	9,553.99	9,792.72	10,038.76	10,289.66	10,545.44	10,808.53	11,078.93
822	9,320.14	9,553.99	9,792.72	10,038.76	10,289.66	10,545.44	10,808.53	11,078.93	11,356.63
823	9,553.99	9,792.72	10,038.76	10,289.66	10,545.44	10,808.53	11,078.93	11,356.63	11,641.64
824	9,792.72	10,038.76	10,289.66	10,545.44	10,808.53	11,078.93	11,356.63	11,641.64	11,931.53

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 11/12
Effective June 26, 2007

SCHEDULE - Y

FIRE MANAGEMENT - 112 HRS

BATTALION CHIEF

5.50%

Range	1	2	3	4	5	6	7	8	9
-------	---	---	---	---	---	---	---	---	---

HOURLY

825	41.21	42.24	43.29	44.37	45.48	46.62	47.79	48.98	50.20
826	42.24	43.29	44.37	45.48	46.62	47.79	48.98	50.20	51.46
827	43.29	44.37	45.48	46.62	47.79	48.98	50.20	51.46	52.75
828	44.37	45.48	46.62	47.79	48.98	50.20	51.46	52.75	54.06

B-WEEKLY

	1	2	3	4	5	6	7	8	9
825	4,615.52	4,730.88	4,848.48	4,969.44	5,093.76	5,221.44	5,352.48	5,485.76	5,622.40
826	4,730.88	4,848.48	4,969.44	5,093.76	5,221.44	5,352.48	5,485.76	5,622.40	5,763.52
827	4,848.48	4,969.44	5,093.76	5,221.44	5,352.48	5,485.76	5,622.40	5,763.52	5,908.00
828	4,969.44	5,093.76	5,221.44	5,352.48	5,485.76	5,622.40	5,763.52	5,908.00	6,054.72

MONTHLY

	1	2	3	4	5	6	7	8	9
825	10,038.76	10,289.66	10,545.44	10,808.53	11,078.93	11,356.63	11,641.64	11,931.53	12,228.72
826	10,289.66	10,545.44	10,808.53	11,078.93	11,356.63	11,641.64	11,931.53	12,228.72	12,535.66
827	10,545.44	10,808.53	11,078.93	11,356.63	11,641.64	11,931.53	12,228.72	12,535.66	12,849.90
828	10,808.53	11,078.93	11,356.63	11,641.64	11,931.53	12,228.72	12,535.66	12,849.90	13,169.02

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 11/12
Effective June 26, 2007

SCHEDULE - E

MANAGEMENT/CONFIDENTIAL FIRE - 80 hours

DIVISION CHIEF

5.50%

Range	1	2	3	4	5	6	7	8	9
-------	---	---	---	---	---	---	---	---	---

HOURLY

515	44.32	45.43	46.56	47.73	48.92	50.14	51.40	52.68	54.00
516	45.43	46.56	47.73	48.92	50.14	51.40	52.68	54.00	55.35
517	46.56	47.73	48.92	50.14	51.40	52.68	54.00	55.35	56.73
518	47.73	48.92	50.14	51.40	52.68	54.00	55.35	56.73	58.15
519	48.92	50.14	51.40	52.68	54.00	55.35	56.73	58.15	59.60
520	50.14	51.40	52.68	54.00	55.35	56.73	58.15	59.60	61.09
521	51.40	52.68	54.00	55.35	56.73	58.15	59.60	61.09	62.62
522	52.68	54.00	55.35	56.73	58.15	59.60	61.09	62.62	64.18
523	54.00	55.35	56.73	58.15	59.60	61.09	62.62	64.18	65.79
524	55.35	56.73	58.15	59.60	61.09	62.62	64.18	65.79	67.43
525	56.73	58.15	59.60	61.09	62.62	64.18	65.79	67.43	69.12
526	58.15	59.60	61.09	62.62	64.18	65.79	67.43	69.12	70.85
527	59.60	61.09	62.62	64.18	65.79	67.43	69.12	70.85	72.62
528	61.09	62.62	64.18	65.79	67.43	69.12	70.85	72.62	74.43

B-WEEKLY

	1	2	3	4	5	6	7	8	9
515	3,545.60	3,634.40	3,724.80	3,818.40	3,913.60	4,011.20	4,112.00	4,214.40	4,320.00
516	3,634.40	3,724.80	3,818.40	3,913.60	4,011.20	4,112.00	4,214.40	4,320.00	4,428.00
517	3,724.80	3,818.40	3,913.60	4,011.20	4,112.00	4,214.40	4,320.00	4,428.00	4,538.40
518	3,818.40	3,913.60	4,011.20	4,112.00	4,214.40	4,320.00	4,428.00	4,538.40	4,652.00
519	3,913.60	4,011.20	4,112.00	4,214.40	4,320.00	4,428.00	4,538.40	4,652.00	4,768.00
520	4,011.20	4,112.00	4,214.40	4,320.00	4,428.00	4,538.40	4,652.00	4,768.00	4,887.20
521	4,112.00	4,214.40	4,320.00	4,428.00	4,538.40	4,652.00	4,768.00	4,887.20	5,009.60
522	4,214.40	4,320.00	4,428.00	4,538.40	4,652.00	4,768.00	4,887.20	5,009.60	5,134.40
523	4,320.00	4,428.00	4,538.40	4,652.00	4,768.00	4,887.20	5,009.60	5,134.40	5,263.20
524	4,428.00	4,538.40	4,652.00	4,768.00	4,887.20	5,009.60	5,134.40	5,263.20	5,394.40
525	4,538.40	4,652.00	4,768.00	4,887.20	5,009.60	5,134.40	5,263.20	5,394.40	5,529.60
526	4,652.00	4,768.00	4,887.20	5,009.60	5,134.40	5,263.20	5,394.40	5,529.60	5,668.00
527	4,768.00	4,887.20	5,009.60	5,134.40	5,263.20	5,394.40	5,529.60	5,668.00	5,809.60
528	4,887.20	5,009.60	5,134.40	5,263.20	5,394.40	5,529.60	5,668.00	5,809.60	5,954.40

MONTHLY

	1	2	3	4	5	6	7	8	9
515	7,711.68	7,904.82	8,101.44	8,305.02	8,512.08	8,724.36	8,943.60	9,166.32	9,396.00
516	7,904.82	8,101.44	8,305.02	8,512.08	8,724.36	8,943.60	9,166.32	9,396.00	9,630.90
517	8,101.44	8,305.02	8,512.08	8,724.36	8,943.60	9,166.32	9,396.00	9,630.90	9,871.02
518	8,305.02	8,512.08	8,724.36	8,943.60	9,166.32	9,396.00	9,630.90	9,871.02	10,118.10
519	8,512.08	8,724.36	8,943.60	9,166.32	9,396.00	9,630.90	9,871.02	10,118.10	10,370.40
520	8,724.36	8,943.60	9,166.32	9,396.00	9,630.90	9,871.02	10,118.10	10,370.40	10,629.66
521	8,943.60	9,166.32	9,396.00	9,630.90	9,871.02	10,118.10	10,370.40	10,629.66	10,895.88
522	9,166.32	9,396.00	9,630.90	9,871.02	10,118.10	10,370.40	10,629.66	10,895.88	11,167.32
523	9,396.00	9,630.90	9,871.02	10,118.10	10,370.40	10,629.66	10,895.88	11,167.32	11,447.46
524	9,630.90	9,871.02	10,118.10	10,370.40	10,629.66	10,895.88	11,167.32	11,447.46	11,732.82
525	9,871.02	10,118.10	10,370.40	10,629.66	10,895.88	11,167.32	11,447.46	11,732.82	12,026.88
526	10,118.10	10,370.40	10,629.66	10,895.88	11,167.32	11,447.46	11,732.82	12,026.88	12,327.90
527	10,370.40	10,629.66	10,895.88	11,167.32	11,447.46	11,732.82	12,026.88	12,327.90	12,635.88
528	10,629.66	10,895.88	11,167.32	11,447.46	11,732.82	12,026.88	12,327.90	12,635.88	12,950.82

CITY OF MODESTO
CLASS RANGE TABLE
POLICE MANAGEMENT CLASSES (Represented)
Effective June 26, 2007

RANGE	TITLE
601	
602	Police Corporal
603-609	
610	Police Sergeant
611-616	
617	Police Lieutenant
618-621	

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 11/12
EFFECTIVE June 26, 2007

SCHEDULE - G
 MANAGEMENT/CONFIDENTIAL -POLICE - UNREPRESENTED

HOURLY

5.50%

Range	1	2	3	4	5	6	7	8	9
1601	27.86	28.56	29.28	30.01	30.76	31.53	32.31	33.12	33.95
1602	28.56	29.28	30.01	30.76	31.53	32.31	33.12	33.95	34.80
1603	29.28	30.01	30.76	31.53	32.31	33.12	33.95	34.80	35.67
1604	30.01	30.76	31.53	32.31	33.12	33.95	34.80	35.67	36.56
1605	30.76	31.53	32.31	33.12	33.95	34.80	35.67	36.56	37.47
1606	31.53	32.31	33.12	33.95	34.80	35.67	36.56	37.47	38.41
1607	32.31	33.12	33.95	34.80	35.67	36.56	37.47	38.41	39.37
1608	33.12	33.95	34.80	35.67	36.56	37.47	38.41	39.37	40.35
1609	33.95	34.80	35.67	36.56	37.47	38.41	39.37	40.35	41.36
1610	34.80	35.67	36.56	37.47	38.41	39.37	40.35	41.36	42.40
1611	35.67	36.56	37.47	38.41	39.37	40.35	41.36	42.40	43.46
1612	36.56	37.47	38.41	39.37	40.35	41.36	42.40	43.46	44.54
1613	37.47	38.41	39.37	40.35	41.36	42.40	43.46	44.54	45.66
1614	38.41	39.37	40.35	41.36	42.40	43.46	44.54	45.66	46.80

BIWEEKLY

	1	2	3	4	5	6	7	8	9
1601	2,228.80	2,284.80	2,342.40	2,400.80	2,460.80	2,522.40	2,584.80	2,649.60	2,716.00
1602	2,284.80	2,342.40	2,400.80	2,460.80	2,522.40	2,584.80	2,649.60	2,716.00	2,784.00
1603	2,342.40	2,400.80	2,460.80	2,522.40	2,584.80	2,649.60	2,716.00	2,784.00	2,853.60
1604	2,400.80	2,460.80	2,522.40	2,584.80	2,649.60	2,716.00	2,784.00	2,853.60	2,924.80
1605	2,460.80	2,522.40	2,584.80	2,649.60	2,716.00	2,784.00	2,853.60	2,924.80	2,997.60
1606	2,522.40	2,584.80	2,649.60	2,716.00	2,784.00	2,853.60	2,924.80	2,997.60	3,072.80
1607	2,584.80	2,649.60	2,716.00	2,784.00	2,853.60	2,924.80	2,997.60	3,072.80	3,149.60
1608	2,649.60	2,716.00	2,784.00	2,853.60	2,924.80	2,997.60	3,072.80	3,149.60	3,228.00
1609	2,716.00	2,784.00	2,853.60	2,924.80	2,997.60	3,072.80	3,149.60	3,228.00	3,308.80
1610	2,784.00	2,853.60	2,924.80	2,997.60	3,072.80	3,149.60	3,228.00	3,308.80	3,392.00
1611	2,853.60	2,924.80	2,997.60	3,072.80	3,149.60	3,228.00	3,308.80	3,392.00	3,476.80
1612	2,924.80	2,997.60	3,072.80	3,149.60	3,228.00	3,308.80	3,392.00	3,476.80	3,563.20
1613	2,997.60	3,072.80	3,149.60	3,228.00	3,308.80	3,392.00	3,476.80	3,563.20	3,652.80
1614	3,072.80	3,149.60	3,228.00	3,308.80	3,392.00	3,476.80	3,563.20	3,652.80	3,744.00

MONTHLY

	1	2	3	4	5	6	7	8	9
1601	4,847.64	4,969.44	5,094.72	5,221.74	5,352.24	5,486.22	5,621.94	5,762.88	5,907.30
1602	4,969.44	5,094.72	5,221.74	5,352.24	5,486.22	5,621.94	5,762.88	5,907.30	6,055.20
1603	5,094.72	5,221.74	5,352.24	5,486.22	5,621.94	5,762.88	5,907.30	6,055.20	6,206.58
1604	5,221.74	5,352.24	5,486.22	5,621.94	5,762.88	5,907.30	6,055.20	6,206.58	6,361.44
1605	5,352.24	5,486.22	5,621.94	5,762.88	5,907.30	6,055.20	6,206.58	6,361.44	6,519.78
1606	5,486.22	5,621.94	5,762.88	5,907.30	6,055.20	6,206.58	6,361.44	6,519.78	6,683.34
1607	5,621.94	5,762.88	5,907.30	6,055.20	6,206.58	6,361.44	6,519.78	6,683.34	6,850.38
1608	5,762.88	5,907.30	6,055.20	6,206.58	6,361.44	6,519.78	6,683.34	6,850.38	7,020.90
1609	5,907.30	6,055.20	6,206.58	6,361.44	6,519.78	6,683.34	6,850.38	7,020.90	7,196.64
1610	6,055.20	6,206.58	6,361.44	6,519.78	6,683.34	6,850.38	7,020.90	7,196.64	7,377.60
1611	6,206.58	6,361.44	6,519.78	6,683.34	6,850.38	7,020.90	7,196.64	7,377.60	7,562.04
1612	6,361.44	6,519.78	6,683.34	6,850.38	7,020.90	7,196.64	7,377.60	7,562.04	7,749.96
1613	6,519.78	6,683.34	6,850.38	7,020.90	7,196.64	7,377.60	7,562.04	7,749.96	7,944.84
1614	6,683.34	6,850.38	7,020.90	7,196.64	7,377.60	7,562.04	7,749.96	7,944.84	8,143.20

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 11/12
EFFECTIVE June 26, 2007

SCHEDULE - G
 MANAGEMENT/CONFIDENTIAL -POLICE - UNREPRESENTED
 HOURLY

Range	1	2	3	4	5	6	7	8	9
									5.50
1615	39.37	40.35	41.36	42.40	43.46	44.54	45.66	46.80	47.97
1616	40.35	41.36	42.40	43.46	44.54	45.66	46.80	47.97	49.17
1617	41.36	42.40	43.46	44.54	45.66	46.80	47.97	49.17	50.40
1618	42.40	43.46	44.54	45.66	46.80	47.97	49.17	50.40	51.66
1619	43.46	44.54	45.66	46.80	47.97	49.17	50.40	51.66	52.95
1620	44.54	45.66	46.80	47.97	49.17	50.40	51.66	52.95	54.27
1621	45.66	46.80	47.97	49.17	50.40	51.66	52.95	54.27	55.63
1622	46.80	47.97	49.17	50.40	51.66	52.95	54.27	55.63	57.02
1623	47.97	49.17	50.40	51.66	52.95	54.27	55.63	57.02	58.44
1624	49.17	50.40	51.66	52.95	54.27	55.63	57.02	58.44	59.90
1625	50.40	51.66	52.95	54.27	55.63	57.02	58.44	59.90	61.40
1626	51.66	52.95	54.27	55.63	57.02	58.44	59.90	61.40	62.94
1627	52.95	54.27	55.63	57.02	58.44	59.90	61.40	62.94	64.51
1628	54.27	55.63	57.02	58.44	59.90	61.40	62.94	64.51	66.12

BIWEEKLY

	1	2	3	4	5	6	7	8	9
1615	3,149.60	3,228.00	3,308.80	3,392.00	3,476.80	3,563.20	3,652.80	3,744.00	3,837.60
1616	3,228.00	3,308.80	3,392.00	3,476.80	3,563.20	3,652.80	3,744.00	3,837.60	3,933.60
1617	3,308.80	3,392.00	3,476.80	3,563.20	3,652.80	3,744.00	3,837.60	3,933.60	4,032.00
1618	3,392.00	3,476.80	3,563.20	3,652.80	3,744.00	3,837.60	3,933.60	4,032.00	4,132.80
1619	3,476.80	3,563.20	3,652.80	3,744.00	3,837.60	3,933.60	4,032.00	4,132.80	4,236.00
1620	3,563.20	3,652.80	3,744.00	3,837.60	3,933.60	4,032.00	4,132.80	4,236.00	4,341.60
1621	3,652.80	3,744.00	3,837.60	3,933.60	4,032.00	4,132.80	4,236.00	4,341.60	4,450.40
1622	3,744.00	3,837.60	3,933.60	4,032.00	4,132.80	4,236.00	4,341.60	4,450.40	4,561.60
1623	3,837.60	3,933.60	4,032.00	4,132.80	4,236.00	4,341.60	4,450.40	4,561.60	4,675.20
1624	3,933.60	4,032.00	4,132.80	4,236.00	4,341.60	4,450.40	4,561.60	4,675.20	4,792.00
1625	4,032.00	4,132.80	4,236.00	4,341.60	4,450.40	4,561.60	4,675.20	4,792.00	4,912.00
1626	4,132.80	4,236.00	4,341.60	4,450.40	4,561.60	4,675.20	4,792.00	4,912.00	5,035.20
1627	4,236.00	4,341.60	4,450.40	4,561.60	4,675.20	4,792.00	4,912.00	5,035.20	5,160.80
1628	4,341.60	4,450.40	4,561.60	4,675.20	4,792.00	4,912.00	5,035.20	5,160.80	5,289.60

MONTHLY

	1	2	3	4	5	6	7	8	9
1615	6,850.38	7,020.90	7,196.64	7,377.60	7,562.04	7,749.96	7,944.84	8,143.20	8,346.78
1616	7,020.90	7,196.64	7,377.60	7,562.04	7,749.96	7,944.84	8,143.20	8,346.78	8,555.58
1617	7,196.64	7,377.60	7,562.04	7,749.96	7,944.84	8,143.20	8,346.78	8,555.58	8,769.60
1618	7,377.60	7,562.04	7,749.96	7,944.84	8,143.20	8,346.78	8,555.58	8,769.60	8,988.84
1619	7,562.04	7,749.96	7,944.84	8,143.20	8,346.78	8,555.58	8,769.60	8,988.84	9,213.30
1620	7,749.96	7,944.84	8,143.20	8,346.78	8,555.58	8,769.60	8,988.84	9,213.30	9,442.98
1621	7,944.84	8,143.20	8,346.78	8,555.58	8,769.60	8,988.84	9,213.30	9,442.98	9,679.62
1622	8,143.20	8,346.78	8,555.58	8,769.60	8,988.84	9,213.30	9,442.98	9,679.62	9,921.48
1623	8,346.78	8,555.58	8,769.60	8,988.84	9,213.30	9,442.98	9,679.62	9,921.48	10,168.56
1624	8,555.58	8,769.60	8,988.84	9,213.30	9,442.98	9,679.62	9,921.48	10,168.56	10,422.60
1625	8,769.60	8,988.84	9,213.30	9,442.98	9,679.62	9,921.48	10,168.56	10,422.60	10,683.60
1626	8,988.84	9,213.30	9,442.98	9,679.62	9,921.48	10,168.56	10,422.60	10,683.60	10,951.56
1627	9,213.30	9,442.98	9,679.62	9,921.48	10,168.56	10,422.60	10,683.60	10,951.56	11,224.74
1628	9,442.98	9,679.62	9,921.48	10,168.56	10,422.60	10,683.60	10,951.56	11,224.74	11,504.88

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 11/12
EFFECTIVE June 26, 2007

SCHEDULE - G
MANAGEMENT/CONFIDENTIAL -POLICE - UNREPRESENTED
HOURLY

5.50%

Range	1	2	3	4	5	6	7	8	9
1629	55.63	57.02	58.44	59.90	61.40	62.94	64.51	66.12	67.78
1630	57.02	58.44	59.90	61.40	62.94	64.51	66.12	67.78	69.47
1631	58.44	59.90	61.40	62.94	64.51	66.12	67.78	69.47	71.21
1632	59.90	61.40	62.94	64.51	66.12	67.78	69.47	71.21	72.99
1633	61.40	62.94	64.51	66.12	67.78	69.47	71.21	72.99	74.81
1634	62.94	64.51	66.12	67.78	69.47	71.21	72.99	74.81	76.68
1635	64.51	66.12	67.78	69.47	71.21	72.99	74.81	76.68	78.60
1636	66.12	67.78	69.47	71.21	72.99	74.81	76.68	78.60	80.56
1637	67.78	69.47	71.21	72.99	74.81	76.68	78.60	80.56	82.58
1638	69.47	71.21	72.99	74.81	76.68	78.60	80.56	82.58	84.64
1639	71.21	72.99	74.81	76.68	78.60	80.56	82.58	84.64	86.76
1640	72.99	74.81	76.68	78.60	80.56	82.58	84.64	86.76	88.93

BIWEEKLY

	1	2	3	4	5	6	7	8	9
1629	4,450.40	4,561.60	4,675.20	4,792.00	4,912.00	5,035.20	5,160.80	5,289.60	5,422.40
1630	4,561.60	4,675.20	4,792.00	4,912.00	5,035.20	5,160.80	5,289.60	5,422.40	5,557.60
1631	4,675.20	4,792.00	4,912.00	5,035.20	5,160.80	5,289.60	5,422.40	5,557.60	5,696.80
1632	4,792.00	4,912.00	5,035.20	5,160.80	5,289.60	5,422.40	5,557.60	5,696.80	5,839.20
1633	4,912.00	5,035.20	5,160.80	5,289.60	5,422.40	5,557.60	5,696.80	5,839.20	5,984.80
1634	5,035.20	5,160.80	5,289.60	5,422.40	5,557.60	5,696.80	5,839.20	5,984.80	6,134.40
1635	5,160.80	5,289.60	5,422.40	5,557.60	5,696.80	5,839.20	5,984.80	6,134.40	6,288.00
1636	5,289.60	5,422.40	5,557.60	5,696.80	5,839.20	5,984.80	6,134.40	6,288.00	6,444.80
1637	5,422.40	5,557.60	5,696.80	5,839.20	5,984.80	6,134.40	6,288.00	6,444.80	6,606.40
1638	5,557.60	5,696.80	5,839.20	5,984.80	6,134.40	6,288.00	6,444.80	6,606.40	6,771.20
1639	5,696.80	5,839.20	5,984.80	6,134.40	6,288.00	6,444.80	6,606.40	6,771.20	6,940.80
1640	5,839.20	5,984.80	6,134.40	6,288.00	6,444.80	6,606.40	6,771.20	6,940.80	7,114.40

MONTHLY

	1	2	3	4	5	6	7	8	9
1629	9,679.62	9,921.48	10,168.56	10,422.60	10,683.60	10,951.56	11,224.74	11,504.88	11,793.72
1630	9,921.48	10,168.56	10,422.60	10,683.60	10,951.56	11,224.74	11,504.88	11,793.72	12,087.78
1631	10,168.56	10,422.60	10,683.60	10,951.56	11,224.74	11,504.88	11,793.72	12,087.78	12,390.54
1632	10,422.60	10,683.60	10,951.56	11,224.74	11,504.88	11,793.72	12,087.78	12,390.54	12,700.26
1633	10,683.60	10,951.56	11,224.74	11,504.88	11,793.72	12,087.78	12,390.54	12,700.26	13,016.94
1634	10,951.56	11,224.74	11,504.88	11,793.72	12,087.78	12,390.54	12,700.26	13,016.94	13,342.32
1635	11,224.74	11,504.88	11,793.72	12,087.78	12,390.54	12,700.26	13,016.94	13,342.32	13,676.40
1636	11,504.88	11,793.72	12,087.78	12,390.54	12,700.26	13,016.94	13,342.32	13,676.40	14,017.44
1637	11,793.72	12,087.78	12,390.54	12,700.26	13,016.94	13,342.32	13,676.40	14,017.44	14,368.92
1638	12,087.78	12,390.54	12,700.26	13,016.94	13,342.32	13,676.40	14,017.44	14,368.92	14,727.36
1639	12,390.54	12,700.26	13,016.94	13,342.32	13,676.40	14,017.44	14,368.92	14,727.36	15,096.24
1640	12,700.26	13,016.94	13,342.32	13,676.40	14,017.44	14,368.92	14,727.36	15,096.24	15,473.82

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-370**

A RESOLUTION AMENDING EXHIBITS "A" AND "C" OF RESOLUTION NO. 2007-385 WHICH AMENDED THE CLASS RANGE TABLES FOR UNREPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES AND EXECUTIVES, INCLUDING CHARTER OFFICERS TO ESTABLISH A NEW EFFECTIVE DATE OF JULY 2, 2013

BE IT RESOLVED by the Council of the City of Modesto that the Class Range Tables for Unrepresented Management and Confidential Non-Sworn Classes and Executive Management Classes, including Charter Officers, amended by Resolution No. 2007-385, are hereby adopted as amended effective July 2, 2013. Said Class Range Tables are **attached** hereto and made part hereof as though set forth herein as follows:

- **Exhibit "A"** entitled "City of Modesto, Class Range Table, Unrepresented Management and Confidential Non-Sworn Classes, Effective July 2, 2013"
- **Exhibit "C"** entitled "City of Modesto, Class Range Table, Executive Management, Effective July 2, 2013"

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after July 2, 2013.

AMENDED exhibit C
on Dec. 11, 2012
By Resolution 2012-510

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
CLASS RANGE TABLE
UNREPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES
Effective July 2, 2013

RANGE TITLE

2420 Executive Assistant

2422 Office Supervisor - Personnel

2425 Executive Assistant to the City Council
Executive Assistant to the City Manager
Paralegal

2427 Legal Services Administrator

2431 Equal Opportunity Analyst/Paralegal

2434 Senior Auditor

2439 **Employee Benefits Manager**
Employee Relations Coordinator

2444 Deputy City Attorney I
Risk Manager

2448 Deputy City Attorney II

2452 Deputy Chief Information Officer
Deputy City Attorney III
Deputy Director of Community and Economic Development
Deputy Director of Cultural and Enterprise Services
Deputy Director of Finance
Deputy Director of Human Resources
Deputy Director of Public Works – Operations
Deputy Director of Recreation and Neighborhoods

2455 Deputy Director of Utility Planning and Projects

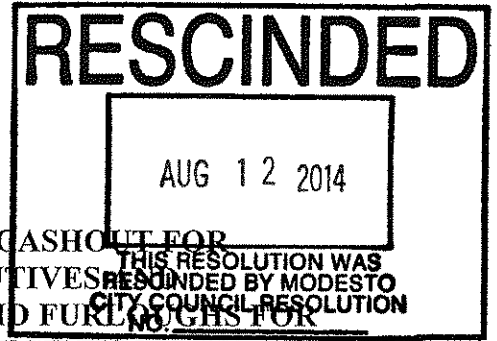
2456 Senior Deputy City Attorney

2462 Assistant City Attorney

CITY OF MODESTO
CLASS RANGE TABLE
EXECUTIVE MANAGEMENT
Effective July 2, 2013

RANGE	TITLE
1414	City Auditor City Clerk
1420	Director of Finance Director of Human Resources
1422	Chief Information Officer Director of Community and Economic Development Director of Parks, Recreation and Neighborhoods Director of Public Works Director of Utility Planning and Projects
1427	Chief of Police Deputy City Manager Fire Chief
1428	City Attorney
1436	City Manager

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-371



RESOLUTION SUSPENDING MANAGEMENT LEAVE CASHOUT FOR UNREPRESENTED EMPLOYEES, INCLUDING EXECUTIVES AND CHARTER OFFICERS FOR 2012; CONTINUING UNPAID FURLONGHS FOR NON-SWORN UNREPRESENTED EMPLOYEES THROUGH FISCAL YEAR 2012-13; FREEZE SICK LEAVE CONVERSION TO RETIREE MEDICAL FOR NON-SWORN UNREPRESENTED EMPLOYEES; INCORPORATING PREVIOUSLY AUTHORIZED BENEFITS FOR UNREPRESENTED MANAGEMENT EMPLOYEES, INCLUDING CHARTER OFFICERS AND EXECUTIVES; AND RESCINDING RESOLUTION NO. 2011- 197

WHEREAS, the City is seeking employee concessions as part of the effort to balance the City budget and address the City's budget shortfall, and

WHEREAS, unrepresented non-sworn employees and Charter Officers have agreed to take 40 hours of unpaid furloughs, and

WHEREAS, unrepresented employees and Charter Officers have agreed to forego cash out of Management Leave for 2012, and

WHEREAS, City will freeze sick leave conversion program for retiree medical as of October 22, 2012 for all non-sworn unrepresented employees, and

WHEREAS, the City will amend the current salary schedule from a 9-step to a 5 step plan and

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

SECTION 1. HEALTH, DENTAL AND VISION BENEFITS. The City's contribution to health, dental and vision benefits for Unrepresented Management and Confidential employees, including Charter Officers and Executives, shall remain in effect as follows:

<u>City Contribution (monthly)</u>	
<u>Sworn and Non-Sworn</u>	
	<u>1/1/2011</u>
Family	\$1100
Employee Only	\$621
Opt Out	\$450

The City shall deposit into the employee's deferred compensation account any balance remaining from the above listed contributions not needed to pay for the employee's health, dental or vision premiums. Effective July 22, 2008, for employees enrolled in the City-sponsored High Deductible Health Plan, any balance of said contributions shall be directed to the employee's Health Savings Account. Only in the event that an employee does not qualify for enrollment into a Health Savings Account, the City shall deposit any balance of the above contribution not needed to pay for the employee's combined premium into the employee's deferred compensation account.

Effective July 26, 2005, the City's contribution toward unrepresented employees with Family coverage shall not exceed the actual premium amount for the lowest cost health (HMO Plan), dental and vision plans offered by the City, regardless of the health plan selected by the employee or the contribution amounts listed above.

SECTION 2. UNIFORM ALLOWANCES. Uniform allowances for unrepresented Management and Confidential employees who are required to wear a uniform, are as follows:

<u>Positions</u>	<u>Effective Date</u>	<u>Allowance</u>
Sworn Police	January 1, 2008	\$94.00 (Per Reso. No. 2005-602)
Sworn Fire Management	July 1, 2007	\$85.00

SECTION 3 DEFERRED COMPENSATION 401(a) MONEY PURCHASE

PLANS. The 401(a) Money Purchase Plans shall provide for a City-paid contribution and equal mandatory employee contribution, effective January 1, 2006, of 5% for Charter Officers, 3% for Executives other than Charter Officers, and 2% for all other unrepresented Management and Confidential employees.

SECTION 4. COMPENSATORY TIME OFF CAP. Management and Confidential employees who are overtime-eligible shall be paid quarterly for all CTO over their established cap. For employees hired on or after December 6, 2005, the CTO cap shall be 100 hours. For employees hired before December 6, 2005, the cap shall be 160 hours.

SECTION 5. HOLIDAY CAP. Holiday time for unrepresented non-sworn employees may be accrued up to a maximum of 40 hours. When the employee reaches the 40 hour maximum, additional holiday time shall be compensated in cash at straight time rates on a quarterly basis.

SECTION 6. MANAGEMENT LEAVE. Commencing January 1, 2012, management employees in exempt regular positions shall be advanced 80 hours of Management Leave (Fire Battalion Chiefs on a 56-hour schedule shall be advanced 112 hours) January of each calendar year to be taken at the discretion of the employee and upon approval of City Manager, or designee, and shall be prorated for less than full-time employees. Management Leave will be forfeited if not used by the last pay period ending in December. An exempt employee hired after Management Leave has been advanced shall be eligible for a pro-rated portion of Leave.

In the event of separation from City employment of any person who has taken Management Leave prior to the time all of said leave is earned, the employee shall be

required to make full restitution to the City for that portion of leave taken but remaining unearned on the date of termination of employment. Employees separating from City service will be paid for earned Management Leave credit.

SECTION 7. MANAGEMENT LEAVE ANNUAL CASHOUT. For calendar year 2012 no employee will be permitted to cash out Management Leave.

The maximum number of hours available for cash out each December shall be 40 hours annually for Management employees.

Effective December 2007, the maximum annual cash out shall be 80 hours for Executives and Charter Officers, and 60 hours for Police Captains, Fire Battalion Chiefs, Fire Division Chiefs, Deputy Directors, Assistant City Attorney and Deputy City Attorney I/II/III/Senior. For Fire Battalion Chiefs on a 56-hour schedule, the maximum cash out shall be 84 hours.

SECTION 8. FIRE CHIEF OFFICER SHIFT STIPEND. Effective December 27, 2005, Fire Battalion Chiefs and Fire Division Chiefs assigned to work extra shifts in order to maintain a consistent staffing of two (2) Battalion Chiefs to the extent possible, may receive a stipend of one thousand dollars (\$1,000) per 24-hour shift. Criteria for assignment to extra shifts with the stipend shall be at the discretion of the Fire Chief, who shall also determine when staffing at the level of one Battalion Chief is acceptable. The Fire Chief shall annually determine the maximum number of assignments available for stipend, subject to funds budgeted and the needs of the City. As FLSA Exempt management employees, Fire Battalion Chiefs and Fire Division Chiefs may be required to work both emergency and non-emergency assignments without additional compensation.

SECTION 9. NEGATIVE VACATION. Effective March 7, 2006, use of negative vacation will be permitted only for extenuating circumstances and will require the approval of the City Manager, or designee.

SECTION 10. PROBATIONARY PERIOD. All original and promotional appointments to positions in the Classified Service shall be tentative and subject to a probationary period of one year from the date of appointment to the position. The purpose of the probationary period is to train, observe and evaluate the employee on conduct, performance, attitude, adaptability and job knowledge.

Initial Probation: It is understood that the probationary period will normally last for one year from the date of appointment, but may last longer than the one year if absences, either paid or unpaid, cause the probationary employee to work less than 1680 hours. In the event that an employee works less than 1680 hours in the first twelve months of employment, then the employee's probation shall be extended until he/she has worked 1680 hours.

Promotional Probation: It is understood that the probationary period, upon promotion, will normally last for one year from the date of promotion, but may last longer than the one year if absences, either paid or unpaid, cause the probationary employee to work less than 1560 hours. In the event that an employee works less than 1560 hours during the twelve months following his/her promotion, then the employee's probation shall be extended until he/she has worked 1560 hours.

During the probationary period an employee may be released at any time without right of appeal. Written notice of release shall be furnished to the probationer. An employee released during or at the conclusion of probation following a promotion, shall

be reinstated to the position previously held, at the former salary step, except if the reasons for release are cause for dismissal.

SECTION 11. DEFERRED COMPENSATION SERVICE DATES. The CITY shall continue to provide access to a 457 deferred compensation program authorized by the City Council for the voluntary participation of City employees. In addition, the CITY shall match on behalf of a participating employee in a regular position, one and one-half percent (1.5%) of an employee's regular rate of pay on a bi-weekly basis; provided, the employee is contributing at least one and one-half percent (1.5%). For such employees who have been continuously employed by the CITY for nine (9) or more years, the CITY shall contribute two and one-half percent (2.5%); provided the employee is contributing at least two and one-half percent (2.5%). Effective January 1, 2006, this increase in the City's contribution shall be effective with the first pay period to begin in the month following completion of nine (9) years of service, provided that the employee has completed any required documents.

SECTION 12. DOMESTIC PARTNERS. Benefits applicable to spouses shall be extended to registered domestic partners, as required by law.

SECTION 13. MEDICAL LEAVES OF ABSENCE. Effective December 6, 2005, employees requesting an Authorized Medical Leave of Absence without pay, due to a medical incapacity to perform the duties of their position, must provide written medical verification of a long-term disability, illness or injury.

SECTION 14. CATASTROPHIC LEAVE. Effective December 6, 2005, employees requesting Catastrophic Leave donations must provide a written medical

verification of long term illness or injury, or verification of a family member's illness or injury.

SECTION 15. HAZARDOUS MATERIALS CERTIFICATION PAY. Effective July 1, 2003, one (1) Fire Department Battalion Chief or Division Chief shall be authorized five (5%) percent Haz Mat Pay, when certified as a Hazardous Materials Specialist and assigned to administer the City of Modesto's participation in the Regional Hazardous Materials Response Team. This pay replaced the annual Haz Mat Stipend.

SECTION 16. MASTERS DEGREE INCENTIVE PAY. Effective June 29, 2004, employees who possess a Masters Degree or Juris Doctor from an accredited institution, shall be granted one and one half (1.5%) percent Masters Pay, subject to criteria as established by the City.

SECTION 17. REGISTRATION AND CERTIFICATION FEES. Effective July 1, 2003, when an employee is required by the City to obtain or renew a certificate, license or registration in order to carry out their assigned duties, except a California Class C Driver's License, the City will pay the fee for the actual certificate, license or registration, (and exam fee, if any).

SECTION 18. LEAVE CASHOUTS FOR SWORN FIRE MANAGEMENT EMPLOYEES. Sworn Fire Management employees in the classifications of Fire Battalion Chief, Fire Division Chief and Fire Chief working a 40 hour schedule shall be afforded the opportunity to cash out up to 61 hours of vacation leave per calendar year (at straight time rates) and up to 88 hours of holiday leave per calendar year (at time and one-half), effective July 1, 2003. Employees in the classification of Fire Battalion Chief working a 56 hour schedule shall be afforded the opportunity to cash out up to 72 hours

of vacation leave per calendar year (at straight time rates) effective June 20, 2000, and up to 132 hours of holiday leave per calendar year (at time and one-half). Holiday leave may not be carried over year-to-year regardless of the schedule worked.

SECTION 19. VEHICLE ALLOWANCE. Per Resolution No. 2001-271 effective July 1, 2001, the vehicle allowance for Executives and Charter Officers who receive an allowance, shall be \$400/month, and the City Manager is authorized to grant Deputy Directors either an assigned City vehicle or a vehicle allowance in the amount of \$300/month. The City Manager is also authorized to grant selected Management employees a vehicle allowance of \$100-\$200/month based on Department Director recommendation and an annual justification relating to extensive use of a personal vehicle while conducting City business. Effective May 27, 2008, per Resolution 2008-305, the vehicle allowance for Charter Officers is increased to a maximum of \$500/month.

SECTION 20. SICK LEAVE CASHOUT FOR SWORN FIRE MANAGEMENT EMPLOYEES. Effective June 22, 1999, Sworn Fire management employees who leave City service in good standing (other than retirement) after five (5) years of continuous service, shall be paid the first twenty-two hundred (2,200) hours of their current unused sick leave, reduced by hours previously converted to Deferred Compensation, as follows: (1) Ninety (90%) percent of accrued sick leave hours as of the date of the employee's initial promotion to a management classification shall be paid out at the current regular rate of pay (top step) for Fire Captain, and (2) In addition, twenty-five (25%) percent of the remaining sick leave hours accruing after promotion to a management classification shall be paid out at the employee's then current regular rate of pay.

SECTION 21. FURLOUGH. Effective September 11, 2012, all non-sworn employees shall take forty (40) hours of mandatory furloughs in fiscal year 2012-13. For the pay period beginning September 11, 2012 through pay period ending June 17, 2013, each employee shall have two (2) unpaid furlough hours deducted from his/her paycheck. Effective pay period beginning September 11, 2012, the City shall create for each employee a furlough bank of forty (40) hours for fiscal year 2012-13.

There is no cash value to the furlough bank hours. Unused furlough bank hours not taken by June 17, 2013 shall be forfeited. An employee who separates from City service and has not contributed the salary reduction equivalent to furlough bank hours taken shall authorize the City to reduce the employee's final check by the amount needed to cover the unpaid furlough bank hours.

SECTION 22. EMERGENCY MEDICAL TECHNICIAN CERTIFICATION PAY. Effective July 1, 1990, sworn Fire Management employees in the classifications of Fire Battalion Chief and Fire Division Chief who are certified as Medical First Responders, shall receive a monthly allowance equivalent to two and one-half percent (2.5%) of the base salary for their classification. Employees who are certified as Emergency Medical Technicians (EMT-I), shall receive a monthly allowance equivalent to five percent (5.0%) of the base salary for their classification. The EMT-I allowance shall be in lieu of the Medical First Responder allowance.

SECTION 23. MUTUAL AID ASSIGNMENT. Per Resolution 2001-485, effective September 25, 2001, Sworn Fire Management employees in the classification of Fire Battalion Chief and Fire Division Chief shall receive a stipend when assigned to fill Strike Team and Task Force Leader assignments. Fire Battalion Chiefs assigned as Strike

Team or Task Force Leader or Strike Team or Task Force Leader Trainee shall receive a stipend of \$1000 for a 24 hour period. Fire Division Chiefs assigned as Strike Team or Task Force Leader or Strike Team or Task Force Leader Trainee shall receive a stipend of \$1200 for a 24 hour period subject to the following conditions:

1. The assignment results from a request through the California Office of Emergency Services.
2. The assignment is subject to reimbursement through the "Cooperative Agreement for Local Government Fire Suppression."
3. Regularly scheduled work hours are not included and partial periods are prorated to the nearest hour.

The City Manager is authorized to adjust the stipend amount, from time to time, consistent with increases in overall Fire Management salaries and reimbursement rates.

SECTION 24. ASSISTANT CHIEF OF POLICE ASSIGNMENT PAY.

Effective May 26, 1998, subject to the approval of the City Manager, the Police Chief may appoint employees currently employed by the Police Department in the classification of Police Captain to the assignment of Assistant Chief of Police. Such appointment may be made without competitive examination and shall continue at the will and pleasure of the Police Chief. The Police Chief may end the assignment at any time and such employee shall return to an assignment as Police Captain (unless removed due to dismissal) at a step no lower than the step the employee held at time of assignment. The total number of assignments shall be at the sole discretion of the City Manager.

SECTION 25. RETIREEE HEALTH INSURANCE. Employees may elect on a one-time basis at retirement to purchase health, dental and/or vision insurance under a City-authorized plan and are responsible for all cost.

Non-sworn employees hired on or before December 31, 2010 and who retire from the City prior to October 23, 2012 after five (5) years of continuous service in good

standing may, on a one-time basis, exercise the option to have ninety percent (90%) of their unused sick leave accrued up to October 22, 2012, up to twenty-two hundred (2,200) hours, applied by the City upon retirement to premiums for health, dental and vision insurance plans covered by the CITY. Sworn employees hired on or before December 31, 2010 and who retire from the City after five (5) years of continuous service in good standing may, on a one-time basis, exercise the option to have ninety percent (90%) of their unused sick leave up to twenty-two hundred (2,200) hours, applied by the City upon retirement to premiums for health, dental and vision insurance plans covered by the CITY. Said insurance shall be provided in an amount up to that contributed to active employees subject to changes in the median priced health HMO plan for active employees, as needed to cover the cost of retiree health, dental and vision premium at the rate of one month of CITY contribution for each eight hours of sick leave.

Non-sworn employees hired on or before December 31, 2010 and who retire from the City on or after October 23, 2012 after five (5) years of continuous service in good standing may, on a one-time basis, exercise the option to have ninety percent (90%) of their unused sick leave accrued up to October 22, 2012, up to twenty-two hundred (2,200) hours, applied by the City upon retirement to premiums for health, dental and vision insurance plans covered by the CITY. Hours accrued by October 22, 2012 shall be held in a grandfathered sick leave conversion bank for such usage. Said insurance contribution shall be provided as needed to cover the cost of retiree health, dental and vision premiums up to a monthly rate of \$621 for retiree without dependents and up to \$1,100 for retirees with dependent coverage.

For non-sworn employees hired on or before December 31, 2010, the City shall contribute to a Defined Contribution retiree medical benefit plan for each eligible employee in the form of a deposit into a Health Reimbursement Arrangement (HRA) account effective July 2, 2013. The City shall contribute \$0.15 per pay status hour (no more than 80 hours bi-weekly), not including overtime, for each eligible full time employee up to a maximum of \$25.00 per month for full time employees. For a full time employee, this equates to a maximum of \$300 per year after the initial eligibility period is met.

For all unrepresented employees (sworn and non-sworn) hired on or after January 1, 2011, the City shall contribute to a Defined Contribution retiree medical benefit plan for each eligible employee in the form of a deposit into a Health Reimbursement Arrangement (HRA) account. An employee is eligible to receive a City HRA contribution upon completion of two full years. If an employee separates employment before meeting eligibility requirement, the employee shall receive no benefit. On the first pay period following completion of two full years of continuous City service, the CITY shall deposit \$2,400 into an HRA account established in the employee's name. Employees in regular positions budgeted less than eighty (80) hours per pay period or job-shared positions, shall receive a pro-rated lump sum contribution based on hours worked. After the initial contribution is made, the City shall contribute \$0.58 per pay status hour (no more than 80 hours biweekly), not including overtime, for each eligible full time employee, up to a maximum of \$100 per month. Employees hired on or after January 1, 2011 and subject to this defined contribution plan shall not be eligible for any sick leave conversion towards retiree medical premiums of any sort. The City's

contribution under this section represents the entire contribution towards employee retiree medical.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that Resolution No. 2011-197 is hereby rescinded.

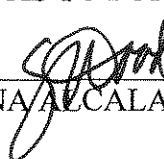
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh
NOES: Councilmembers: None
ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-372**

RESOLUTION AMENDING A LABOR POLICY FOR PAYING AND REPORTING THE VALUE OF EMPLOYER PAID MEMBER CONTRIBUTIONS TO THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (CALPERS) ON BEHALF OF MISCELLANEOUS UNREPRESENTED MANGEMENT AND CONFIDENTIAL EMPLOYEES

WHEREAS, by Resolution No 2012-19 adopted by the Council, the City adopted a labor policy providing for Public Employees' Retirement System (PERS) employee contributions to be paid by the City on behalf of employees and for reporting of employer-paid normal member contributions to PERS as compensation, and

WHEREAS, the governing body of the City of Modesto has the authority to implement Government Code Section 20636(c)(4) pursuant to Section 20691, and

WHEREAS, the governing body of the City of Modesto has a written labor policy or agreement which specifically provides for the normal member contributions to be paid by the employer, and reported as additional compensation, and

WHEREAS, one of the steps in the procedures to implement Section 20691 is the adoption by the governing body of the City of Modesto of a Resolution to commence paying and reporting the value of said Employer Paid Member Contributions, and

WHEREAS, the governing body has the authority to amend all members in a group or class of employment pursuant to Government Code Section 20691.

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

For Miscellaneous employees hired before January 17, 2012 under Tier 1 retirement formula 2%@55, the City of Modesto elects to pay three and three-tenths percent (3.3%) of the normal member contributions of seven percent (7%) as employer

paid member contributions and report the same value to CalPERS as compensation earnable as additional compensation effective September 25, 2012.

Effective July 2, 2013 miscellaneous employees hired before January 17, 2012 under Tier 1 retirement formula 2%@55, the City of Modesto elects to pay zero percent (0%) of the normal member contributions of seven percent (7%) for all miscellaneous employees. No payment shall be implemented pursuant to the provisions of Section 20636 (c)(4) of the California Government Code.

For Miscellaneous employees hired on or after January 17, 2012 under Tier 2 retirement formula 2%@60, the City of Modesto elects to pay zero percent (0%) of the normal member contributions of seven percent (7%).

BE IT FURTHER RESOLVED that this Resolution shall become effective on September 25, 2012.

BE IT FURTHER RESOLVED that effective September 25, 2012 Resolution No. 2012-19 is hereby repealed in its entirety.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-373**

**RESOLUTION AMENDING A LABOR POLICY FOR PAYING AND REPORTING
THE VALUE OF EMPLOYER PAID MEMBER CONTRIBUTIONS TO THE
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (CALPERS) ON
BEHALF OF UNREPRESENTED MANGEMENT FIRE SAFETY EMPLOYEES**

WHEREAS, by Resolution No 2012-19 adopted by the Council, the City adopted a labor policy providing for Public Employees' Retirement System (PERS) employee contributions to be paid by the City on behalf of employees and for reporting of employer-paid normal member contributions to PERS as compensation, and

WHEREAS, the governing body of the City of Modesto has the authority to implement Government Code Section 20636(c)(4) pursuant to Section 20691, and

WHEREAS, the governing body of the City of Modesto has a written labor policy or agreement which specifically provides for the normal member contributions to be paid by the employer, and reported as additional compensation, and

WHEREAS, one of the steps in the procedures to implement Section 20691 is the adoption by the governing body of the City of Modesto of a Resolution to commence paying and reporting the value of said Employer Paid Member Contributions, and

WHEREAS, the governing body has the authority to amend all members in a group or class of employment pursuant to Government Code Section 20691.

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

For Fire Safety employees hired before January 17, 2012 under Tier 1 retirement formula 3%@50, the City of Modesto elects to pay seven and one half percent (7.5%) of the normal

member contributions of nine percent (9%) as employer paid member contributions and report the same value to CalPERS as compensation earnable as additional compensation.

For Fire Safety employees hired on or after January 17, 2012 under Tier 2 retirement formula 3%@55, the City of Modesto elects to pay zero percent (0%) of the normal member contributions of nine percent (9%). No payment shall be implemented pursuant to the provisions of Section 20636 (c)(4) of the California Government Code.

BE IT FURTHER RESOLVED that this Resolution shall become effective on September 25, 2012.

BE IT FURTHER RESOLVED that effective September 25, 2012 Resolution No. 2012-19 is hereby repealed in its entirety.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

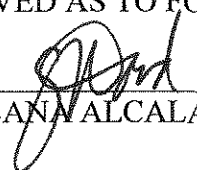
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-374**

**RESOLUTION ACCEPTING THE RESPONSE TO THE STANISLAUS CIVIL
GRAND JURY REPORTS 12-03C AND 12-04C**

WHEREAS, in August 2011 the Modesto City Council requested the Stanislaus Civil Grand Jury to review the Neighborhood Stabilization Program 2 (NSP2), and

WHEREAS, the Civil Grand Jury decided to review the program, and

WHEREAS, on June 28, 2012 the Stanislaus County Civil Grand Jury issued reports 12-03C and 12-04C focusing on the overall management of NSP2, and

WHEREAS, one of the requirements of the Grand Jury report is a written response from the jurisdiction regarding the 'Findings'.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the response to the Stanislaus County Civil Grand Jury Reports 12-03C and 12-04C and authorizes the City Manager or his designee to submit the response.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

August 31, 2012



Parks, Recreation & Neighborhoods Department

Stanislaus Grand Jury
1021 I Street, Floor 3
Modesto, CA 95354

RE: Neighborhood Stabilization 2 Program Response

Dear Members of the Civil Grand Jury;

First off, I would like to thank the members of the Civil Grand Jury for taking the time and energy to respond to the City of Modesto's request for review of the Neighborhoods Stabilization Program (NSP). As the members involved in this review realize, the program is complex, requiring the participating cities to work with local data and housing stock to design and create credible priorities, while working through an ever changing list of federal regulations and very difficult timelines set by the past legislation.

In our response we indicate that most of your recommendations have been implemented. The intent of the Neighborhood Stabilization Program was to stabilize economically depressed neighborhoods and create jobs. It should be noted that the scope of the program was quite extensive and the City of Modesto worked diligently to meet program goals within very tight deadlines set by federal legislation. That being said The Civil Grand Jury's Report, HUD's Office of the Inspector General Report, and HUD-sponsored technical assistance provided excellent recommendations and process reviews to confirm staff's strengths and weaknesses. I believe the City of Modesto has revised program guidelines and procedures, as appropriate based on these reports.

As required, the City of Modesto has attached its response to the findings and recommendations of the Grand Jury report and again, thanks to the members of the Civil Grand Jury for the research and diligence in this process.

Yours truly,

Greg Nyhoff, City Manager
City of Modesto, CA

1010 Tenth Street, Suite 4400, Modesto, CA 95353
PO Box 642, Modesto, CA 95354
(209) 577-5344 Fax (209) 571-5825

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-375**

RESOLUTION RESCINDING RESOLUTION NO. 2012-240 ONLY AS IT APPLIES TO A NEIGHBORHOOD STABILIZATION PROGRAM 3 MEMORANDUM OF UNDERSTANDING (MOU) WITH THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS (HACS), DATED JUNE 12, 2012, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN ANY AND ALL RELATED DOCUMENTS

WHEREAS, by Resolution No. 2011-41, Council approved the NSP3 Plan and

WHEREAS, The U.S. Department of Housing and Urban Development (HUD) approved the City's NSP3 Plan in the amount of \$2,951,549,011 and

WHEREAS, by Resolution No. 2012-240, Council approved an NSP3 MOU with the HACS, and

WHEREAS, an NSP3 MOU with the HACS contains clearer language than the previous and hereafter rescinded NSP3 MOU with the HACS, dated June 12, 2012 (Resolution No. 2012-240), as well as a revised allocation not to exceed \$998,395 for the acquisition and rehabilitation of at least six (6) eligible properties and

WHEREAS, this allocation represents the maximum amount of NSP3 funds that may be disbursed to the HACS.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby rescinds Resolution No. 2012-240 only as it applies to a Neighborhood Stabilization Program 3 (NSP3) Memorandum of Understanding (MOU) with the Housing Authority of the County of Stanislaus (HACS), dated June 12, 2012.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September, 2012, by Councilmember Burnside, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-376**

RESOLUTION APPROVING A NEIGHBORHOOD STABILIZATION PROGRAM 3 (NSP3) MEMORANDUM OF UNDERSTANDING (MOU) WITH THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS (HACS) AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NSP3 MOU WITH THE HACS

WHEREAS, by Resolution No. 2011-41, Council approved the NSP3 Plan and

WHEREAS, The U.S. Department of Housing and Urban Development (HUD) approved the City's NSP3 Plan in the amount of \$2,951,549 and

WHEREAS, by Resolution No. 2012-240, Council approved an NSP3 MOU with the HACS, and

WHEREAS, by Resolution No. 2012-375, Council rescinded Resolution No. 2012-240 only as it applies to an NSP3 MOU with the HACS and

WHEREAS, an NSP3 MOU with the HACS contains clearer language than the previous and now rescinded NSP3 MOU with the HACS, as well as a revised allocation not to exceed \$998,395 for the acquisition and rehabilitation of at least six (6) eligible properties and

WHEREAS, this allocation represents the maximum amount of NSP3 funds that may be disbursed to the HACS.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Neighborhood Stabilization Program 3 Memorandum of Understanding with the Housing Authority of the County of Stanislaus.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the NSP3 MOU with the HACS.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September, 2012, by Councilmember Burnside, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-377**

**RESOLUTION APPROVING STANDARDIZED NEIGHBORHOOD
STABILIZATION PROGRAM 3 (NSP3) LOAN DOCUMENTS FOR USE WITH
ALL ACQUISITION AND REHABILITATION LOAN TRANSACTIONS WITH
THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS (HACS),
WHICH WILL BE BROUGHT BEFORE THE CITY COUNCIL FOR
APPROVAL OF INDIVIDUAL NSP3 PROJECTS**

WHEREAS, by Resolution No. 2011-41, Council approved the NSP3 Plan, and

WHEREAS, The U.S. Department of Housing and Urban Development (HUD)
approved the City's NSP3 Plan in the amount of \$2,951,549, and

WHEREAS, by Resolution No. 2012-240 Council approved an NSP3 MOU with
the HACS, and

WHEREAS, by Resolution No. 2012-375, Council rescinded Resolution No.
2012-240 only as it applies to an NSP3 MOU with the HACS and

WHEREAS, by Resolution No. 2012-376, Council approved an NSP3 MOU with
the HACS and

WHEREAS, standardized NSP3 Loan Documents have been prepared for use
with all HACS acquisition and rehabilitation loan transactions, which will be brought
before Council for approval of individual NSP3 projects.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves the standardized NSP3 Loan Documents for use with all
acquisition and rehabilitation loan transactions with the HACS, which will be brought
before Council for approval of individual NSP3 projects.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September, 2012, by Councilmember Burnside, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-378**

**RESOLUTION APPROVING FIRST AMENDMENT TO CITY OF MODESTO
NEIGHBORHOOD STABILIZATION PROGRAM 3 (NSP3) MEMORANDUM
OF UNDERSTANDING (MOU) WITH STANISLAUS COUNTY AFFORDABLE
HOUSING CORPORATION (STANCO), AND AUTHORIZING THE CITY
MANAGER, OR HIS DESIGNEE, TO SIGN ANY AND ALL RELATED
DOCUMENTS**

WHEREAS, by Resolution No. 2011-41, Council approved the NSP3 Plan, and

WHEREAS, The U.S. Department of Housing and Urban Development (HUD) approved the City's NSP3 Plan in the amount of \$2,951,549, and

WHEREAS, by Resolution No. 2012-240, Council approved an MOU with STANCO allocating \$330,000 for the acquisition and rehabilitation of a minimum of two eligible properties to create affordable rental opportunities, and

WHEREAS, the amended NSP3 MOU with STANCO reflects an increased allocation of \$558,000 and amended production output of one eligible property consisting of a 14-unit apartment complex, and

WHEREAS, this amended allocation of NSP3 funds is dependent on Council's approval of a revised allocation of NSP3 funds to the Housing Authority of the County of Stanislaus (HACS).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a First Amendment to City of Modesto Neighborhood Stabilization Program 3 Memorandum of Understanding with Stanislaus County Affordable Housing Corporation.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to sign any and all related documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September, 2012, by Councilmember Burnside, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-379**

**RESOLUTION APPROVING NEIGHBORHOOD STABILIZATION PROGRAM
3 LOAN DOCUMENTS IN AN AMOUNT OF FIVE HUNDRED FIFTY EIGHT
THOUSAND DOLLARS (\$558,000) FOR A PROJECT INVOLVING THE
ACQUISITION AND REHABILITATION OF REAL PROPERTY LOCATED AT
416 6TH STREET, WHICH PURCHASE PRICE IS NOT TO EXCEED
CURRENT MARKET APPRAISED VALUE, AND AUTHORIZING THE CITY
MANAGER, OR HIS DESIGNEE, TO SIGN ANY AND ALL RELATED
DOCUMENTS**

WHEREAS, by Resolution No. 2011-41, Council approved the NSP3 Plan, and

WHEREAS, The U.S. Department of Housing and Urban Development (HUD)
approved the City's NSP3 Plan in the amount of \$2,951,549, and

WHEREAS, STANCO identified a 14-unit rental complex property located at 416
6th Street, Modesto, and seeks NSP3 funding in an amount of \$558,000 for a project
involving the acquisition and rehabilitation of real property located at 416 6th Street, of
which purchase price is not to exceed current market appraised value.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves Neighborhood Stabilization Program 3 Loan Documents (Loan
Agreement, Regulatory Agreement, Deed of Trust, and Promissory Note) in an amount
of \$558,000 for a project involving the acquisition and rehabilitation of real property
located at 416 6th Street, of which purchase price is not to exceed current market
appraised value.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby
authorized to sign any and all related documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September, 2012, by Councilmember Burnside, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-380**

RESOLUTION APPROVING AN AGREEMENT WITH GLOBAL LEADERSHIP ALLIANCE, INC. FOR PARTNERING PROCESS SERVICES FOR PHASE 2 BNR/TERTIARY TREATMENT FACILITY PROJECT IN AN AMOUNT NOT TO EXCEED \$84,200, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, during the development of the Phase 2 Tertiary project, the city included a provision in the project specifications for an optional partnering process with the contractor, and

WHEREAS, the contractor, G S E Construction Company (GSE), has notified the City of Modesto that they would like to participate in the partnering process, and

WHEREAS, the purpose of the partnering process is to achieve effective and efficient performance of the work through open communication, and

WHEREAS, the partnering process is a tool for controlling project costs and managing risks in order to achieve project excellence, and

WHEREAS, areas of influence include: 1) Setting measurable goals with commitment by all team members, as well as ongoing review of goals throughout the project, 2) Proactive discussion of potential project risks, creating mitigation, and prevention plans, 3) Creating open and direct verbal communication that leads to implicit trust so there are no surprises, 4) Resolving conflicts quickly, elevating to the next level when needed, without stalling the project, 5) Creating a teamwork mentality where everyone is accountable for the project success, 6) Establishing out-of-the box thinking and looking at innovative approaches as a team, and 7) Creating trusted business relationships, and

WHEREAS, consultant services were sought for the partnering facilitator in conformance with Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, and

WHEREAS, due to the need for an accelerated selection process and specialized nature of partnering, the Director of Utility Planning and Projects approved soliciting proposals from two firms that were recommended based on previous experience with the construction manager and contractor, and the apparent ability of these partnering firms to meet the City's objectives of partnering, and

WHEREAS, request for proposals were sent to the short listed consulting firms, and

WHEREAS, both consulting firms submitted proposals and were interviewed by a selection committee comprised of City staff and GSE's staff, and

WHEREAS, based on both the proposal and interview performances, the following ranking was established: 1) Global Leadership Alliance (GLA) (Top-ranked) and 2) Ventura Consulting, and

WHEREAS, GSE agreed with the selection of the top-ranked consultant and the City began negotiations with GLA for partnering facilitation for the Phase 2 Tertiary Project, and

WHEREAS, GLA's scope of services include an initial Kickoff Partnering Workshop for all project stakeholders and end users, including the owner, contractor, designer, major subcontractors and suppliers, and resource and utility agencies, and

WHEREAS, GLA's scope also includes 11 optional follow-up partnering workshops and a closeout workshop, as well as issuing and evaluating quarterly performance surveys completed by the project team, and

WHEREAS, staff has negotiated the scope and fees for the partnering services with GLA and believes the costs are reasonable for a project of this size and complexity, and

WHEREAS, if all optional workshops are held, the partnering facilitation costs will be 0.08% of the total construction costs for the project, which will be shared equally between GSE and the City, and

WHEREAS, based on the size and complexity of this project and the length of construction, there is an increased risk for change orders and claims to occur, and

WHEREAS, in addition, if all reimbursable partnering workshops are held, the Cost Sharing Agreement with GSE being requested for approval concurrently with this agreement will reduce the Partnering Process Services Expenditures with GLA to a net cost of \$38,400, thereby generating revenue by reimbursing the project account in the same amount, and

WHEREAS, in order to help minimize this risk, staff recommends approval of the partnering process agreement with GLA for Partnering Process Services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Global Leadership Alliance, Inc. for Partnering Process Services for Phase 2 Biological Nutrient Removal/Tertiary Treatment Facility for an amount not to exceed \$84,200.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September, 2012, by Councilmember Burnside, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-381**

RESOLUTION APPROVING AN AGREEMENT WITH G S E CONSTRUCTION COMPANY, INC. FOR COST SHARING FOR PARTNERING PROCESS SERVICES FOR PHASE 2 BNR/TERTIARY TREATMENT FACILITY PROJECT IN AN AMOUNT NOT TO EXCEED \$38,400, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, in May 2012, the City awarded a construction contract with G S E Construction Company, Inc. for the construction of the Phase 2 Biological Nutrient Removal/Tertiary Treatment Facility, and

WHEREAS, the City and the Contactor desire to participate in partnering process services for the Phase 2 BNR/Tertiary Treatment Facility project; and

WHEREAS, the City and the Contractor have selected a qualified consultant to facilitate the partnering process; and

WHEREAS, the City and the Contractor have agreed to a fifty percent (50%) cost share of the expenses for the proposed partnering facilitator, with the exception of the first partnering workshop (\$7,400); and

WHEREAS, the City and the Contractor have agreed to a "not to exceed" cost proposal from the selected consultant related to partnering facilitation;

WHEREAS, the proposed partnering workshops are optional tasks and will only be authorized by the City under an approved task order to the selected consultant, and

WHEREAS, the parties agree to fund the total sum of their respective percentage share within thirty (30) days after execution of an approved task order to GLA so that the parties will have the entire anticipated funding on hand prior to the payment due date,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Cost Sharing Agreement with G S E Construction Company, Inc. for Partnering Process Services for Phase 2 Biological Nutrient Removal/Tertiary Treatment Facility for an amount not to exceed \$38,400.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September, 2012, by Councilmember Burnside, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-382**

**RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO
NEGOTIATIONS WITH THE CITY OF WATERFORD FOR THE SALE OF
THE WATERFORD AND HICKMAN WATER SYSTEMS**

WHEREAS, the City of Modesto owns and operates water systems in Waterford and Hickman, and

WHEREAS, both systems were acquired as part of the Del Este water system in 1995, and

WHEREAS, City of Waterford has approached the City with the desire to explore the purchase of the Waterford system, and

WHEREAS, both systems are separate and independent from the Modesto water system and there is no expectation that either will become part of the Modesto system in the future, and

WHEREAS, the small size of the Hickman system makes it inefficient to maintain if the Waterford system were to be sold, and

WHEREAS, City staff has indicated to Waterford that a purchase of the Waterford system would need to include the Hickman system,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager to enter into negotiations with the City of Waterford for the sales of the Waterford and Hickman water systems.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September, 2012, by Councilmember Burnside, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-383**

**RESOLUTION AUTHORIZING REIMBURSEMENT TO THE CITY OF WATERFORD
FOR ONE-HALF THE COST OF THE WATERFORD AND HICKMAN WATER
SYSTEMS APPRAISAL UP TO THE AMOUNT OF \$10,000.00 UPON COMPLETION
OF THE SALE TO THE CITY OF WATERFORD**

WHEREAS, the City of Modesto owns and operates water systems in Waterford and Hickman, and

WHEREAS, City of Waterford has approached the City with the desire to explore the purchase of the Waterford system, and

WHEREAS, both systems are separate and independent from the Modesto water system and there is no expectation that either will become part of the Modesto system in the future, and

WHEREAS, the small size of the Hickman system makes it inefficient to maintain if the Waterford system were to be sold, and

WHEREAS, City staff has indicated to Waterford that a purchase of the Waterford system would need to include the Hickman system, and

WHEREAS, the City of Waterford intends to engage a private firm for appraisal of the value of the systems, and requests the City of Modesto pay one-half the costs of the appraisal at the completion of the sales of these water systems,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes reimbursing the City of Waterford for one-half the cost of the Waterford and Hickman water systems appraisal up to the amount of \$10,000.00 upon the completion of the sale to the City of Waterford.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of September, 2012, by Councilmember Burnside, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-384**

**A RESOLUTION AMENDING RESOLUTION NOS. 2003-446 AND 2011-104,
RESCINDING RESOLUTION NOS. 96-227 AND 2000-232, AND ELIMINATING
THE STREET TREE DEVELOPMENT USER FEE**

WHEREAS, the City Council of the City of Modesto has adopted various ordinances and resolutions authorizing the establishment of development user fees, and

WHEREAS, Section 4-4.803.1 of the Modesto Municipal Code authorizes the City Council to establish fees for street trees required in subdivisions, and

WHEREAS, Resolution No. 96-227 establishes the charge for street trees in subdivisions, and

WHEREAS, Resolution No. 2000-232 provides the method of assessing the street tree fees at the time of final subdivision map filing to prevent overcharges from occurring, and

WHEREAS, a Development User Fee Study was conducted in 2003 by MuniFinancial, a Wildan Company, which recommended an update every five years, and

WHEREAS, the results and recommendations of the 2003 Development User Fee Study were adopted by Resolution No. 2003-446, and

WHEREAS, a Development User Fee Study was conducted in 2008 by Public Resource Management, and

WHEREAS, on November 23, 2009, the Finance Committee considered the 2008 Development User Fee Study and appointed a Comprehensive Fees Task Force for the purpose of coordinating all development related fee proposals and aligning all fee structures with the goals and policies of the General Plan and Strategic Plan, and

WHEREAS, the results of the 2011 Development User Fee Study and recommendations of the Comprehensive Fees Task Force were adopted by Resolution No. 2011-104, and

WHEREAS, both the 2003 and 2011 Development Fee Studies included the assessment of street tree fees in new subdivisions, and

WHEREAS, the service of furnishing and planting street trees in subdivisions is no longer provided by the City and is the sole responsibility of the developer,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines that the developer is responsible for furnishing and planting street trees in new areas of development.

BE IT FURTHER RESOLVED that Resolution Nos. 2003-446 and 2011-104 are hereby amended as follows:

A. The street tree fee set forth in the 2011 Development User Fees Study, attached as **Exhibit A**, is no longer applicable and shall be eliminated upon adoption of this resolution.

B. All other provisions of Resolution Nos. 2003-446 and 2011-104, not in conflict with this resolution, shall remain in full force and effect.

BE IT FURTHER RESOLVED that Resolution Nos. 96-227 and 2000-232 are hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Burnside

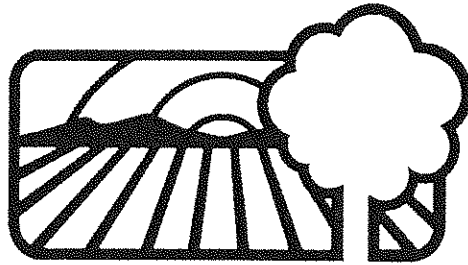
ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Exhibit A



**2011
DEVELOPMENT USER FEES
SUMMARY REPORT**

DRAFT

January 28, 2011

**Prepared by:
City of Modesto Comprehensive Fees Task Force**

BACKGROUND:

Public Resource Management (PRM) Group was hired by the City in March, 2008 to conduct a comprehensive update of development user fees. At the City's direction, PRM examined services provided by all development service departments, including those not currently part of the fee recovery model. The final Development User Fee Cost Analysis Study (Attachment A) included new fees, eliminates others and modifies certain categories of fees.

Development user fees are those fees charged for services provided for the following:

- Building permits and inspections
- Planning applications
- Landscape plan check and inspections
- Fire Prevention plan check and inspections
- Land development engineering

The PRM Study was presented to the Finance Committee in March, 2009. The Committee directed staff to begin "stakeholder's workshops as it relates to all fees, including development user fees, and as part of that process, to also develop a timeline for when fees should be reviewed on a regular basis.

On November 23, 2009 the Finance Committee approved the formation of the multi-disciplinary Comprehensive Fee Task Force (CFTF) for the purpose of coordinating all development related fee proposals and aligning all fee structures with the goals and policies of the General Plan and Strategic Plan.

In July, staff presented an overview of development user fees to the CFTF along with the study and fee update conducted by Public Resources Management. Over the next several meetings, staff gave individual presentations on development user fee categories and made recommendations for improvement and adjustments to the Study's recommendations.

Building Permit/Inspection Fees

Although the PRM study did recommend increases in building permit and plan review fees it did not address the need to replace the valuation based fee schedule with a "cost for services" based system. Most of the building permit/inspection industry is replacing the valuation system due to recent court cases and legislation that highlight the requirement of a nexus between the fees charged for building permits and inspections and the cost of delivering the services. In addition, the City's general fund has been subsidizing the operations of the Building Safety Division for over 5 years. In the last several years that subsidy has been as much as \$1,000,000.

In May, the Building Safety Division contracted with Matrix Consulting Group to develop a Cost of Services study (Attachment B) and explore the possibility of implementing a cost based fee schedule. On May 27, 2010, the Chief Building Official presented preliminary findings to the

CFTF indicating that although many smaller permit fee categories would increase, some larger permit fee categories would go down.

Working with Matrix Consulting Group, staff tried to find a balance between raising fees on smaller permits and achieving full cost recovery. The result was a hybrid fee basis – Table M-1 (Attachment D). This table shows increases on fees for the smaller permits such as water heaters, and HVAC repairs, but not to full cost recovery. Staff believes that raising these small permit fees to full cost recovery will have a negative affect on compliance and fee recovery.

On September 9, 2010 the Chief Building Official presented the final Matrix Study Report (Attachment C) to the CFTF with a recommendation to accept the Matrix study with exception of Table M-1 and staff to develop a fee schedule upon that study. The CFTF voted to accept the Matrix study but without the Table M-1 and recommended this to the Finance Committee.

Planning Fees

The PRM Study relied primarily on data from 2007-2008 including staffing and time estimates. As a result of staff changes, increased efficiencies and process streamlining and improvements, Planning staff reviewed each fee activity and made adjustments. Most fees were reduced, although a few that were not recovering costs did go up.

In addition, Planning staff reviewed fee categories and made adjustments and additions to reflect all possible application types including Development Agreement Amendment, Variance for Single Family Home, Development Plan Review without interdepartmental review, Time Extension-Administrative Approval. Additionally, the fee for concept review was removed as recommended by the CFTF to further encourage developers to submit plans early in the process. The revised fee schedule reviewed and recommended by the CFTF is attached (Attachment G).

Finally, several fee policies have evolved since the PRM study. Planning staff recommended the adoption of several new policies to address issues such as the concurrent processing of planning applications, refunds and establishment of fees when none exists. The draft fee policies are attached (Attachment H).

Land Development Engineering Fees

Land Development Engineering staff reviewed the engineering fees recommended by the PRM study and made recommendations to the CFTF for the elimination of two fees, addition of new fees for stormwater quality and on-site storm drainage review, and the conversion to “time and materials” for improvement plan checks and rough grading permits. Conversion to “time and materials” is necessary to achieve cost recovery and to set the stage for further outsourcing opportunities. A summary of these changes is attached (Attachment I). All other fees as proposed in the study are recommended for approval by staff and the CFTF.

Summary of All Fees

In summary the CFTF recommends the following changes to the PRM Development user Fee Study:

- Change the methodology for building permit fees from valuation based to a cost based method.
- Change the structure of on and off site improvement plan checks from flat fee to time and materials deposit
- Reduce some planning fees due to process improvements and increased efficiencies
- Increase some planning fees that do not recover full cost for service delivery
- Establish new fees where services are provided but no fee is collected
- Eliminate fees that are no longer necessary
- Adopt fee policies pertaining to the concurrent processing of planning applications, fee reductions for multiple applications, refunds and authority for fee determination in the absence of an established fee.
- Maintain current fees for Landscape and Fire Prevention plan check and inspection.

NPU Vacant Building Monitoring Fee

In June of 2009, City Council adopted a Vacant and Boarded Building Ordinance (Title 9 Chapter 9 Article 6). This ordinance was adopted due to the foreclosure crisis in the Valley and intended to slow depreciation of property values and discourage crime in Modesto's neighborhoods. According to MMC 9-9.607 Vacant Building Monitoring Fee, NPU is requiring all vacant properties to be registered by the lending institution in order to monitor the condition of these properties. However, a fee was not proposed or adopted.

According to the attached internal study (Attachment E) the total cost for the year 2010 for this program was \$136,000. Most cities in California have a monitoring fee that is charged at the time of registration that will cover staff costs for monitoring and inspection of these properties. Staff is requesting Committee direction to develop a fee schedule for recovery of costs associated with the Vacant Boarded Building program, and return to the Finance Committee for review and recommendation of approval.

RECOMMENDATIONS:

- 1) CFTF recommends to accept the Matrix study and recommended Fee Schedule but without Table M-1.
- 2) CFTF recommends the revised Planning Fee schedule
- 3) CFTF recommends the new policies to address issues such as the concurrent processing planning applications, refunds and establishment of fees when none exists
- 4) CFTF recommends the revised Land Development Engineering fees, along with all other fees as proposed in the study
- 5) CFTF recommends development of a fee schedule for recovery of costs associated with the Vacant Boarded Building program

FISCAL IMPACT:

The recommended fee adjustments vary; there are increases as well as decreases. The cumulative impact should result in an increase in General Fund revenues contingent on the volume of development activity. Historically, development user fees have been highly subsidized by the General Fund ranging from \$250,000 to \$1,000,000. This effort seeks to move toward a more equitable cost-recovery based system where each development pays its fair share and the General Fund subsidy is reduced. User fees are the only development related fees that directly impact the General Fund.

Development user fees represent approximately seven percent of the total fee burden to a development. Therefore any incremental increase in user fees will be offset by fee reductions in Capital Facilities Fees and the wastewater connection fee which together currently comprise approximately 80% of the total fee burden to developments.

Attachments:

- A. PRM Study
- B. Matrix Final Report on Cost of Services Study for Building
- C. Matrix User Fee Study
- D. Cost Recovery Report Table M-1
- E. Vacant Boarded Building Program Costs
- F. Building Inspection/Plan Review Services Fee Schedule
- G. Planning Division Fee Schedule
- H. Planning Draft Fee Policies
- I. Land Development Engineering Fee Schedule



DEVELOPMENT USER FEE
COST ANALYSIS STUDY FINDINGS

CITY OF MODESTO

MARCH, 2009



455 Capitol Mall, Suite 600, Sacramento, CA 95814
Tele: 916-396-5650

Providing Professional Services to Government

TABLE OF CONTENTS

<u>Section</u>	<u>Page</u>
Executive Summary	
Introduction	1
Study Scope & Objectives	1
Methodology	2
Study Findings	2
Economic & Policy Considerations	5
Planning	7
Building	15
Land Development Engineering	18
Fire Prevention	27
Parks Planning and Development Services Landscape Section	32
Fee Comparison Survey	37
Appendix: Subsidized Fees	41

I. EXECUTIVE SUMMARY

INTRODUCTION

Public Resource Management Group (PRM) is pleased to present the City of Modesto with this summary of findings for the development user fee study.

The city last underwent a detailed cost of service study for all divisions in 2003. Since that time the city has made some minor adjustments to the original calculations, but has largely maintained the fee structure that was developed as a result of the previous study. The city is interested in more accurately understanding and reporting the true cost of providing various fee-related services, and exploring the possibilities of modifying current fees to better recover the fully burdened cost of providing services. In January 2008, the city contracted with PRM to perform this cost analysis using the proposed 2007/2008 fiscal year budget and staffing information.

This report is the culmination of the past ten months of work between PRM and city management and staff. PRM would like to take this opportunity to acknowledge all city management and staff who participated on this project for their efforts and coordination. Their responsiveness and continued interest in the outcome of this study contributed greatly to the success of this study.

STUDY SCOPE AND OBJECTIVES

This study included a review of fee-for-service activities within the following divisions:

- Planning
- Building
- Engineering
- Fire Prevention
- Parks Planning and Development Services Landscape Section (PPD Landscape)

The study was performed under the general direction of the Community and Economic Development Department with the participation of the above-mentioned divisions. The primary goals of the study were to:

Define and understand what it costs the city to provide various fee-related services.

Determine whether there are any opportunities to implement new fees.

Identify service areas where the city might adjust fees based on the full cost of services and other economic or policy considerations.

Provide a comparison of what other jurisdictions are charging for specific similar services.

The information summarized in this report addresses each of these issues and provides the City of Modesto with the tools necessary to make informed decisions about possible fee adjustments and the resulting impact on general fund revenues.

METHODOLOGY

A cost of service study analyzes two components of costs: the direct costs associated with providing each fee-for-service activity, and the indirect costs that support these activities. A brief discussion of each of these components follows.

Direct Costs. The direct costs associated with fee-for-service activities were analyzed in great detail in this study. PRM worked closely with staff and management within each of the four divisions to develop the analysis that is summarized in the following sections of this report. Fiscal year 2007/2008 proposed budget estimates were used to identify direct costs.

The first step in the process was to identify staff time spent directly on each of the user fee activities. Each staff person that participates in the user fee services identified time spent to complete each task associated with all user fee services. Annual volume statistics were also gathered in order to develop total annual workload information. Salary and benefit dollars were assigned to the time estimates to come up with the direct staff costs.

Indirect Costs. A proportionate share of other operating expenses and internal division administrative costs were layered onto the direct costs as a divisional overhead. Citywide overhead costs coming from the cost allocation plan (described below) were also added in as indirect overhead. Finally, crossover direct costs were added in as necessary (e.g. some Engineering staff costs were added to Planning staff costs to assist with various applications.). These four components of costs: 1) direct salary and benefits, 2) divisional overhead, 3) citywide overhead, and 4) crossover direct costs total up to the full cost of providing each service. The cost of each activity is then compared to the fee currently charged, and an under- or over-recovery of costs is identified.

STUDY FINDINGS

While the purpose of this study is to identify the cost of fee-related activities, one of the outcomes of the analysis is a complete picture of the full cost of all services provided. It's necessary to identify *all* costs, whether fee-related or not, so that there is a fair distribution of all citywide and divisional overhead costs (discussed in the following section of this report) across all activities, ensuring a clear relationship between the cost of the service and the fee that is charged. No service should be burdened with costs that cannot be directly or indirectly associated with that service.

Therefore the first task in this study is to separate the fee-for-service activities from the non-fee activities. Some non-fee related activities are appropriately funded by general fund monies (or other special revenue sources), such as Capital Improvement Project work performed by the Engineering division. The costs of these other services are identified and set aside from the user fee services.

Exhibit I below displays the split of the total costs of each division or program into either user fee-related or other service costs. It may be seen that of the \$10 million in total costs analyzed, \$5.8 million (or 58%) of that total is related to user fee services. It is this \$5.8 million that is the focus of this study and this represents the total potential of user fee-related revenues for the City of Modesto.

Exhibit I

**City of Modesto
Total Costs by User Fee Area
2008/2009**

<i>Division / Section</i>	<i>Total Costs</i>	<i>Costs, User Fee Services</i>		<i>Costs, Non-Fee Services¹</i>	
Planning	\$2,915,304	\$1,123,472	39%	\$1,791,832	61%
Building	\$3,545,392	\$3,545,392	100%	\$0	0%
Engineering ²	\$2,122,993	\$931,807	44%	\$1,191,186	56%
Fire Prevention	\$787,938	\$118,577	15%	\$669,361	85%
PPD Landscaping	\$586,897	\$51,488	9%	\$535,409	91%
Grand Total:	\$9,958,524	\$5,770,736	58%	\$4,187,788	42%

1 Non-fee services are calculated by identifying staff hours and budgeted expenses not directly or indirectly related to a fee-for-service activity.

2 Includes all of Land Development Engineering and a portion of Public Works Engineering

The next step in the process is to identify the source of funds for the user fee services. Exhibit II below breaks down the \$5.8 million in user fee services between costs that are recovered through current user fee charges and costs that are subsidized by the general fund. Overall, the city is experiencing a 50% cost recovery level for its fee-related services. For each division, cost recovery levels range from 41% for Fire Prevention to 104% for PPD Landscape. For PPD Landscape this indicates that overall fee revenue must be reduced. At the individual program or service level, individual fee recoveries range from 0% to a slight over-recovery of costs for selected fees. The information about individual fees may be found in subsequent sections of this report.

City of Modesto
Source of Funds
- User Fee Activities -
2008/2009

<i>Division / Section</i>	<i>Costs, User Fee Services</i>	<i>Current Fees</i>		<i>Not Funded by User Fees</i>	
Planning	\$1,123,472	\$584,614	52%	\$538,858	48%
Building	\$3,545,392	\$1,814,017	51%	\$1,731,375	49%
Engineering ²	\$931,807	\$402,423	43%	\$529,384	57%
Fire Prevention	\$118,577	\$48,684	41%	\$69,893	59%
PPD Landscaping	\$51,488	\$53,413	104%	(\$1,925)	-4%
Grand Total:	\$5,770,736	\$2,903,151	50%	\$2,867,585	50%

² Includes all of Land Development Engineering and a portion of Public Works Engineering

Exhibit II indicates that the general fund is subsidizing fee activities by \$2.9 million. This \$2.9 million represents a “window of opportunity” for the city to reduce costs and/or increase fees and general fund revenues, with a corresponding decrease in the subsidization of services. While it is not likely (nor would PRM recommend) that the city completely recover all costs for fees, it is possible for the city to implement moderate increases to current fees and implement new fees for some services. The study's primary objective is to provide the city's decision-makers with basic data needed for setting fees.

City of Modesto
User Fee Revenue Analysis
2008/09

<i>Division / Section</i>	<i>Costs, User Fee Services</i>	<i>Not Funded By User Fees</i>	<i>Revenues @</i>			
			<i>Current Fees</i>	<i>Cost Recovery Policy</i>		<i>Increased (Decreased) Revenue</i>
Planning	\$1,123,472	\$538,858	\$584,614	\$1,089,930	97%	\$505,316
Building	\$3,545,392	\$1,731,375	\$1,814,017	\$2,340,082	66%	\$526,065
Engineering ²	\$931,807	\$529,384	\$402,423	\$924,979	99%	\$522,556
Fire Prevention	\$118,577	\$69,893	\$48,684	\$119,669	101%	\$70,985
PPD Landscaping	\$51,488	(\$1,925)	\$53,413	\$51,605	100%	(\$1,808)
Grand Total:	\$5,770,736	\$2,867,585	\$2,903,151	\$4,526,265	78%	\$1,623,114

² Includes all of Land Development Engineering and a portion of Public Works Engineering

Exhibit III above summarizes the report's financial analysis of the city's user fee program. Note that the Building cost recovery policy is to increase fees from 1999 valuations to 2008 valuations. This policy will increase fees to a 66% cost recovery level.

Cost Allocation Plan. Many of the costs that support *all* city programs and services are budgeted in centralized activities such as 1) City Finance, which provides payroll, budgeting, and accounting support, 2) Building Maintenance, which provides building maintenance and custodial services, and 3) Human Resources, which provides human resource services. The costs of these activities and other centralized services are considered indirect overhead that support fee-for-service activities as well as other programs and functions within the city.

As part of this study, PRM developed an indirect cost allocation plan that identifies and distributes these indirect costs to all operating programs and functions within the city's organizational structure. The cost allocation plan takes a detailed approach to analyzing indirect costs. PRM interviewed staff and analyzed data within each central service activity to determine:

What indirect support functions are provided (e.g. payroll, legal services, civic center maintenance, etc),

How to allocate centrally budgeted personnel and other operating expenses into these functions,

Which divisions receive benefit from these services (e.g. payroll services benefit all divisions that have budgeted staff, benefits all divisions), and

What is the best method of allocating these costs to the users (e.g. payroll services are allocated based on the number of full time employee equivalents (FTE's) per division).

The end result of this analysis is the allocation of all indirect costs to all operating divisions and programs. The indirect costs are then added to the direct costs to determine the full cost of *all* city operations – whether fee-related or not. This accounting exercise is important in that it can result in an increase in general fund revenues for reimbursement of support to enterprise and internal service funds, state or federally funded programs, and user fee services.

ECONOMIC & POLICY CONSIDERATIONS

Calculating the true cost of providing city services is a critical step in the process of establishing user fees and corresponding cost recovery levels. But although it is the most important factor, others must also be given consideration. City decision-makers must also consider the effects that establishing fees for services will have on the individuals purchasing those services as well as the community as a whole. The following economic and policy issues help illustrate these considerations.

- It may be a desired policy to establish fees at a level that permits lower income groups to participate in services that they might not otherwise be able to afford.

- A consideration of community-wide benefit versus specific benefit should be considered for certain services.
- In conjunction with the second point above, the issue of who is the *service recipient* versus the *service driver* should also be considered. For example, code enforcement activities benefit the community as a whole, but the service is driven by the individual or business owner that violates city code.
- Elasticity of demand is a factor in pricing certain city services; increasing the price of some services results in a reduction of demand for those services, and vice versa.
- Pricing services can encourage or discourage certain behaviors. Some examples of this would be to establish a low fee for a water heater permit to encourage homeowners to ensure their water heater is properly installed.
- Full cost vs direct cost recovery - There are two distinct philosophies regarding the degree of cost recovery for service delivery. Some public officials argue that user fees should be based on the amount of service directly rendered for a specific service. They state that the cost of maintaining staffing and facilities to render those services upon demand should be recovered from an agency's general fund.
- The counter argument is that maintaining an "administrative infrastructure" to provide services is as much a part of the government infrastructure for which new development may be charged, as are new streets, utilities, and other related infrastructure. In other words, fee-related services could not occur without a staffed and supplied organization that is capable of meeting the demands for services placed upon it by a particular individual or development activity. This infrastructure is required to sustain the permitting, application, inspecting and other services of the City. These costs are required for the provision of services and can be recoverable from applicants in the form of service fees.
- Building Division subsidy policy – Even after proposed fee increases the Building Division will be subsidized by approximately \$1,205,310. City management should establish a policy determining how much General Fund subsidy to provide to the Division. There is a fixed cost in making plan check and inspection services available to the public, even when construction activity is very low. To help with this decision, the Building analysis on page 17 presents Building Division processing costs at three levels: 1) Division only, 2) Division plus Community and Economic Development Department administration, and 3) Full Cost, including City indirect departments (City Manager, Finance, etc.).
- It is estimated that adoption of the recommended cost recovery policy could increase the specified fee revenue by \$1,623,114 in a typical year (a 57% increase over the current revenue total). This would bring the overall cost recovery level up to 78%.

II. PLANNING

The Planning Division provides services related to land use within the city limits. These services include: processing of all zoning and land use applications, preparation of special studies associated with long-range land use objectives, working with the development community to facilitate the review of new projects along with supporting the City Council, Planning Commission and Board of Zoning Adjustment. The total cost of all planning services, including non-fee services, is \$2,915,304. The total cost of fee related activity is \$1,123,472.

The following is a review of findings and highlights:

- Fee-for-service costs (excluding all non-fee services) total \$1,123,472 and are offset by current revenues of \$584,614. This translates into an overall user fee cost recovery rate of 52%. PRM has performed many user fee analyses for planning fees and finds this to be on the low to mid range of cost recovery levels. If all recommended fee adjustments are adopted, \$412,268 additional revenue will be realized.
- Cost recovery levels for individual fees range from 8% to 219%. Fees which exceed 100% cost recovery must be reduced.
- The Division's General Plan maintenance surcharge was evaluated and found to be insufficient to fund future updates. Government Code Section 65040.5(b) permits the imposition of a fee on building permits to recover General Plan updates. The surcharge is currently \$.26 per \$1,000 of building valuation permitted. The City estimates that a general plan update would cost approximately \$1,610,948. The fee recommended by the PRM Group amortizes the cost over a 10-year useful life resulting in a fee of \$.61 per \$1,000 of building permit valuation. The expected annual revenue for the General Plan Update fee is approximately \$161,095. Calculations are provided below:

City of Modesto General Plan Maintenance Fee Calculations			
Cost of Long Range Plans		Average Annual New Building Construction Valuation: (Based on latest five years of construction valuation data)	
General Plan Advisor	\$125,000		
MEIR, incld air quality, noise and biology analysis	700,000		
Transportation/Circulation	250,000		
Engineering Analysis/Services	150,000	2004 actual	280,409,588
Economic Development Analysis	75,000	2005 actual	356,155,358
Housing Element Update	90,000	2006 actual	298,025,900
Contingency	139,000	2007 actual	229,547,267
City Staff Costs	81,948	2008 actual	157,006,451
Total	<u>\$1,610,948</u>	8 year average:	<u>\$264,228,913</u>
Annual Long Range Plan Maintenance Cost:		Fee per \$1,000 of New Building Construction Valuation:	
<i>Estimated 10 year useful life</i>	<u>\$161,095</u>	$(\$161,095/\$264,228,913) \times \$1,000:$	<u>\$0.610</u>
Sample General Plan Maintenance Fee Calculations:			
<i>Proj. Type</i>	<i>Valuation</i>	<i>Fee</i>	
Restaurant	\$600,000	\$366	
House	\$350,000	\$213	

- The cost of services such as public counter assistance, meeting and training time are included as overhead to all service areas.
- The Public Works Department, Streets and Traffic Services Division reviews many Planning applications. Streets and Traffic Services review comprised \$333,780 of total Planning fee related costs.
- Some agencies choose to phase in fee increases over a fixed period of years with the eventual objective of 100% cost recovery.
- It should be noted that even with implementation of our fee recommendations the cost recovery rate for current planning as a whole will likely be less than 100% cost recovery due to non-fee related activities. The division devotes significant time to three non-fee activities: pre-application time with developers, activities directed by Council and assisting the public with general zoning and development information.

The summary charts on the following pages show the results of this division's cost analysis. Page 9 provides information on a "Per Unit" basis. Page 12 provides total annual information by multiplying the per-unit fees and costs by the volume of activity in order to project out total annual costs and revenues

USER FEE STUDY SUMMARY SHEET

City of Modesto
 Planning
 FY 2008/09

- PER UNIT INFORMATION -

Service Name	Service Type	Annual Volume	Current Fee	Cost Figures									Recommendations		
				Planning	Transportation	Building	Engineering	CED Permits	PPD	Full Cost	Current City Subsidy	Current Cost Recovery %	Cost Recovery Policy Level (%)	Fee @ Policy Level	City Subsidy @ Policy Level
1 P-D Zoning (Planned Development)	Fee	9	\$6,935.00	\$5,878	\$5,815	\$254	\$189	\$121	\$234	\$12,491.04	\$5,556.04	55.52%	100.00%	\$12,490.00	\$1.04
2 Amend P-D Zone Pursuant to Sec. 10-2.1709 (b)	Fee	5	\$6,935.00	\$5,878	\$1,496	\$254	\$189	\$121	\$234	\$8,171.09	\$1,236.09	84.87%	100.00%	\$8,170.00	\$1.09
3 Amend P-D Zone Pursuant to Sec. 10-2.1709 (a)	Fee	4	\$5,946.00	\$4,725	\$1,496	\$254	\$189	\$121	\$234	\$7,018.36	\$1,072.36	84.72%	100.00%	\$7,020.00	-\$1.64
4 Rezoning and Prezoning	Fee	1	\$2,716.00	\$5,878	\$356	\$254	\$189	\$121	\$0	\$6,798.08	\$4,082.08	39.95%	100.00%	\$6,800.00	-\$1.92
5 Precise Plan	Fee	1	\$6,842.00	\$5,878	\$1,285	\$254	\$336	\$202	\$234	\$8,188.23	\$1,346.23	83.56%	100.00%	\$8,190.00	-\$1.77
6 Precise Plan Amendment	Fee	1	\$6,842.00	\$5,878	\$237	\$254	\$336	\$81	\$234	\$7,020.01	\$178.01	97.46%	100.00%	\$7,020.00	\$0.01
7 Development Agreement	deposit	1	\$5,000.00	\$5,878	\$1,677	\$254	\$161	\$121	\$481	\$8,572.07	\$3,572.07	58.33%	100.00%	\$8,570.00	\$2.07
8 CUP with Development	Proposed	1	\$0.00	\$4,725	\$1,258	\$254	\$108	\$40	\$0	\$6,386.01	\$6,386.01	0.00%	100.00%	\$6,390.00	-\$3.99
9 CUP w/o Development	Fee	6	\$5,853.00	\$2,494	\$1,258	\$254	\$108	\$121	\$0	\$4,235.43	-\$1,617.57	138.19%	100.00%	\$4,240.00	-\$4.57
10 Variance Single Fam. Home	Fee	1	\$330.00	\$3,277	\$237	\$254	\$0	\$40	\$0	\$3,808.88	\$3,478.88	8.66%	100.00%	\$3,810.00	-\$1.12
11 Variance All Others	Fee	1	\$4,804.00	\$3,277	\$393	\$254	\$0	\$40	\$0	\$3,964.23	-\$839.77	121.18%	100.00%	\$3,960.00	\$4.23
12 Plot Plan Review - Administrative	Fee	26	\$290.00	\$997	\$1,614	\$254	\$0	\$0	\$0	\$2,865.14	\$2,575.14	10.12%	100.00%	\$2,870.00	-\$4.86
13 Plot Plan Review- PC/BZA	Fee	8	\$5,013.00	\$4,725	\$2,936	\$254	\$0	\$81	\$0	\$7,995.35	\$2,982.35	62.70%	100.00%	\$8,000.00	-\$4.65
14 Final Development Plan	Fee	2	\$5,853.00	\$4,725	\$2,445	\$254	\$0	\$81	\$234	\$7,738.71	\$1,885.71	75.63%	100.00%	\$7,740.00	-\$1.29
15 Administrative Approval of Revised Plans	Fee	36	\$423.00	\$544	\$0	\$0	\$0	\$0	\$0	\$543.66	\$120.66	77.81%	100.00%	\$540.00	\$3.66
16 Tentative Subdivision Map	Fee	10	\$6,099.00	\$4,725	\$4,866	\$254	\$189	\$40	\$269	\$10,342.84	\$4,243.84	58.97%	100.00%	\$10,340.00	\$2.84
17 Tentative Parcel Map	Fee	12	\$4,995.00	\$3,030	\$2,920	\$254	\$189	\$40	\$234	\$6,667.24	\$1,672.24	74.92%	100.00%	\$6,670.00	-\$2.76
18 Parcel Map Waiver	Fee	1	\$4,483.00	\$3,030	\$0	\$0	\$0	\$0	\$0	\$3,030.31	-\$1,452.69	147.94%	100.00%	\$3,030.00	\$0.31
19 Lot-Line Adjustment	Fee	11	\$298.00	\$539	\$0	\$0	\$0	\$0	\$0	\$538.67	\$240.67	55.32%	100.00%	\$540.00	-\$1.33
20 Certificate of Compliance	Fee	1	\$1,434.00	\$654	\$0	\$0	\$0	\$0	\$0	\$653.74	-\$780.26	219.35%	100.00%	\$650.00	\$3.74
21 Time Extension- PC/BZA	Fee	8	\$4,631.00	\$2,236	\$119	\$254	\$0	\$81	\$0	\$2,688.74	-\$1,942.26	172.24%	100.00%	\$2,690.00	-\$1.26
22 Abandonment of Right of Way	Fee	1	\$8,170.00	\$6,429	\$1,496	\$254	\$645	\$0	\$0	\$8,823.26	\$653.26	92.60%	100.00%	\$8,820.00	\$3.26
23 Abandonment of Walkway	Fee	1	\$5,143.00	\$5,027	\$237	\$0	\$645	\$0	\$0	\$5,909.79	\$766.79	87.03%	100.00%	\$5,910.00	-\$0.21
24 Zoning Verification Letter	Fee	51	\$37.00	\$61	\$0	\$0	\$0	\$0	\$0	\$60.80	\$23.80	60.86%	100.00%	\$61.00	-\$0.20

USER FEE STUDY SUMMARY SHEET

- PER UNIT INFORMATION -

City of Modesto
Planning
FY 2008/09

	Service Name	Service Type	Annual Volume	Current Fee	Cost Figures							Current City Subsidy	Current Cost Recovery %	Recommendations		
					Planning	Transportation	Building	Engineering	CED Permits	PPD	Full Cost			Cost Recovery Policy Level (%)	Fee @ Policy Level	City Subsidy @ Policy Level
a	25 Concept Review	Fee	3	\$1,051.00	\$1,569	\$2,390	\$254	\$135	\$161	\$397	\$4,906.13	\$3,855.13	21.42%	20.38%	\$1,000.00	\$3,906.13
b	26 General Plan Amendment	deposit	1	\$5,000.00	\$5,878	\$3,885	\$254	\$0	\$40	\$235	\$10,292.29	\$5,292.29	48.58%	100.00%	\$10,290.00	\$2.29
	27 Specific Plan Review	deposit	1	\$10,000.00	\$5,878	\$8,782	\$254	\$336	\$202	\$281	\$15,732.39	\$5,732.39	63.56%	100.00%	Deposit + T&M	
	28 Specific Plan Amendment	Fee	1	\$7,453.00	\$5,878	\$2,445	\$254	\$336	\$121	\$281	\$9,315.14	\$1,862.14	80.01%	100.00%	\$9,320.00	-\$4.86
	29 Annexation	Fee	1	\$11,144.00	\$6,790	\$1,258	\$254	\$363	\$40	\$0	\$8,704.89	-\$2,439.11	128.02%	100.00%	\$8,700.00	\$4.89
	30 CEQA Notice of Exemption	Fee	1	\$0.00	\$82	\$0	\$0	\$0	\$0	\$0	\$81.93	\$81.93	0.00%	100.00%	\$82.00	-\$0.07
	31 Initial Study (incl chk list, Bee ad, & Not. Of Deter.)	Fee	1	\$491.00	\$367	\$0	\$0	\$0	\$0	\$0	\$366.61	-\$124.39	133.93%	100.00%	\$370.00	-\$3.39
	32 Initial Study County Clerk-Admin Fee	Fee	1	\$57.00							\$57.00	\$0.00	100.00%	100.00%	\$57.00	\$0.00
c	33 E.I.R.	cost + %	1	30.00%	\$39,417	\$6,882	\$254	\$0	\$0	\$0	\$46,553.29	\$46,552.99	0.00%	100.00%	Deposit + T&M	
	34 E.I.R. Fish and Game Filing Fee	Fee	1	\$2,500.00							\$2,500.00	\$0.00	100.00%	100.00%	\$2,500.00	\$0.00
	35 E.I.R. County Clerk Admin Fee	Fee	1	\$57.00							\$57.00	\$0.00	100.00%	100.00%	\$57.00	\$0.00
d	36 General Plan Update Fee	Surcharge	1	\$0.26/\$1000			\$0.61/\$1000				\$0.61/\$1000	\$0.35/\$1000	43.00%	100.00%	\$0.61/\$1000	\$0.00
	37 Appeals to C/C (of Pln Com. Or BZA decisions)	Fee	1	\$200.00	\$1,252	\$274	\$254	\$0	\$0	\$0	\$1,780.34	\$1,580.34	11.23%	11.23%	\$200.00	\$1,580.34
	38 Appeals to BZA (of admin. Decisions)	Fee	3	\$200.00	\$1,414	\$0	\$254	\$0	\$0	\$0	\$1,667.39	\$1,467.39	11.99%	11.99%	\$200.00	\$1,467.39
	39 Photocopies of Any Official City Document (1st time)	clerk policy	1	\$0.35	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	Clerk Policy	n/a
	40 Each additional document	clerk policy	1	\$0.15	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	Clerk Policy	n/a
	41 Maps, Zoning or Base	clerk policy	12	\$9.00	\$21	\$0	\$0	\$0	\$0	\$0	\$21.21	\$12.21	42.43%	100.00%	\$21.00	\$0.21
	42 Admin Precise Plan Amendment	Proposed	1	\$0.00	\$4,979	\$0	\$0	\$0	\$0	\$0	\$4,979.16	\$4,979.16	0.00%	100.00%	\$4,980.00	-\$0.84
	43 Development Plan Rvw with Interdept Referral	Proposed	8	\$0.00	\$2,281	\$5,871	\$254	\$282	\$0	\$0	\$8,688.01	\$8,688.01	0.00%	100.00%	\$8,690.00	-\$1.99
	44 Administrative Final Development Plan	Proposed	1	\$0.00	\$997	\$1,970	\$254	\$0	\$0	\$0	\$3,221.28	\$3,221.28	0.00%	100.00%	\$3,220.00	\$1.28
	45 Area Plan	Proposed	1	\$0.00	\$4,725	\$1,496	\$254	\$0	\$0	\$0	\$6,474.69	\$6,474.69	0.00%	100.00%	\$6,470.00	\$4.69
	46 Exception	Proposed	1	\$0.00	\$3,277	\$0	\$254	\$0	\$0	\$0	\$3,531.11	\$3,531.11	0.00%	100.00%	\$3,530.00	\$1.11
	47 Joint use parking agreement/Parking Determination	Proposed	1	\$0.00	\$2,494	\$0	\$0	\$0	\$0	\$0	\$2,494.07	\$2,494.07	0.00%	100.00%	\$2,490.00	\$4.07
	48 Plot Plan Review for Large Family Daycare	Proposed	3	\$0.00	\$1,999	\$475	\$254	\$0	\$0	\$0	\$2,727.86	\$2,727.86	0.00%	50.00%	\$1,360.00	\$1,367.86

USER FEE STUDY SUMMARY SHEET

- PER UNIT INFORMATION -

City of Modesto
 Planning
 FY 2008/09

Service Name	Service Type	Annual Volume	Current Fee	Cost Figures							Recommendations					
				Planning	Transportation	Building	Engineering	CED Permits	PPD	Full Cost	Current City Subsidy	Current Cost Recovery %	Cost Recovery Policy Level (%)	Fee @ Policy Level	City Subsidy @ Policy Level	
49 Referral of administratively approved plans to the F	Proposed	3	\$0.00	\$868	\$0	\$0	\$0	\$0	\$0	\$0	\$868.20	\$868.20	0.00%	100.00%	\$870.00	-\$1.80
50 Williamson Act cancellation	Proposed	1	\$0.00	\$2,570	\$0	\$0	\$0	\$0	\$0	\$0	\$2,569.77	\$2,569.77	0.00%	100.00%	\$2,570.00	-\$0.23
e 51 Planning Review of Building Plans	Proposed	100	\$0.00	\$199	\$0	\$0	\$0	\$0	\$0	\$0	\$199.42	\$199.42	0.00%	100.00%	\$200.00	-\$0.58
52 CUP for signs and cell towers	Proposed	10	\$0.00	\$2,456	\$1,340	\$254	\$54	\$0	\$0	\$0	\$4,104.43	\$4,104.43	0.00%	100.00%	\$4,100.00	\$4.43
53 A-frame sign review	Proposed	1	\$0.00	\$207	\$0	\$0	\$0	\$0	\$0	\$0	\$207.16	\$207.16	0.00%	50.00%	\$100.00	\$107.16
54 Research Fee	hourly	10	\$0.00	\$61	\$0	\$0	\$0	\$0	\$0	\$0	\$60.80	\$60.80	0.00%	n/a	hourly	n/a
55 Administrative Specific Plan Amendment	Proposed	1	\$0.00	\$559	\$237	\$254	\$0	\$0	\$0	\$0	\$1,050.13	\$1,050.13	0.00%	100.00%	\$1,050.00	\$0.13
56 Development Agreement Amendment	Proposed	1	\$0.00	\$5,878	\$810	\$254	\$0	\$0	\$0	\$0	\$6,941.66	\$6,941.66	0.00%	100.00%	\$6,940.00	\$1.66
57 Reversion to Acerage	Fee	1	\$4,483.00	\$3,030	\$0	\$254	\$0	\$0	\$0	\$0	\$3,284.14	-\$1,198.86	136.50%	100.00%	\$3,280.00	\$4.14
58 Development Plan Rvw w/o Interdept Referral	Proposed	1	\$0.00	\$559	\$0	\$0	\$0	\$0	\$0	\$0	\$558.86	\$558.86	0.00%	100.00%	\$560.00	-\$1.14
59 Administrative Time Extension	Proposed	1	\$0.00	\$559	\$0	\$0	\$0	\$0	\$0	\$0	\$558.86	\$558.86	0.00%	100.00%	\$560.00	-\$1.14
60 CUP - Single Family Home	Fee	1	\$330.00	\$2,494	\$1,258	\$254	\$108	\$121	\$0	\$0	\$4,235.43	\$3,905.43	7.79%	8.00%	\$340.00	
61 Plot Plan Review - 2nd Story	Fee	1	\$290.00	\$997							\$997.05	\$707.05	29.09%	34.10%	\$340.00	\$657.05
Fees Collected for Other Departments																
f 62 Solid Waste Permits	Proposed	117	\$0.00	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$56.23	\$56.23	0.00%	100.00%	\$56.00	\$0.23

- a *Concept Review is defined as a full interdepartmental pre-application review.*
- b *It is proposed that this entitlement be recovered on a flat fee basis, rather than on a deposit plus time and materials basis*
- c *This percentage fee is assessed against the dollar value of the EIR contract to recover staff review/coordination costs.*
- d *The proposed General Plan update surcharge is \$0.61 per \$1,000 of building construction valuation.*
- e *Fee only applies to building plans that are reviewed by Planning.*
- f *Note: For Solid Waste Permits, this revenue accrues to the solid waste fund. This category includes both Building and Planning permits.*
- all *Concurrent processing: when two or more related entitlement applications are submitted simultaneously for the same property and will be heard by the same decision-making body, the total fee shall be the highest fee plus 50% of the lesser entitlements.*
- all *Applications terminated prior to public hearing: 50% refund of application. For time and materials applications the applicant shall receive a refund of the balance of funds in the project account.*
- all *When any portion of a development is required to be charged on a time and materials basis, the whole development will be charged on a time and materials basis.*

- all *The CED Director is authorized to waive fees for special circumstances.*
- t&m *Initial deposit amounts shall be set as follows: EIR \$20,000. Other entitlements \$15,000. Maximum deposit per development is \$45,000.*
- t&m *Deposit minimum balance: when a deposit balance falls below \$10,000, a supplementary deposit will be required.*

USER FEE STUDY SUMMARY SHEET

City of Modesto
 Planning
 FY 2008/09

- TOTAL PROGRAM INFORMATION -

Service Name	Service Type	Revenue @ Current Fee	Cost Figures							Recommendations				
			Planning	Transportation	Building	Engineering	CED Permits	PPD	Rev @ Full Cost Recovery	Current City Subsidy	Current Cost Recovery %	Cost Recovery Policy Level (%)	Revenue @ Policy Level	Increased Revenue
1 P-D Zoning (Planned Development)	Fee	\$62,415	\$52,902	\$52,339	\$2,285	\$1,701	\$1,089	\$2,103	\$112,419	\$50,004	55.52%	100.00%	\$112,410	\$49,995
2 Amend P-D Zone Pursuant to Sec. 10-2.1709 (b)	Fee	\$34,675	\$29,390	\$7,478	\$1,269	\$945	\$605	\$1,168	\$40,855	\$6,180	84.87%	100.00%	\$40,850	\$6,175
3 Amend P-D Zone Pursuant to Sec. 10-2.1709 (a)	Fee	\$23,784	\$18,901	\$5,982	\$1,015	\$756	\$484	\$935	\$28,073	\$4,289	84.72%	100.00%	\$28,080	\$4,296
4 Rezoning and Prezoning	Fee	\$2,716	\$5,878	\$356	\$254	\$189	\$121	\$0	\$6,798	\$4,082	39.95%	100.00%	\$6,800	\$4,084
5 Precise Plan	Fee	\$6,842	\$5,878	\$1,285	\$254	\$336	\$202	\$234	\$8,188	\$1,346	83.56%	100.00%	\$8,190	\$1,348
6 Precise Plan Amendment	Fee	\$6,842	\$5,878	\$237	\$254	\$336	\$81	\$234	\$7,020	\$178	97.46%	100.00%	\$7,020	\$178
7 Development Agreement	deposit	\$5,000	\$5,878	\$1,677	\$254	\$161	\$121	\$481	\$8,572	\$3,572	58.33%	100.00%	\$8,570	\$3,570
8 CUP with Development	Proposed	\$0	\$4,725	\$1,258	\$254	\$108	\$40	\$0	\$6,386	\$6,386	0.00%	100.00%	\$6,390	\$6,390
9 CUP w/o Development	Fee	\$35,118	\$14,964	\$7,549	\$1,523	\$650	\$726	\$0	\$25,413	-\$9,705	138.19%	100.00%	\$25,440	-\$9,678
10 Variance Single Fam. Home	Fee	\$330	\$3,277	\$237	\$254	\$0	\$40	\$0	\$3,809	\$3,479	8.66%	100.00%	\$3,810	\$3,480
11 Variance All Others	Fee	\$4,804	\$3,277	\$393	\$254	\$0	\$40	\$0	\$3,964	-\$840	121.18%	100.00%	\$3,960	-\$844
12 Plot Plan Review - Administrative	Fee	\$7,540	\$25,923	\$41,970	\$6,600	\$0	\$0	\$0	\$74,494	\$66,954	10.12%	100.00%	\$74,620	\$67,080
13 Plot Plan Review- PC/BZA	Fee	\$40,104	\$37,803	\$23,484	\$2,031	\$0	\$645	\$0	\$63,963	\$23,859	62.70%	100.00%	\$64,000	\$23,896
14 Final Development Plan	Fee	\$11,706	\$9,451	\$4,890	\$508	\$0	\$161	\$467	\$15,477	\$3,771	75.63%	100.00%	\$15,480	\$3,774
15 Administrative Approval of Revised Plans	Fee	\$15,228	\$19,572	\$0	\$0	\$0	\$0	\$0	\$19,572	\$4,344	77.81%	100.00%	\$19,440	\$4,212
16 Tentative Subdivision Map	Fee	\$60,990	\$47,253	\$48,658	\$2,538	\$1,890	\$403	\$2,685	\$103,428	\$42,438	58.97%	100.00%	\$103,400	\$42,410
17 Tentative Parcel Map	Fee	\$59,940	\$36,364	\$35,041	\$3,046	\$2,268	\$484	\$2,804	\$80,007	\$20,067	74.92%	100.00%	\$80,040	\$20,100
18 Parcel Map Waiver	Fee	\$4,483	\$3,030	\$0	\$0	\$0	\$0	\$0	\$3,030	-\$1,453	147.94%	100.00%	\$3,030	-\$1,453
19 Lot-Line Adjustment	Fee	\$3,278	\$5,925	\$0	\$0	\$0	\$0	\$0	\$5,925	\$2,647	55.32%	100.00%	\$5,940	\$2,662
20 Certificate of Compliance	Fee	\$1,434	\$654	\$0	\$0	\$0	\$0	\$0	\$654	-\$780	219.35%	100.00%	\$650	-\$784
21 Time Extension- PC/BZA	Fee	\$37,048	\$17,884	\$950	\$2,031	\$0	\$645	\$0	\$21,510	-\$15,538	172.24%	100.00%	\$21,520	-\$15,528
22 Abandonment of Right of Way	Fee	\$8,170	\$6,429	\$1,496	\$254	\$645	\$0	\$0	\$8,823	\$653	92.60%	100.00%	\$8,820	\$650
23 Abandonment of Walkway	Fee	\$5,143	\$5,027	\$237	\$0	\$645	\$0	\$0	\$5,910	\$767	87.03%	100.00%	\$5,910	\$767
24 Zoning Verification Letter	Fee	\$1,887	\$3,101	\$0	\$0	\$0	\$0	\$0	\$3,101	\$1,214	60.86%	100.00%	\$3,111	n/a
25 Concept Review	Fee	\$3,153	\$4,707	\$7,169	\$762	\$404	\$484	\$1,192	\$14,718	\$11,565	21.42%	20.38%	\$3,000	-\$153

USER FEE STUDY SUMMARY SHEET

City of Modesto
 Planning
 FY 2008/09

- TOTAL PROGRAM INFORMATION -

Service Name	Service Type	Revenue @ Current Fee	Cost Figures								Recommendations				
			Planning	Transportation	Building	Engineering	CED Permits	PPD	Rev @ Full Cost Recovery	Current City Subsidy	Current Cost Recovery %	Cost Recovery Policy Level (%)	Revenue @ Policy Level	Increased Revenue	
26 General Plan Amendment	deposit	\$5,000	\$5,878	\$3,885	\$254	\$0	\$40	\$235	\$10,292	\$5,292	48.58%	100.00%	\$10,290	\$5,290	
27 Specific Plan Review	deposit	\$10,000	\$5,878	\$8,782	\$254	\$336	\$202	\$281	\$15,732	\$5,732	63.56%	100.00%	\$15,732	\$5,732	
28 Specific Plan Amendment	Fee	\$7,453	\$5,878	\$2,445	\$254	\$336	\$121	\$281	\$9,315	\$1,862	80.01%	100.00%	\$9,320	\$1,867	
29 Annexation	Fee	\$11,144	\$6,790	\$1,258	\$254	\$363	\$40	\$0	\$8,705	-\$2,439	128.02%	100.00%	\$8,700	-\$2,444	
30 CEQA Notice of Exemption	Fee	\$0	\$82	\$0	\$0	\$0	\$0	\$0	\$82	\$82	0.00%	100.00%	\$82	\$82	
31 Initial Study (Incl chk list, Bee ad, & Not. Of Deter.)	Fee	\$491	\$367	\$0	\$0	\$0	\$0	\$0	\$367	-\$124	133.93%	100.00%	\$370	-\$121	
32 Initial Study County Clerk-Admin Fee	Fee	\$57	\$57	\$0	\$0	\$0	\$0	\$0	\$57	\$0	100.00%	100.00%	\$57	\$0	
33 E.I.R.	cost + %	\$30,000	\$39,417	\$6,882	\$254	\$0	\$0	\$0	\$46,553	\$16,553	64.44%	100.00%	\$46,553	\$16,553	
34 E.I.R. Fish and Game Filing Fee	Fee	\$2,500	\$2,500	\$0	\$0	\$0	\$0	\$0	\$2,500	\$0	100.00%	100.00%	\$2,500	\$0	
35 E.I.R. County Clerk Admin Fee	Fee	\$57	\$57	\$0	\$0	\$0	\$0	\$0	\$57	\$0	100.00%	100.00%	\$57	\$0	
36 General Plan Update Fee	Surcharge	\$69,271	\$161,095	\$0	\$0	\$0	\$0	\$0	\$161,095	\$91,824	43.00%	100.00%	\$161,095	\$0	
37 Appeals to C/C (of Pln Com. Or BZA decisions)	Fee	\$200	\$1,252	\$274	\$254	\$0	\$0	\$0	\$1,780	\$1,580	11.23%	11.23%	\$200	\$0	
38 Appeals to BZA (of admin. Decisions)	Fee	\$600	\$4,241	\$0	\$762	\$0	\$0	\$0	\$5,002	\$4,402	11.99%	11.99%	\$600	\$0	
39 Photocopies of Any Official City Document (1st time)	clerk policy	\$0	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
40 Each additional document	clerk policy	\$0	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
41 Maps, Zoning or Base	clerk policy	\$108	\$255	\$0	\$0	\$0	\$0	\$0	\$255	\$147	42.43%	100.00%	\$252	\$144	
42 Admin Precise Plan Amendment	Proposed	\$0	\$4,979	\$0	\$0	\$0	\$0	\$0	\$4,979	\$4,979	0.00%	100.00%	\$4,980	\$4,980	
43 Development Plan Rvw with Interdept Referral	Proposed	\$0	\$18,248	\$46,968	\$2,031	\$2,258	\$0	\$0	\$69,504	\$69,504	0.00%	100.00%	\$69,520	\$69,520	
44 Administrative Final Development Plan	Proposed	\$0	\$997	\$1,970	\$254	\$0	\$0	\$0	\$3,221	\$3,221	0.00%	100.00%	\$3,220	\$3,220	
45 Area Plan	Proposed	\$0	\$4,725	\$1,496	\$254	\$0	\$0	\$0	\$6,475	\$6,475	0.00%	100.00%	\$6,470	\$6,470	
46 Exception	Proposed	\$0	\$3,277	\$0	\$254	\$0	\$0	\$0	\$3,531	\$3,531	0.00%	100.00%	\$3,530	\$3,530	
47 Joint use parking agreement/Parking Determination	Proposed	\$0	\$2,494	\$0	\$0	\$0	\$0	\$0	\$2,494	\$2,494	0.00%	100.00%	\$2,490	\$2,490	
48 Plot Plan Review for Large Family Daycare	Proposed	\$0	\$5,998	\$1,425	\$762	\$0	\$0	\$0	\$8,184	\$8,184	0.00%	50.00%	\$4,080	\$4,080	
49 Referral of administratively approved plans to the P	Proposed	\$0	\$2,605	\$0	\$0	\$0	\$0	\$0	\$2,605	\$2,605	0.00%	100.00%	\$2,610	\$2,610	
50 Williamson Act cancellation	Proposed	\$0	\$2,570	\$0	\$0	\$0	\$0	\$0	\$2,570	\$2,570	0.00%	100.00%	\$2,570	\$2,570	

USER FEE STUDY SUMMARY SHEET

- TOTAL PROGRAM INFORMATION -

City of Modesto
Planning
FY 2008/09

Service Name	Service Type	Revenue @ Current Fee	Cost Figures							Recommendations					
			Planning	Transportation	Building	Engineering	CED Permits	PPD	Rev @ Full Cost Recovery	Current City Subsidy	Current Cost Recovery %	Cost Recovery Policy Level (%)	Revenue @ Policy Level	Increased Revenue	
51 Planning Review of Building Plans	Proposed	\$0	\$19,942	\$0	\$0	\$0	\$0	\$0	\$0	\$19,942	\$19,942	0.00%	100.00%	\$20,000	\$20,000
52 CUP for signs and cell towers	Proposed	\$0	\$24,562	\$13,402	\$2,538	\$542	\$0	\$0	\$0	\$41,044	\$41,044	0.00%	100.00%	\$41,000	\$41,000
53 A-frame sign review	Proposed	\$0	\$207	\$0	\$0	\$0	\$0	\$0	\$0	\$207	\$207	0.00%	50.00%	\$100	\$100
54 Research Fee	hourly	\$0	\$608	\$0	\$0	\$0	\$0	\$0	\$0	\$608	\$608	0.00%	n/a	n/a	n/a
55 Administrative Specific Plan Amendment	Proposed	\$0	\$559	\$237	\$254	\$0	\$0	\$0	\$0	\$1,050	\$1,050	0.00%	100.00%	\$1,050	\$1,050
56 Development Agreement Amendment	Proposed	\$0	\$5,878	\$810	\$254	\$0	\$0	\$0	\$0	\$6,942	\$6,942	0.00%	100.00%	\$6,940	\$6,940
57 Reversion to Acreage	Fee	\$4,483	\$3,030	\$0	\$254	\$0	\$0	\$0	\$0	\$3,284	-\$1,199	136.50%	100.00%	\$3,280	-\$1,203
58 Development Plan Rvw w/o Interdept Referral	Proposed	\$0	\$559	\$0	\$0	\$0	\$0	\$0	\$0	\$559	\$559	0.00%	100.00%	\$560	\$560
59 Administrative Time Extension	Proposed	\$0	\$559	\$0	\$0	\$0	\$0	\$0	\$0	\$559	\$559	0.00%	100.00%	\$560	\$560
60 CUP - Single Family Home	Fee	\$330	\$2,494	\$1,258	\$254	\$108	\$121	\$0	\$0	\$4,235	\$3,905	7.79%	8.00%	\$340	\$10
61 Plot Plan Review - 2nd Story	Fee	\$290	\$997	\$0	\$0	\$0	\$0	\$0	\$0	\$997	\$707	29.09%	100.00%	\$340	\$50
Fees Collected for Other Departments															
62 Solid Waste Permits	Proposed	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$6,579	\$6,579	0.00%	100.00%	\$0	\$0

Total User Fees ¹	\$584,614	\$713,107	\$333,780	\$35,029	\$14,981	\$6,898	\$13,097	\$1,123,472	\$538,858		\$1,089,930	\$412,268
% of Full Cost	52.04%	63.47%	29.71%	3.12%	1.33%	0.61%	1.17%	100.00%	47.96%		97.01%	36.70%
Total Other Services	\$0							\$1,791,832	\$1,791,832		\$0	\$0
% of Full Cost	0.00%							100.00%	100.00%		0.00%	0.00%
Department Totals	\$584,614	\$2,504,939	\$333,780	\$35,029	\$14,981	\$6,898	\$13,097	\$2,915,304	\$2,330,690		\$1,089,930	\$412,268
% of Full Cost	20.05%	85.92%	11.45%	1.20%	0.51%	0.24%	0.45%	100.00%	79.95%		37.39%	14.14%

¹ This total focuses on fee related activity only. Non fee related activity costs have been excluded.

III. BUILDING

The Building Division provides a variety of services at the request of property owners and developers seeking to build or modify a structure. The Division reviews building plans and inspects construction to ensure the plumbing, mechanical, electrical and structural codes are adhered to. The total costs of all building services, including divisional and citywide overhead is \$3,447,343. These costs are currently offset by \$1,633,326 in revenue. A 47% recovery.

Building permit and plan review fees generate a majority of the division's revenue. Building permit fees are based on the valuation (value) of the proposed construction project. Building permit fees are used to offset the costs of inspecting and documenting building construction. Currently, plan review fees are set equal to 65% of the permit fee, except for tract home non-model units, which are not charged to recognize redundancies when checking many similar tract housing plans.

Building permit fees are calculated based on the division's fee matrix, which translates project construction valuations into fees. Construction valuations are based on 1999 building valuation data (BVD) factors as published in Building Standards Magazine.

To establish a relationship between fees charged and costs expended PRM detailed sample developments from very small projects to very large projects. City staff then assigned time figures to each project. Time figures were derived from a time tracking database for each project size. These time figures were then multiplied against fully burdened labor rates to arrive at the total cost for each sample development.

Highlights from the analysis:

- This analysis justifies Building fees for the purpose of showing compliance with the State of California Attorney General's Opinion No. 92-506. In this opinion the Attorney General determined that municipalities may not rely solely on valuation-based fee schedule but must demonstrate that valuation-based fees do not exceed the reasonable cost of providing service. All proposed fee adjustments for the Building Division are equal to or less than the reasonable cost of providing service and accordingly comply with Attorney General Opinion No. 92-506.
- PRM recommends institution of 2008 building valuation data. The City is currently using 1999 building valuation data, which is very old and does not comply with the new International Code Council (ICC) categories. Implementing 2008 building valuation data will increase building fees by an average of 30%, generating \$544,205 additional revenue per year.
- Building Division subsidy policy – Even after proposed fee increases the Building Division will be subsidized by approximately \$1,205,310 per year. City management should establish a policy determining how much General Fund subsidy to provide to the Division. There is a fixed cost in making plan check and inspection services available to the public, even when construction activity is very low. To help with this decision, the Building analysis on page 17 presents Building Division processing costs at three levels: 1)

Division only, 2) Division plus CEDD admin, and 3) Full Cost, including City indirect departments (City Manager, Finance, etc.)

The following chart on page 17 displays the findings of the Building Analysis.

CITY OF MODESTO
BUILDING DIVISION
FISCAL 2008/09
Fee Cost Analysis

Sample Projects	Building and Safety Cost	CEDD Cost	Citywide Indirect Cost	Full Cost	Current Fee	Cost Recovery % at Full Cost	Proposed Fee Based on 2008 Valuation Factors
\$2,000 valuation project							
Plan Check & Counter	\$215	\$18	\$17	\$249	\$50		\$54
Inspection	\$463	\$38	\$36	\$537	\$77		\$83
Total for Category	\$677	\$56	\$52	\$785	\$127	16%	\$137
\$25,000 valuation project							
Plan Check & Counter	\$274	\$23	\$21	\$318	\$218		\$269
Inspection	\$771	\$63	\$59	\$894	\$336		\$414
Total for Category	\$1,046	\$86	\$81	\$1,212	\$554	46%	\$683
\$50,000 valuation project							
Plan Check & Counter	\$429	\$35	\$33	\$497	\$352		\$422
Inspection	\$1,350	\$111	\$104	\$1,565	\$541		\$649
Total for Category	\$1,779	\$146	\$137	\$2,062	\$893	43%	\$1,071
\$100,000 valuation project							
Plan Check & Counter	\$667	\$55	\$51	\$774	\$535		\$736
Inspection	\$2,584	\$212	\$199	\$2,996	\$823		\$1,133
Total for Category	\$3,252	\$267	\$251	\$3,770	\$1,358	36%	\$1,869
\$500,000 valuation project							
Plan Check & Counter	\$2,384	\$196	\$184	\$2,763	\$1,679		\$2,484
Inspection	\$4,758	\$391	\$367	\$5,516	\$2,583		\$3,822
Total for Category	\$7,141	\$587	\$551	\$8,279	\$4,262	51%	\$6,306
\$1,000,000 valuation project							
Plan Check & Counter	\$5,017	\$412	\$387	\$5,817	\$2,911		\$4,388
Inspection	\$5,978	\$491	\$461	\$6,931	\$4,478		\$6,751
Total for Category	\$10,996	\$904	\$848	\$12,747	\$7,389	58%	\$11,139

Notes:

The Department is currently using 1999 building valuation factors. It is recommended that 2008 valuation factors be instituted. Model units will be assessed a plan checking fee of 65% of the building permit fee.

Repeat unit dwellings will be assessed a plan checking fee of 30% of the building permit fee.

Custom homes are currently assessed a plan check fee of 50%. It is recommended the fee be increased to 65% of the building permit fee.

Reinstatement Fee: if a permit is not finalized within a two-year period, the permit must be reinstated. The reinstatement fee varies according to how complete the project is. The following schedule shall be followed for reinstatement fees:

Passed foundation inspection: 75% of original fee.

Passed frame inspection: 50% of original fee.

Passed drywall inspection: 25% of original fee.

PRM recommends institution of a Temporary Certificate of Occupancy fee of \$430.

PRM recommends institution of a Permit Extension fee of \$180.

PRM recommends Application Revisions be charged on an hourly basis of \$127 per hour.

PRM recommends Change of Address/ Owner be charged on an hourly basis of \$127 per hour.

PRM recommends that Mechanical, Plumbing and Electrical fees be increased by 30% to reflect increased processing costs.

Hourly Rate: for services not specifically addressed an hourly rate of \$127 shall be charged.

PRM recommends the following services be charged on a flat fee basis:

HVAC New:	\$270	Pool & Spa	\$910
HVAC Replacement	\$270	Spa	\$455
Reroof - Residential	\$290	Mobile Home Setup	\$582
Reroof - Commercial	\$370	Residential Additions	\$1.72/sq ft (\$500 minimum)
Pool	\$840	Water Heater	\$150

IV. LAND DEVELOPMENT ENGINEERING

The Land Development Engineering Division is responsible for overseeing the design and construction of both public improvements and private development. Technical services provided by this division include: project development, design, survey, inspection and contract administration. The total cost of all Land Development Engineering services is \$2,122,993. The total cost of fee related services is \$931,807. For analysis purposes, this section also incorporates fee-related costs from the Public Works Engineering Division. Because both division's work on many of the same fee services their efforts have been combined within this section.

Fee-related service costs total \$931,807. Offsetting revenue is roughly \$402,423 which results in a general fund subsidy of \$529,384 and a corresponding cost recovery level of 43%. Cost recovery levels for individual fees range from 4% for a 50 PCI trench restoration up to a cost recovery of 426% for a sewer main encroachment permit.

- The cost recovery rate of 43% is in the low end of what we typically see for Engineering divisions Statewide.
- If all fee adjustment recommendations are adopted \$522,556 in additional revenue would be realized.
- Some agencies choose to phase in fee increases over a fixed period of years with the eventual objective of 100% cost recovery.
- Many new fees are proposed for institution:

o Application Pre-inspection	\$95	o PUE and PE Dedication and Abandonment	\$460
o Fourth Check of a Plan	\$280		
o Will Serve Letter	\$460	o On-site Storm Drainage Review:	
o Stormwater Quality Fee	\$670	0 - 3 acres	\$1,680
o GIS Subdivision Mapping Fee	\$290	3.1 - 5 acres	\$2,510
o Microfilm Fee	\$1 per page	5.1 - 10 acres	\$3,350
o As-Built Process Fee	\$170	10.1 + acres	\$4,190

The summary charts on the following pages show the results of this division's cost analysis. Page 19 provides information on a "Per Unit" basis. Page 23 provides total annual information by multiplying the per-unit fees and costs by the volume of activity in order to project out total annual costs and revenues

USER FEE STUDY SUMMARY SHEET

- PER UNIT INFORMATION -

City of Modesto
Land Development
FY 2008/09

							<i>Recommendations</i>		
Service Name	Service Type	Annual Volume	Current Fee	Full Cost	Current City Subsidy	Current Cost Recovery %	Cost Recovery Policy Level (%)	Fee @ Policy Level	City Subsidy @ Policy Level
1 Reversion to acreage checking fee	Fee	1	\$810.00	\$897.01	\$87.01	90.30%	100.00%	\$900.00	-\$2.99
2 Final parcel map checking fee	Fee	4	\$1,422.00	\$1,615.70	\$193.70	88.01%	100.00%	\$1,620.00	-\$4.30
3 Final subdivision map checking fee:									
4 10 Lots	Fee	5	\$2,105.00	\$2,599.01	\$494.01	80.99%	100.00%	\$2,600.00	-\$0.99
5 150 Lots	Fee	1	\$3,000.00	\$4,150.90	\$1,150.90	72.27%	100.00%	\$4,150.00	\$0.90
6 Improvement plan checking:									
7 7 \$25K cost estimate	Fee	28	6.80%	\$2,650.12	\$950.12	64.15%	100.00%	10.60%	\$0
7 8 \$100K cost estimate	Fee	15	2.30%	\$3,363.77	\$1,063.77	68.38%	100.00%	3.36%	\$0
7 9 \$250K cost estimate	Fee	10	1.60%	\$5,346.14	\$1,346.14	74.82%	100.00%	2.14%	\$0
10 Property Owner's assoc. doc check fee	Fee	1	\$217.00	\$345.91	\$128.91	62.73%	100.00%	\$350.00	-\$4.09
11 Summary Abandonment	Fee	1	\$2,027.00	\$2,241.76	\$214.76	90.42%	100.00%	\$2,240.00	\$1.76
12 Street Trees, each furnished&installed	Fee	220	\$181.00	\$202.63	\$21.63	90.33%	100.00%	\$200.00	\$2.63
13 Monument Admin Fee	Fee	643	\$48.00	\$362.04	\$314.04	13.26%	100.00%	\$360.00	\$2.04
14 Street Signs, each intersection, installed by City	Fee	17	\$279.00	\$276.46	-\$2.54	100.92%	100.00%	\$280.00	-\$3.54
15 Encroachment permits									
16 Application Pre-inspection	Proposed	145	\$0	\$94.93	\$94.93	0%	100.00%	\$95.00	-\$0.07
1,3 17 Curbs and curb cuts (<100 lf, max 1 lot)	Fee	12	\$206.00	\$216.08	\$10.08	95.34%	100.00%	\$220.00	-\$3.92
18 Sidewalks (< 100 lf, max 1 lot)	Fee	8	\$206.00	\$216.08	\$10.08	95.34%	100.00%	\$220.00	-\$3.92
1,2,4,8 19 Sewer service from lot to main	Fee	53	\$255.00	\$79.29	-\$175.71	321.58%	100.00%	\$79.00	\$0.29
1,2,3,4 20 Sewer main	Fee	1	\$338.00	\$79.29	-\$258.71	426.26%	100.00%	\$79.00	\$0.29
21 Storm Drain (through curb)	Fee	1	\$157.00	\$170.48	\$13.48	92.09%	100.00%	\$170.00	\$0.48
1,2, 5,4 22 Utilities - major construction	Fee	131	\$73.00	\$79.29	\$6.29	92.06%	100.00%	\$79.00	\$0.29
1,2, 5 23 Utilities - service & repair	Fee	230	\$255.00	\$261.67	\$6.67	97.45%	100.00%	\$260.00	\$1.67
24 Temp ROW Closures	Fee	74	\$255.00	\$291.68	\$36.68	87.42%	100.00%	\$290.00	\$1.68

USER FEE STUDY SUMMARY SHEET

- PER UNIT INFORMATION -

City of Modesto
Land Development
FY 2008/09

							<i>Recommendations</i>			
	Service Name	Service Type	Annual Volume	Current Fee	Full Cost	Current City Subsidy	Current Cost Recovery %	Cost Recovery Policy Level (%)	Fee @ Policy Level	City Subsidy @ Policy Level
2	25 Street Light	Fee	1	\$255.00	\$528.30	\$273.30	48.27%	100.00%	\$530.00	-\$1.70
4	26 Rock Wells or Storm Drain Connectors	Fee	1	\$255.00	\$79.29	-\$175.71	321.58%	100.00%	\$79.00	\$0.29
4	27 Street Construction	Fee	1	\$73.00	\$79.29	\$6.29	92.06%	100.00%	\$79.00	\$0.29
6, 4	28 Misc Improvements	Fee	167	\$73.00	\$79.29	\$6.29	92.06%	100.00%	\$79.00	\$0.29
	29 Install refractor steel pole	Fee	1	\$157.00	\$339.56	\$182.56	46.24%	100.00%	\$340.00	-\$0.44
	30 Added refractor steel pole	Fee	1	\$157.00	\$339.56	\$182.56	46.24%	100.00%	\$340.00	-\$0.44
	31 Install utility wood pole mount	Fee	1	\$157.00	\$813.45	\$656.45	19.30%	100.00%	\$810.00	\$3.45
	32 Utility wood pole mount	Fee	1	\$157.00	\$843.85	\$686.85	18.61%	100.00%	\$840.00	\$3.85
	33 Install street light standard	Fee	1	\$255.00	\$309.16	\$54.16	82.48%	100.00%	\$310.00	-\$0.84
	34 Soil core sample	Fee	1	\$255.00	\$261.67	\$6.67	97.45%	100.00%	\$260.00	\$1.67
	35 Lane Closure	Fee	5	\$40.00	\$60.01	\$20.01	66.65%	100.00%	\$60.00	\$0.01
	36 Detour	Fee	5	\$80.00	\$120.03	\$40.03	66.65%	100.00%	\$120.00	\$0.03
	37 Certificate of Correction	Proposed	2	\$0	\$303.81	n/a	n/a	100.00%	\$300.00	\$3.81
8	38 Legal Description Check	Fee	66	\$95.00	\$255.88	\$160.88	37.13%	100.00%	\$260.00	-\$4.12
	39 Reciprocal access agreements	Fee	1	\$324.00	\$786.28	\$462.28	41.21%	100.00%	\$790.00	-\$3.72
	40 Water Availability Analysis	Fee	1	At Cost	\$692.72	n/a	n/a	n/a	Cost + \$1,000	n/a
	41 Water and Wastewater Capacity Analysis	Fee	1	At Cost	\$692.72	n/a	n/a	n/a	Cost + \$1,000	n/a
	42 Fourth Check of a plan	Proposed	161	\$0	\$283.17	\$283.17	0%	100.00%	\$280.00	\$3.17
	43 Reimbursement agreements	Fee	1	\$0	\$1,850.23	\$1,850.23	0%	100.00%	\$1,850.00	\$0.23
	44 Trench Restoration Fee, < 4ft deep:									
	45 100 PCI, 300 If	Fee	551	\$10.00	\$113.45	\$103.45	8.81%	100.00%	\$110.00	\$3.45
	46 50 PCI, 300 If	Fee	485	\$5.00	\$113.45	\$108.45	4.41%	100.00%	\$110.00	\$3.45
	47 15 PCI, 300 If	Fee	1	\$0	\$113.45	\$113.45	0%	100.00%	\$110.00	\$3.45
	48 Trench Restoration Fee > 4 ft deep:									
	49 100 PCI, 300 If	Fee	91	\$20.00	\$113.45	\$93.45	17.63%	100.00%	\$110.00	\$3.45

USER FEE STUDY SUMMARY SHEET

- PER UNIT INFORMATION -

City of Modesto
Land Development
FY 2008/09

							<i>Recommendations</i>		
Service Name	Service Type	Annual Volume	Current Fee	Full Cost	Current City Subsidy	Current Cost Recovery %	Cost Recovery Policy Level (%)	Fee @ Policy Level	City Subsidy @ Policy Level
50 50 PCI, 300 lf	Fee	179	\$10.00	\$113.45	\$103.45	8.81%	100.00%	\$110.00	\$3.45
51 15 PCI, 300 lf	Fee	1	\$0	\$113.45	\$113.45	0%	100.00%	\$110.00	\$3.45
9 52 Will Serve Letter Fee	Proposed	1	\$0	\$915.86	\$915.86	0%	50.00%	\$460.00	\$455.86
53 Outside Service Agreement Fee	Fee	252	\$35.00	\$196.41	\$161.41	17.82%	100.00%	\$200.00	-\$3.59
54 Transportation permits - Single Trip	Fee	262	\$15.00	\$21.46	\$6.46	69.90%	100.00%	\$21.00	\$0.46
55 Transportation permits - Annual	Fee	79	\$85.00	\$21.46	-\$63.54	396.08%	100.00%	\$21.00	\$0.46
56 Monitor/Extract Well - Application	Fee	32	\$42.00	\$110.57	\$68.57	37.99%	100.00%	\$110.00	\$0.57
57 Monitor/ Extract - Inspection	Fee	119	\$96.00	\$91.19	-\$4.81	105.28%	100.00%	\$91.00	\$0.19
58 Stormwater Quality Fee	Proposed	1	\$0	\$666.23	\$666.23	0%	100.00%	\$670.00	-\$3.77
59 GIS Subdivision Mapping Fee	Proposed	1	\$0	\$293.17	\$293.17	0%	100.00%	\$290.00	\$3.17
60 Microfilm Fee	Proposed	1	\$0	n/a	n/a	0%	100.00%	\$1/ page	n/a
61 AS-Built Process Fee	Proposed	1	\$0	\$165.85	\$165.85	0%	100.00%	\$170.00	-\$4.15
10 62 PUE and PE Dedication & Abandonment	Proposed	1	\$0	\$464.67	\$464.67	0%	100.00%	\$460.00	\$4.67
63 On-site Storm Drain Rvw: 0-3 acres	Proposed	1	\$0	\$1,676.47	\$1,676.47	0%	100.00%	\$1,680.00	-\$3.53
64 On-site Storm Drain Rvw: 3.1-5 acres	Proposed	1	\$0	\$2,514.71	\$2,514.71	0%	100.00%	\$2,510.00	\$4.71
65 On-site Storm Drain Rvw: 5.1-10 acres	Proposed	1	\$0	\$3,352.95	\$3,352.95	0%	100.00%	\$3,350.00	\$2.95
66 On-site Storm Drain Rvw: 10.1+ acres	Proposed	1	\$0	\$4,191.19	\$4,191.19	0%	100.00%	\$4,190.00	\$1.19

USER FEE STUDY SUMMARY SHEET

- PER UNIT INFORMATION -

City of Modesto
Land Development
FY 2008/09

Service Name	Service Type	Annual Volume	Current Fee	Full Cost	Current City Subsidy	Current Cost Recovery %	Recommendations		
							Cost Recovery Policy Level (%)	Fee @ Policy Level	City Subsidy @ Policy Level
67 Rough Grading: 0-3 acres	Fee	7	As per UBC	\$679.65	n/a	n/a	100.00%	\$680.00	-\$0.35
68 Rough Grading: 3.1-5 acres	Fee	3	As per UBC	\$996.83	n/a	n/a	100.00%	\$1,000.00	-\$3.17
69 Rough Grading: 5.1-10 acres	Fee	1	As per UBC	\$1,359.30	n/a	n/a	100.00%	\$1,360.00	-\$0.70
70 Rough Grading: 10.1+ acres	Fee	1	As per UBC	\$2,038.94	n/a	n/a	100.00%	\$2,040.00	-\$1.06

Note: Uninitiated Street Work will be assessed a "double fees" penalty.

- 1 *Paving fees will apply if paving is performed by City.*
- 2 *A trench restoration fee shall be charged based on the Trench Restoration Fee Schedule.*
- 3 *Staking fees will apply if staking is performed by City.*
- 4 *Inspection to be charged on a T&M Basis.*
- 5 *Utility relocation required for City projects is not subject to a charge.*
- 6 *Improvements not otherwise listed such as water line extensions, irrigation lines, irrigation line replacements, storm drain lines, etc.*
- 7 *These fees are cumulative.*
- 8 *Land Surveyor portion of charge will be on a T&M basis because this effort varies significantly.*
- 9 *Significant additional connection fees apply. Accordingly, 50% subsidy is recommended.*
- 10 *The proposed fee does not include Land Surveyor time. Land Surveyor time will be charged on a time and materials basis.*

USER FEE STUDY SUMMARY SHEET

- TOTAL PROGRAM INFORMATION -

City of Modesto
Land Development
FY 2008/09

Service Name	Service Type	Revenue @ Current Fee	Revenue @ 100% Full Cost	Current City Subsidy	Current Cost Recovery %	Recommendations		
						Cost Recovery Policy Level (%)	Revenue @ Policy Level	Increased Revenue
1 Reversion to acreage checking fee	Fee	\$810	\$897	\$87	90.30%	100.00%	\$900	\$90
2 Final parcel map checking fee	Fee	\$5,688	\$6,463	\$775	88.01%	100.00%	\$6,480	\$792
3 Final subdivision map checking fee:								
4 10 Lots	Fee	\$10,525	\$12,995	\$2,470	80.99%	100.00%	\$13,000	\$2,475
5 150 Lots	Fee	\$3,000	\$4,151	\$1,151	72.27%	100.00%	\$4,150	\$1,150
6 Improvement plan checking:								
7 \$25K cost estimate	Fee	\$47,600	\$74,203	\$26,603	64.15%	100.00%	\$74,203	\$26,603
8 \$100K cost estimate	Fee	\$34,500	\$50,457	\$15,957	68.38%	100.00%	\$50,457	\$15,957
9 \$250K cost estimate	Fee	\$40,000	\$53,461	\$13,461	74.82%	100.00%	\$53,461	\$13,461
10 Property Owner's assoc. doc check fee	Fee	\$217	\$346	\$129	62.73%	100.00%	\$350	\$133
11 Summary Abandonment	Fee	\$2,027	\$2,242	\$215	90.42%	100.00%	\$2,240	\$213
12 Street Trees, each-furnished&installed	Fee	\$39,820	\$44,578	\$4,758	89.33%	100.00%	\$44,000	\$4,180
13 Monument Admin Fee	Fee	\$30,864	\$232,793	\$201,929	13.26%	100.00%	\$231,480	\$200,616
14 Street Signs, each intersection, installed by City	Fee	\$4,743	\$4,700	-\$43	100.92%	100.00%	\$4,760	\$17
15 Encroachment permits								
16 Application Pre-inspection	Proposed	\$0	\$13,765	\$13,765	0%	100.00%	\$13,775	\$13,775
17 Curbs and curb cuts (<100 lf, max 1 lot)	Fee	\$2,472	\$2,593	\$121	95.34%	100.00%	\$2,640	\$168
18 Sidewalks (< 100 lf, max 1 lot)	Fee	\$1,648	\$1,729	\$81	95.34%	100.00%	\$1,760	\$112
19 Sewer service from lot to main	Fee	\$13,515	\$4,203	-\$9,312	321.58%	100.00%	\$4,187	-\$9,328
20 Sewer main	Fee	\$338	\$79	-\$259	426.26%	100.00%	\$79	-\$259
21 Storm Drain (through curb)	Fee	\$157	\$170	\$13	92.09%	100.00%	\$170	\$13
22 Utilities - major construction	Fee	\$9,563	\$10,388	\$825	92.06%	100.00%	\$10,349	\$786
23 Utilities - service & repair	Fee	\$58,650	\$60,185	\$1,535	97.45%	100.00%	\$59,800	\$1,150
24 Temp ROW Closures	Fee	\$18,870	\$21,584	\$2,714	87.42%	100.00%	\$21,460	\$2,590

USER FEE STUDY SUMMARY SHEET

- TOTAL PROGRAM INFORMATION -

City of Modesto
Land Development
FY 2008/09

						<i>Recommendations</i>		
Service Name	Service Type	Revenue @ Current Fee	Revenue @ 100% Full Cost	Current City Subsidy	Current Cost Recovery %	Cost Recovery Policy Level (%)	Revenue @ Policy Level	Increased Revenue
25 Street Light	Fee	\$255	\$528	\$273	48.27%	100.00%	\$530	\$275
26 Rock Wells or Storm Drain Connectors	Fee	\$255	\$79	-\$176	321.58%	100.00%	\$79	-\$176
27 Street Construction	Fee	\$73	\$79	\$6	92.06%	100.00%	\$79	\$6
28 Misc Improvements	Fee	\$12,191	\$13,242	\$1,051	92.06%	100.00%	\$13,193	\$1,002
29 Install refractor steel pole	Fee	\$157	\$340	\$183	46.24%	100.00%	\$340	\$183
30 Added refractor steel pole	Fee	\$157	\$340	\$183	46.24%	100.00%	\$340	\$183
31 Install utility wood pole mount	Fee	\$157	\$813	\$656	19.30%	100.00%	\$810	\$653
32 Utility wood pole mount	Fee	\$157	\$844	\$687	18.61%	100.00%	\$840	\$683
33 Install street light standard	Fee	\$255	\$309	\$54	82.48%	100.00%	\$310	\$55
34 Soil core sample	Fee	\$255	\$262	\$7	97.45%	100.00%	\$260	\$5
35 Lane Closure	Fee	\$200	\$300	\$100	66.65%	100.00%	\$300	\$100
36 Detour	Fee	\$400	\$600	\$200	66.65%	100.00%	\$600	\$200
37 Certificate of Correction	Proposed	\$0	\$608	\$608	n/a	100.00%	\$600	\$600
38 Legal Description Check	Fee	\$6,270	\$16,888	\$10,618	37.13%	100.00%	\$17,160	\$10,890
39 Reciprocal access agreements	Fee	\$324	\$786	\$462	41.21%	100.00%	\$790	\$466
40 Water Availability Analysis	Fee	\$693	\$693	n/a	n/a	n/a	\$693	
41 Water and Wastewater Capacity Analysis	Fee	\$693	\$693	n/a	n/a	n/a	\$693	
42 Fourth Check of a plan	Proposed	\$0	\$45,591	\$45,591	0%	100.00%	\$45,080	\$45,080
43 Reimbursement agreements	Fee	\$0	\$1,850	\$1,850	0%	100.00%	\$1,850	\$1,850
44 Trench Restoration Fee, < 4ft deep:								
45 100 PCI, 300 lf	Fee	\$5,510	\$62,510	\$57,000	8.81%	100.00%	\$60,610	\$55,100
46 50 PCI, 300 lf	Fee	\$2,425	\$55,022	\$52,597	4.41%	100.00%	\$53,350	\$50,925
47 15 PCI, 300 lf	Fee	\$0	\$113	\$113	0%	100.00%	\$110	\$110
48 Trench Restoration Fee > 4 ft deep:								
49 100 PCI, 300 lf	Fee	\$1,820	\$10,324	\$8,504	17.63%	100.00%	\$10,010	\$8,190

USER FEE STUDY SUMMARY SHEET

- TOTAL PROGRAM INFORMATION -

City of Modesto
 Land Development
 FY 2008/09

Service Name	Service Type	Revenue @ Current Fee	Revenue @ 100% Full Cost	Current City Subsidy	Current Cost Recovery %	Recommendations		
						Cost Recovery Policy Level (%)	Revenue @ Policy Level	Increased Revenue
50 50 PCI, 300 lf	Fee	\$1,790	\$20,307	\$18,517	8.81%	100.00%	\$19,690	\$17,900
51 15 PCI, 300 lf	Fee	\$0	\$113	\$113	0%	100.00%	\$110	\$110
52 Will Serve Letter Fee	Proposed	\$0	\$916	\$916	0%	50.00%	\$460	\$460
53 Outside Service Agreement Fee	Fee	\$8,820	\$49,497	\$40,677	17.82%	100.00%	\$50,400	\$41,580
54 Transportation permits - Single Trip	Fee	\$3,930	\$5,623	\$1,693	69.90%	100.00%	\$5,502	\$1,572
55 Transportation permits - Annual	Fee	\$6,715	\$1,695	-\$5,020	396.08%	100.00%	\$1,659	-\$5,056
56 Monitor/Extract Well - Application	Fee	\$1,344	\$3,538	\$2,194	37.99%	100.00%	\$3,520	\$2,176
57 Monitor/ Extract - Inspection	Fee	\$11,424	\$10,851	-\$573	105.28%	100.00%	\$10,829	-\$595
58 Stormwater Quality Fee	Proposed	\$0	\$666	\$666	0%	100.00%	\$670	\$670
59 GIS Subdivision Mapping Fee	Proposed	\$0	\$293	\$293	0%	100.00%	\$290	\$290
60 Microfilm Fee	Proposed	\$0	n/a	n/a	0%	100.00%	\$1	\$1
61 AS-Built Process Fee	Proposed	\$0	\$166	\$166	0%	100.00%	\$170	\$170
62 PUE and PE Dedication & Abandonment	Proposed	\$0	\$465	\$465	0%	100.00%	\$460	\$460
63 On-site Storm Drain Rvw: 0-3 acres	Proposed	\$0	\$1,676	\$1,676	0%	100.00%	\$1,680	\$1,680
64 On-site Storm Drain Rvw: 3.1-5 acres	Proposed	\$0	\$2,515	\$2,515	0%	100.00%	\$2,510	\$2,510
65 On-site Storm Drain Rvw: 5.1-10 acres	Proposed	\$0	\$3,353	\$3,353	0%	100.00%	\$3,350	\$3,350
66 On-site Storm Drain Rvw: 10.1+ acres	Proposed	\$0	\$4,191	\$4,191	0%	100.00%	\$4,190	\$4,190

USER FEE STUDY SUMMARY SHEET

- TOTAL PROGRAM INFORMATION -

City of Modesto
 Land Development
 FY 2008/09

Service Name	Service Type	Revenue @ Current Fee	Revenue @ 100% Full Cost	Current City Subsidy	Current Cost Recovery %	Recommendations		
						Cost Recovery Policy Level (%)	Revenue @ Policy Level	Increased Revenue
* 67 Rough Grading: 0-3 acres	Fee	\$4,758	\$4,758	\$0	100.00%	100.00%	\$4,760	\$2
* 68 Rough Grading: 3.1-5 acres	Fee	\$2,990	\$2,990	\$0	100.00%	100.00%	\$3,000	\$10
* 69 Rough Grading: 5.1-10 acres	Fee	\$1,359	\$1,359	\$0	100.00%	100.00%	\$1,360	\$1
* 70 Rough Grading: 10.1+ acres	Fee	\$2,039	\$2,039	\$0	100.00%	100.00%	\$2,040	\$1
Total User Fees ¹		\$402,423	\$931,807	\$529,384			\$924,979	\$522,556
% of Full Cost		43.19%	100.00%	56.81%			99.27%	56.08%
Total Non Fee Services			\$1,191,185	\$1,191,185				
% of Full Cost			100.00%	100.00%				
Department Totals		\$402,423	\$2,122,993	\$1,720,570			\$924,979	\$522,556
% of Full Cost		18.96%	100.00%	81.04%			43.57%	24.61%

* Current revenue for Rough Grading is based on fee schedules published by the Uniform Building Code. Figures have been estimated for analysis purposes.

¹ This total focuses on fee related activity only. Non fee related activity costs have been excluded.

V FIRE PREVENTION

The mission of the Fire Prevention Bureau is to reduce the loss of life, health property and environmental quality through reducing the number of fires and hazardous materials incidents and determining the cause of those events that do occur. Three fee-related areas are employed to accomplish this mission:

- Fire/Life Safety Review for New Construction: Fees #2 - #6
- Sprinkler/Alarm System Reviews and Inspections: Fees #7 - #15
- Storage Tank Inspections: Fees #16 - #23

The total cost of all Fire Prevention fee-related services is \$118,577. Fee revenue totals \$45,884 for a cost recovery rate of 38.7%.

The following is a review of findings and highlights:

- If all Fire Prevention fee adjustments are adopted, the new schedule would generate \$119,669 per year, for a net increase of \$73,785. Projected revenue is \$1,092 higher than actual cost due to rounding of proposed fees.
- The Bureau occasionally uses labor rates to charge outside entities or in cases where a fee is appropriate but none currently exists. The following fully-burdened labor rates should be used in such cases:

Staff	Fully Burdened Labor Rate
Fire Marshal	\$167
Deputy Fire Marshal	\$93
Fire Technician	\$69
Clerical	\$53

The summary charts on the following pages show the results of this division's cost analysis. Page 28 provides information on a "Per Unit" basis. Page 30 provides total annual information by multiplying the per-unit fees and costs by the volume of activity in order to project annual costs and revenues.

USER FEE STUDY SUMMARY SHEET

- PER UNIT INFORMATION -

City of Modesto

Fire Prevention

FY 2008/09

Service Name	Service Type	Annual Volume	Current Fee	Full Cost	Current City Subsidy	Current Cost Recovery %	Recommendations		
							Cost Recovery Policy Level (%)	Fee @ Policy Level	City Subsidy @ Policy Level
1 Fire/Life Safety Review:									
2 New Shell Building (per 1,000 sq ft)	Fee	21	\$60.00	\$142.37	\$82.37	42.14%	100.00%	\$140.00	\$2.37
3 Complete Building (per 1,000 sq ft)	Fee	57	\$74.00	\$288.78	\$214.78	25.63%	100.00%	\$290.00	-\$1.22
4 Tenant Improvement (per 1,000 sq ft)	Fee	253	\$49.00	\$115.42	\$66.42	42.45%	100.00%	\$120.00	-\$4.58
5 Fire Sprinkler System (per 1,000 sq ft)	Fee	103	\$22.00	\$141.75	\$119.75	15.52%	100.00%	\$140.00	\$1.75
6 Fire Alarm Systems (per 1,000 sq ft)	Fee	55	\$22.00	\$140.34	\$118.34	15.68%	100.00%	\$140.00	\$0.34
7 Fire Sprinkler System Test & Inspection (per system)	Fee	27	\$472.00	\$687.65	\$215.65	68.64%	100.00%	\$690.00	-\$2.35
8 Fire Alarm System Test & Inspection	Fee	85	\$96.00	\$139.08	\$43.08	69.02%	100.00%	\$140.00	-\$0.92
9 Site Plan Review	Fee	10	\$96.00	\$221.69	\$125.69	43.30%	100.00%	\$220.00	\$1.69
10 Changed Plans Check	Fee	6	\$137.00	\$126.32	-\$10.68	108.45%	100.00%	\$130.00	-\$3.68
11 Alternate Materials/Methods Evaluation	Fee	1	\$286.00	\$762.57	\$476.57	37.50%	100.00%	\$760.00	\$2.57
12 Engineered/Pre-engineered Fire Prot	Fee	2	\$203.00	\$232.19	\$29.19	87.43%	100.00%	\$230.00	\$2.19
13 Re-Inspections after 2 times	Fee	1	\$73.00	\$44.56	-\$28.44	163.81%	100.00%	\$45.00	-\$0.44
14 After Hours Inspection	Fee	1	\$213.00	\$208.35	-\$4.65	102.23%	100.00%	\$210.00	-\$1.65
15 Spray Booth Installation Permit	Fee	5	\$48.00	\$182.89	\$134.89	26.25%	100.00%	\$180.00	\$2.89
16 Underground Tank Abandon/Fill	Fee	5	\$38.00	\$196.78	\$158.78	19.31%	100.00%	\$200.00	-\$3.22
17 Each Additional Tank	Fee	5	\$9.00	\$46.30	\$37.30	19.44%	100.00%	\$46.00	\$0.30
18 Underground Tank Install	Fee	2	\$38.00	\$254.65	\$216.65	14.92%	100.00%	\$250.00	\$4.65
19 Each Additional Tank	Fee	1	\$13.00	\$28.94	\$15.94	44.92%	100.00%	\$29.00	-\$0.06
20 Underground Tank Removal	Fee	4	\$49.00	\$196.78	\$147.78	24.90%	100.00%	\$200.00	-\$3.22
21 Each Additional Tank	Fee	1	\$24.00	\$46.30	\$22.30	51.84%	100.00%	\$46.00	\$0.30
22 Convault Tank Install	Fee	2	\$38.00	\$270.86	\$232.86	14.03%	100.00%	\$270.00	\$0.86
23 Each Additional Convault Tank	Fee	1	\$9.00	\$38.75	\$29.75	23.23%	100.00%	\$39.00	-\$0.25
24 Water Flow Test	Hourly Rate	70	\$40.00	\$69.45	\$29.45	57.59%	100.00%	\$69.00	\$0.45
25 Fire Marshal	Hourly Rate	10		\$166.93	\$166.93		100.00%	\$167.00	-\$0.07

USER FEE STUDY SUMMARY SHEET

- PER UNIT INFORMATION -

 City of Modesto

 Fire Prevention

 FY 2008/09

Service Name	Service Type	Annual Volume	Current Fee	Full Cost	Current City Subsidy	Current Cost Recovery %	Recommendations		
							Cost Recovery Policy Level (%)	Fee @ Policy Level	City Subsidy @ Policy Level
26 Dep. Fire Marshal	Hourly Rate	10		\$93.00	\$93.00		100.00%	\$93.00	\$0.00
27 Fire Tech	Hourly Rate	10		\$69.45	\$69.45		100.00%	\$69.00	\$0.45
28 AOA III	Hourly Rate	10		\$52.59	\$52.59		100.00%	\$53.00	-\$0.41

USER FEE STUDY SUMMARY SHEET

- TOTAL PROGRAM INFORMATION -

City of Modesto

Fire Prevention

FY 2008/09

Service Name	Service Type	Revenue @ Current Fee	Revenue @ Full Cost Recovery	Current City Subsidy	Current Cost Recovery %	Recommendations		
						Cost Recovery Policy Level (%)	Revenue @ Policy Level	Increased Revenue
1 Fire/Life Safety Review:								
2 New Shell Building (per 1,000 sq ft)	Fee	\$1,260	\$2,990	\$1,730	42.14%	100.00%	\$2,940	\$1,680
3 Complete Building (per 1,000 sq ft)	Fee	\$4,218	\$16,460	\$12,242	25.63%	100.00%	\$16,530	\$12,312
4 Tenant Improvement (per 1,000 sq ft)	Fee	\$12,397	\$29,201	\$16,804	42.45%	100.00%	\$30,360	\$17,963
5 Fire Sprinkler System (per 1,000 sq ft)	Fee	\$2,266	\$14,600	\$12,334	15.52%	100.00%	\$14,420	\$12,154
6 Fire Alarm Systems (per 1,000 sq ft)	Fee	\$1,210	\$7,719	\$6,509	15.68%	100.00%	\$7,700	\$6,490
7 Fire Sprinkler System Test & Inspection (per system)	Fee	\$12,744	\$18,567	\$5,823	68.64%	100.00%	\$18,630	\$5,886
8 Fire Alarm System Test & Inspection	Fee	\$8,160	\$11,822	\$3,662	69.02%	100.00%	\$11,900	\$3,740
9 Site Plan Review	Fee	\$960	\$2,217	\$1,257	43.30%	100.00%	\$2,200	\$1,240
10 Changed Plans Check	Fee	\$822	\$758	-\$64	108.45%	100.00%	\$780	-\$42
11 Alternate Materials/Methods Evaluation	Fee	\$286	\$763	\$477	37.50%	100.00%	\$760	\$474
12 Engineered/Pre-engineered Fire Prot	Fee	\$406	\$464	\$58	87.43%	100.00%	\$460	\$54
13 Re-Inspections after 2 times	Fee	\$73	\$45	-\$28	163.81%	100.00%	\$45	-\$28
14 After Hours Inspection	Fee	\$213	\$208	-\$5	102.23%	100.00%	\$210	-\$3
15 Spray Booth Installation Permit	Fee	\$240	\$914	\$674	26.25%	100.00%	\$900	\$660
16 Underground Tank Abandon/Fill	Fee	\$190	\$984	\$794	19.31%	100.00%	\$1,000	\$810
17 Each Additional Tank	Fee	\$45	\$232	\$187	19.44%	100.00%	\$230	\$185
18 Underground Tank Install	Fee	\$76	\$509	\$433	14.92%	100.00%	\$500	\$424
19 Each Additional Tank	Fee	\$13	\$29	\$16	44.92%	100.00%	\$29	\$16
20 Underground Tank Removal	Fee	\$196	\$787	\$591	24.90%	100.00%	\$800	\$604
21 Each Additional Tank	Fee	\$24	\$46	\$22	51.84%	100.00%	\$46	\$22
22 Convault Tank Install	Fee	\$76	\$542	\$466	14.03%	100.00%	\$540	\$464
23 Each Additional Convault Tank	Fee	\$9	\$39	\$30	23.23%	100.00%	\$39	\$30
24 Water Flow Test	Hourly Rate	\$2,800	\$4,862	\$2,062	57.59%	100.00%	\$4,830	\$2,030
25 Fire Marshal	Hourly Rate		\$1,669	\$1,669		100.00%	\$1,670	\$1,670

USER FEE STUDY SUMMARY SHEET

- TOTAL PROGRAM INFORMATION -

City of Modesto

Fire Prevention

FY 2008/09

Service Name	Service Type	Revenue @ Current Fee	Revenue @ Full Cost Recovery	Current City Subsidy	Current Cost Recovery %	Recommendations		
						Cost Recovery Policy Level (%)	Revenue @ Policy Level	Increased Revenue
26 Dep. Fire Marshal	Hourly Rate		\$930	\$930		100.00%	\$930	\$930
27 Fire Tech	Hourly Rate		\$695	\$695		100.00%	\$690	\$690
28 AOA III	Hourly Rate		\$526	\$526		100.00%	\$530	\$530

Total User Fees ¹		\$48,684	\$118,577	\$69,893		\$119,669	\$70,985
% of Full Cost		41.06%	100.00%	58.94%		100.92%	59.86%
 Total Non Fee Services			\$669,361	\$669,361			
% of Full Cost			100.00%	100.00%			
 Department Totals		\$48,684	\$787,938	\$739,254		\$119,669	\$70,985
% of Full Cost		6.18%	100.00%	93.82%		15.19%	9.01%

¹ This total focuses on fee related activity only. Non fee related activity costs have been excluded.

VI PARKS PLANNING AND DEVELOPMENT LANDSCAPE

The Parks Planning and Development Services Landscape Section is responsible for providing neighborhood, community, and regional open space that meets the goals of the Modesto Urban Area General Plan. This Section is responsible for providing landscape review and inspection services for new development. All complete sets of building plans are routed to the Development Center for landscape and irrigation review.

The total cost of all PPD Landscape fee-related services is \$51,488. Fee revenue totals \$53,413 for a cost recovery rate of 104%. This means several of the Section's fees are too high and that overall fee revenue must be reduced.

The following is a review of findings and highlights:

- PPD Landscape fees are generating a slight revenue surplus. This could be due to a number of reasons. One possibility is that PPD Landscape has become more efficient in performing plan check services.
- If all recommendations are adopted, annual revenue will decrease by \$1,808. This net decrease will come from a combination of both fee increases and decreases.

The summary charts on the following pages show the results of this section's cost analysis. Page 33 provides information on a "Per Unit" basis. Page 35 provides total annual information by multiplying the per-unit fees and costs by the volume of activity in order to project annual costs and revenues.

USER FEE STUDY SUMMARY SHEET

- PER UNIT INFORMATION -

City of Modesto
PPD-Landscaping
FY 2008/09

Service Name	Service Type	Annual Volume	Current Fee	Full Cost	Current City Subsidy	Current Cost Recovery %	Recommendations		
							Cost Recovery Policy Level (%)	Fee @ Policy Level	City Subsidy @ Policy Level
1 Landscape Plan Checks:									
2 Up to 5000 sq ft	Fee	32	\$232.00	\$236.84	\$4.84	97.96%	100.00%	\$240.00	-\$3.16
3 5001 to 10,000 sq ft	Fee	14	\$360.00	\$351.50	-\$8.50	102.42%	100.00%	\$350.00	\$1.50
4 10,001 to 15,000 sq ft	Fee	9	\$242.00	\$408.84	\$166.84	59.19%	100.00%	\$410.00	-\$1.16
5 15,001 to 25,000 sq ft	Fee	6	\$550.00	\$523.50	-\$26.50	105.06%	100.00%	\$520.00	\$3.50
6 25,001 to 50,000 sq ft	Fee	5	\$678.00	\$638.16	-\$39.84	106.24%	100.00%	\$640.00	-\$1.84
7 50,001 + sq ft	Fee	5	\$994.00	\$924.82	-\$69.18	107.48%	100.00%	\$920.00	\$4.82
8 Landscape Plan Re-checks:									
9 Up to 5000 sq ft	Fee	12.8	\$170.00	\$179.51	\$9.51	94.70%	100.00%	\$180.00	-\$0.49
10 5001 to 10,000 sq ft	Fee	5.6	\$170.00	\$179.51	\$9.51	94.70%	100.00%	\$180.00	-\$0.49
11 10,001 to 15,000 sq ft	Fee	3.6	\$232.00	\$236.84	\$4.84	97.96%	100.00%	\$240.00	-\$3.16
12 15,001 to 25,000 sq ft	Fee	2.4	\$297.00	\$294.17	-\$2.83	100.96%	100.00%	\$290.00	\$4.17
13 25,001 to 50,000 sq ft	Fee	2	\$360.00	\$351.50	-\$8.50	102.42%	100.00%	\$350.00	\$1.50
14 50,001 + sq ft	Fee	2	\$424.00	\$380.17	-\$43.83	111.53%	100.00%	\$380.00	\$0.17
15 Landscape Inspections:									
16 Up to 5000 sq ft	Fee	32	\$170.00	\$157.66	-\$12.34	107.83%	100.00%	\$160.00	-\$2.34
17 5001 to 10,000 sq ft	Fee	14	\$202.00	\$186.33	-\$15.67	108.41%	100.00%	\$190.00	-\$3.67
18 10,001 to 15,000 sq ft	Fee	9	\$297.00	\$243.66	-\$53.34	121.89%	100.00%	\$240.00	\$3.66
19 15,001 to 25,000 sq ft	Fee	6	\$424.00	\$343.99	-\$80.01	123.26%	100.00%	\$340.00	\$3.99
20 25,001 to 50,000 sq ft	Fee	5	\$550.00	\$429.99	-\$120.01	127.91%	100.00%	\$430.00	-\$0.01
21 50,001 + sq ft	Fee	5	\$678.00	\$573.32	-\$104.68	118.26%	100.00%	\$570.00	\$3.32
22 Landscape Re-inspections									
23 Up to 5000 sq ft	Fee	0.64	\$170.00	\$129.00	-\$41.00	131.79%	100.00%	\$130.00	-\$1.00
24 5001 to 10,000 sq ft	Fee	1	\$170.00	\$157.66	-\$12.34	107.83%	100.00%	\$160.00	-\$2.34
25 10,001 to 15,000 sq ft	Fee	1	\$202.00	\$200.66	-\$1.34	100.67%	100.00%	\$200.00	\$0.66

USER FEE STUDY SUMMARY SHEET

- PER UNIT INFORMATION -

City of Modesto

PPD-Landscaping

FY 2008/09

							<i>Recommendations</i>		
Service Name	Service Type	Annual Volume	Current Fee	Full Cost	Current City Subsidy	Current Cost Recovery %	Cost Recovery Policy Level (%)	Fee @ Policy Level	City Subsidy @ Policy Level
26 15,001 to 25,000 sq ft	Fee	1	\$232.00	\$171.99	-\$60.01	134.89%	100.00%	\$170.00	\$1.99
27 25,001 to 50,000 sq ft	Fee	1	\$232.00	\$229.33	-\$2.67	101.17%	100.00%	\$230.00	-\$0.67
28 50,001 + sq ft	Fee	1	\$297.00	\$257.99	-\$39.01	115.12%	100.00%	\$260.00	-\$2.01

USER FEE STUDY SUMMARY SHEET

- TOTAL PROGRAM INFORMATION -

City of Modesto
PPD-Landscaping
FY 2008/09

Service Name	Service Type	Revenue @ Current Fee	Revenue @ Full Cost Recovery	Current City Subsidy	Current Cost Recovery %	Recommendations		
						Cost Recovery Policy Level (%)	Revenue @ Policy Level	Increased Revenue
1 Landscape Plan Checks:								
2 Up to 5000 sq ft	Fee	\$7,424	\$7,579	\$155	97.96%	100.00%	\$7,680	\$256
3 5001 to 10,000 sq ft	Fee	\$5,040	\$4,921	-\$119	102.42%	100.00%	\$4,900	-\$140
4 10,001 to 15,000 sq ft	Fee	\$2,178	\$3,680	\$1,502	59.19%	100.00%	\$3,690	\$1,512
5 15,001 to 25,000 sq ft	Fee	\$3,300	\$3,141	-\$159	105.06%	100.00%	\$3,120	-\$180
6 25,001 to 50,000 sq ft	Fee	\$3,390	\$3,191	-\$199	106.24%	100.00%	\$3,200	-\$190
7 50,001 + sq ft	Fee	\$4,970	\$4,624	-\$346	107.48%	100.00%	\$4,600	-\$370
8 Landscape Plan Re-checks:								
9 Up to 5000 sq ft	Fee	\$2,176	\$2,298	\$122	94.70%	100.00%	\$2,304	\$128
10 5001 to 10,000 sq ft	Fee	\$952	\$1,005	\$53	94.70%	100.00%	\$1,008	\$56
11 10,001 to 15,000 sq ft	Fee	\$835	\$853	\$17	97.96%	100.00%	\$864	\$29
12 15,001 to 25,000 sq ft	Fee	\$713	\$706	-\$7	100.96%	100.00%	\$696	-\$17
13 25,001 to 50,000 sq ft	Fee	\$720	\$703	-\$17	102.42%	100.00%	\$700	-\$20
14 50,001 + sq ft	Fee	\$848	\$760	-\$88	111.53%	100.00%	\$760	-\$88
15 Landscape Inspections:								
16 Up to 5000 sq ft	Fee	\$5,440	\$5,045	-\$395	107.83%	100.00%	\$5,120	-\$320
17 5001 to 10,000 sq ft	Fee	\$2,828	\$2,609	-\$219	108.41%	100.00%	\$2,660	-\$168
18 10,001 to 15,000 sq ft	Fee	\$2,673	\$2,193	-\$480	121.89%	100.00%	\$2,160	-\$513
19 15,001 to 25,000 sq ft	Fee	\$2,544	\$2,064	-\$480	123.26%	100.00%	\$2,040	-\$504
20 25,001 to 50,000 sq ft	Fee	\$2,750	\$2,150	-\$600	127.91%	100.00%	\$2,150	-\$600
21 50,001 + sq ft	Fee	\$3,390	\$2,867	-\$523	118.26%	100.00%	\$2,850	-\$540
22 Landscape Re-inspections								
23 Up to 5000 sq ft	Fee	\$109	\$83	-\$26	131.79%	100.00%	\$83	-\$26
24 5001 to 10,000 sq ft	Fee	\$170	\$158	-\$12	107.83%	100.00%	\$160	-\$10
25 10,001 to 15,000 sq ft	Fee	\$202	\$201	-\$1	100.67%	100.00%	\$200	-\$2

USER FEE STUDY SUMMARY SHEET

- TOTAL PROGRAM INFORMATION -

City of Modesto

PPD-Landscaping

FY 2008/09

						<i>Recommendations</i>		
Service Name	Service Type	Revenue @ Current Fee	Revenue @ Full Cost Recovery	Current City Subsidy	Current Cost Recovery %	Cost Recovery Policy Level (%)	Revenue @ Policy Level	Increased Revenue
26 15,001 to 25,000 sq ft	Fee	\$232	\$172	-\$60	134.89%	100.00%	\$170	-\$62
27 25,001 to 50,000 sq ft	Fee	\$232	\$229	-\$3	101.17%	100.00%	\$230	-\$2
28 50,001 + sq ft	Fee	\$297	\$258	-\$39	115.12%	100.00%	\$260	-\$37
Total User Fees ¹		\$53,413	\$51,488	-\$1,925			\$51,605	-\$1,808
% of Full Cost		103.74%	100.00%				100.23%	
Total Other Services			\$535,409	\$535,409				
% of Full Cost			100.00%	100.00%				
Department Totals		\$53,413	\$586,897	\$533,484			\$51,605	-\$1,808
% of Full Cost		9.10%	100.00%	90.90%			8.79%	

¹ This total focuses on fee related activity only. Non fee related activity costs have been excluded.

VII FEE COMPARISON SURVEY

The following pages display a comparison of Modesto's current fee levels and Modesto's full processing cost to fees charged by other jurisdictions. Fees selected for comparison were those most commonly processed and those with the greatest revenue impact.

The figures presented in the comparison survey reflect a "market basket" of what other cities charge for similar services. It does not reflect each jurisdiction's cost, as these jurisdictions may not be aware of their full cost and/or may consciously price their services below full cost.

Modesto's proposed fees are in the high-end range of what survey participants charge for development services. However, for most services, Modesto is not the highest.

The fee comparison survey includes the following jurisdictions:

- Elk Grove
- Fresno
- Manteca
- Stanislaus County
- Stockton
- Tracy
- Turlock

Comparison Survey - City of Modesto

Land Development	Modesto - Current	Modesto - Proposed	Stockton	Manteca	Elk Grove	Fresno (Reviewing Fees)	Stanislaus County (Reviewing Fees)	Turlock	Tracy (Reviewing Fees)
Encroachment Permits	\$73-\$338	\$80-\$840	\$504 (up to 50 lf)	No Fee	\$47 Annual \$250 deposit	*	\$35 Driveway Construction	\$55	Sidewalks & Driveways: \$55 (+\$15/sq ft) or \$50, whichever is less; Misc: \$110 + \$85/hour
Parcel Map Check	\$1,366	\$1,620	\$3,075	\$2,400 minor subdivision (4 lots or <)	\$300	\$3,160 (3 lots or less)/each, \$4,410 (4 lots or more)/each	\$1,390 +\$10 per lot/block	\$1,650	\$2,269
Tract Map Check	\$2,022 + \$20/lot over 10 lots	\$2,600 + \$27/lot over 10 lots	\$3,397 + \$9/lot	\$5,000 + \$50/lot major subdivision (5 lots or >)		\$9,140 + \$59/lot	\$1,390 +\$10 per lot/block	*	\$1,840
Public Improvement Plan Check	\$25k cost est: 6.8% \$100k cost est: 2.3% \$250k cost est: 1.6%	\$25k cost est: 10.6% \$100k cost est: 3.36% \$250k cost est: 2.14%	up to \$100k: 5.5% \$101-\$750k: 3% \$751k+: 2%	2% of Engineer's Estimate + Contingency	\$750	\$0-\$50k cost est: 4.5% or \$500 \$50k-\$250k cost est: \$2,250+2% Over \$250k cost est: \$6,250+1.8%	\$80/hour	Valuation Based and estimated hours (varies w/each project)	3.5% of Improvement Construction Cost
Right of Way Abandonment	\$1,947	\$2,240	\$2,695	No Fee	\$850	*	\$1,110	\$1,100	\$1,440
Building	Modesto - Current	Modesto - Proposed	Stockton (Res or Comm)	Manteca	Elk Grove (Commercial)	Fresno (Reviewing Fees)	Stanislaus County (Commercial)	Turlock (Res or Comm)	Tracy (Res or Comm)
\$2,000 Valuation Project	\$127	\$137	\$229	\$74	\$264	\$137	\$120	\$103	\$138
\$25,000 Valuation Project	\$554	\$683	\$1,290	\$416	\$533	\$762	\$532	\$578	\$662
\$50,000 Valuation Project	\$893	\$1,071	\$2,128	\$684	\$804	\$1,271	\$875	\$949	\$1,086
\$100,000 Valuation Project	\$1,358	\$1,869	\$3,280	\$1,055	\$1,256	\$1,967	\$1,351	\$1,464	\$1,663
\$500,000 Valuation Project	\$4,262	\$6,306	\$10,435	\$3,365	\$4,872	\$5,075	\$4,307	\$4,764	\$5,359
\$1,000,000 Valuation Project	\$7,389	\$11,139	\$18,089	\$5,840	\$7,292	\$7,509	\$7,475	\$8,270	\$9,278
Building - Commercial	Modesto - Current	Modesto - Proposed	Stockton (Res or Comm)	Manteca	Elk Grove	Fresno (Reviewing Fees)	Stanislaus County (Reviewing Fees)	Turlock	Tracy (Res or Comm)
6,000 sq. ft. Shell Building Mercantile VB @ \$600,000 valuation	based on valuation from applicant-similar 2007 project based on \$600k val = \$5755	No change	\$11,966	\$4,796	\$9,088	\$5,562.95 (using on line fee schedule)	\$4,941	\$4,658	\$6,119

Comparison Survey - City of Modesto

Building - Residential	Modesto - Current	Modesto - Proposed	Stockton	Manteca	Elk Grove	Fresno (Reviewing Fees)	Stanislaus County (Reviewing Fees)	Turlock	Tracy (Reviewing Fees)
2,500 sq. ft. home + 576 sq. ft. garage @ \$250,000 valuation	\$1,876	\$3,253	\$5,963	\$2,387	\$1,954	\$3,132.05 (using on line fee schedule)	\$3,009	\$3,240	\$3,026
Water Heater	\$82	\$150	\$50	\$50 (\$35 misc plumbing permit + \$15 unit chrg)	\$56 + \$1 for new commission fee	9.50 plumbing \$39 electrical commercial \$13.50 electrical residential	\$25 +\$3 microfilm +\$45 inspection = \$73	\$57.75 plumbing \$2.88 records mgmt	\$38
Planning	Modesto - Current	Modesto - Proposed	Stockton	Manteca	Elk Grove	Fresno (Reviewing Fees)	Stanislaus County (Reviewing Fees)	Turlock	Tracy (Reviewing Fees)
Variance	Single Fam \$330 Others \$4,804	Single Fam \$3,810 Others \$3,960	\$3,320	\$750	PC: \$3,228 CC: \$3,879	\$4,200	\$2,590	\$1,875	\$672
P-D Zoning (Planned Devel)	\$6,935	\$12,490	\$4,471	\$4,000	N/A	\$7,785-\$12,305	\$3,620 deposit	\$9,385-\$10,135	\$7,850
Plot Plan Review	Admin: \$290 PC/BZA: \$5,013	Admin: \$2,870 PC/BZA: \$8,000	Site Plan Review: \$1255.60	Site Plan: \$0 1st, \$175 2nd, \$350 3rd Res: \$1,000-\$3,500 Com: \$1,500-\$3,500	**	**	\$75 Bld Permit Review + \$1.28/1,000 valuation for GP Maint Fee	**	**
Tentative Subdivision Maps	\$6,099	\$10,340	\$13,528 for first 25 lots plus \$220 each lot over 25	\$5,000 + \$50/lot	PC: \$6,485 CC: \$7,065; (26-100 lots) add'l \$732; (ea 100 lots > 1st 100) add'l \$445	\$4,470-\$5,310	\$4,170 Deposit +\$30/lot	\$5,070-\$11,190	\$10,000 1-100 lots \$15,600 >100 lots
Tentative Parcel Maps	\$4,995	\$6,670	\$5,218	\$2,400	PC: \$4,584 CC: \$4,930	\$3,294-\$4,544	\$1,920 - 2,670 + \$30/lot	\$1,650	\$7,300
Conditional Use Permits (others)	\$5,853	w development: \$6,390 w/o development: \$4,240	\$1,452-\$3,618	\$1,000 minor \$2,400 major	ZA: \$3,233 PC: \$5,223 CC: \$6,544	\$6,079-\$8,484	\$2,110 Non AG Uses	\$2,830 minor \$4,480 medium \$6,510 major	\$3,375-\$9,595
Lot Line Adjustment	\$298	\$540	\$1,692	\$500	PD: \$1,304 Staff: \$776	\$1,900	\$630 Non AG Uses	\$1,275 (engineering fee)	\$408

Comparison Survey - City of Modesto

Development Plan Review	New	\$8,690	Land Development Permit \$1,168		PD: \$2,356 PC: \$4,037 CC: \$4,620; Single Fam: \$1,268 Ea Add'l: \$438	\$5,249-\$9,249	\$3,620 deposit	\$2,050-\$5,635	\$2,700-\$3,800
Development Agreement	\$5,000 deposit	\$8,570 deposit	\$7,825	\$4,000 deposit	\$6,194	*	\$3,620 deposit	\$8,190	Time & Materials
Precise Plan	\$8,665	\$8,190	\$4,725	**	**	**	**	**	**
Landscaping	Modesto - Current	Modesto - Proposed	Stockton	Manteca	Elk Grove	Fresno (Reviewing Fees)	Stanislaus County (Reviewing Fees)	Turlock	Tracy (Reviewing Fees)
Landscape Plan Checks	\$232-\$994	\$240-\$920	N/C (included in permit)	\$500	\$750		\$130	*	*
Landscape Inspections	\$170-\$678	\$160-\$570	N/C (included in permit)	*	*		*	*	*
Fire	Modesto - Current	Modesto - Proposed	Stockton	Manteca	Elk Grove	Fresno (Reviewing Fees)	Stanislaus County (Reviewing Fees)	Turlock	Tracy (Reviewing Fees)
Fire/Safety Review	\$22-\$74 (per 1,000 sq ft)	\$120-\$290 (per 1,000 sq ft)	\$2,727	No Fees	\$840 + \$.21 per sq ft	\$2,116	\$110/hour	\$584	\$95 permit fee only
Sprinkler System	\$472 (per system riser)	\$690 (per system riser)	\$4,341	No Fees	(< 25 heads/riser) \$705 (26-100 heads/riser) \$1,090 + # of heads > 100 x \$.98 (100+heads/riser)	\$419	\$110/hour	\$584	\$1,155
Fire Alarm System	\$96	\$140	\$1,729	No Fees	\$910 + # of devices x \$2 \$205 (2 hr min) \$165/hour add'l	\$335	\$132-\$740	\$165	\$990
Sight Plan Review	\$96	\$220	\$399	No Fees	\$145/hour	\$247	\$110/hour	\$122	N/C Currently
Changed Plans Check	\$137	\$130	\$328	No Fees		*	\$110/hour	\$100/hour	N/C Currently
Alternate Materials Eval	\$286	\$760	\$1,079	No Fees	\$385	*	\$147	\$416	N/C Currently
Spray Booth Install Permit	\$48	\$180	\$1,301	No Fees	\$385	\$495	\$100/hour	\$260	\$95
Underground Tank Install	\$38	\$200	\$1,301 (1 or 2)	No Fees	\$310 per tank	Done by Others	\$110/hour	\$135	\$165 each
Underground Tank Abandon/Fill	\$38	\$200	\$1,218 each	No Fees	\$310 per tank	Done by Others	\$110/hour	\$135	\$245 each
Underground Tank Removal	\$49	\$200	\$1,218 each	No Fees	\$310 per tank	Done by Others	\$110/hour	\$135	\$245 each
Convault Tank Install	\$38	\$270	\$1,218 each	No Fees	\$310 per tank	\$102 ea site	\$110/hour	\$135	\$165
Water Flow Test	\$40	\$69	\$256	No Fees	\$110	*	\$100/hour	\$135	\$110

* No response
** No comparable fee

APPENDIX: FEES RECOMMENDED FOR SUBSIDY

City of Modesto

 Fees Recommended for Subsidy

Service Name	Annual Volume	Current Fee	Full Cost	Proposed Fee	Cost Recovery @ Proposed Fee
Fee # Planning					
25 Concept Review	3	\$1,051.00	\$4,906.13	\$1,000.00	20.38%
37 Appeals to C/C (of Pln Com. Or BZA decisions)	1	\$200.00	\$1,780.34	\$200.00	11.23%
38 Appeals to BZA (of admin. Decisions)	3	\$200.00	\$1,667.39	\$200.00	11.99%
48 Plot Plan Review for Large Family Daycare	3	\$0	\$2,727.86	\$1,360.00	50.00%
53 A-frame sign review	1	\$0	\$207.16	\$100.00	50.00%
60 CUP - Single Family Home	1	\$330.00	\$4,235.43	\$340.00	8.00%
61 Plot Plan Review - 2nd Story	1	\$290.00	\$997.05	\$340.00	34.10%
Fee # Land Development Engineering					
52 Will Serve Letter Fee	1	\$0	\$915.86	\$460.00	50.00%

**Final Report on the Cost of Services (User Fee)
Study for the Building Safety Division**

CITY OF MODESTO, CALIFORNIA

matrix 
consulting group
721 Colorado Avenue, Suite 101
Palo Alto, CA 94303
v.650.858.0507 f.650.858.0509

September 2010

TABLE OF CONTENTS

September 2010

1. EXECUTIVE SUMMARY	1
2. LEGAL FRAMEWORK AND POLICY CONSIDERATIONS	5
3. METHODOLOGY	12
4. BUILDING SAFETY DIVISION – DETAILED RESULTS	15
5. CONCLUSION	18
ATTACHMENT – Cost Recovery Report Table	

1. EXECUTIVE SUMMARY

The Matrix Consulting Group assisted the City of Modesto's Building Safety Division in analyzing its current schedule of building permit fees as related to the estimated total costs of providing services. The Matrix Consulting Group worked closely with the Division to accomplish the following:

- Change the fee calculation methodology away from the traditional valuation-based approach to a "cost per type of project" approach
- Collect and analyze the necessary data for determining the estimated reasonable cost of providing services in accordance with California State Law and relevant legal opinions

The results of this Study provide a tool for understanding current service levels, the cost and demand for those services, and what fees for service can and should be charged.

1. GENERAL PROJECT APPROACH AND METHODOLOGY

The methodology employed by the Matrix Consulting Group is a widely known and accepted "bottom up" approach to cost analysis, where time spent per unit of fee activity is determined for each position within a department. Once time spent for a fee activity is determined, all applicable City costs are then considered in the calculation of the "full" cost of providing each service. An overview of types of costs applied in establishing the "full" cost of services provided by the Building Safety Division is provided in Chapter 3 of this report.

The work accomplished by the Matrix Consulting Group in the analysis of the proposed fees for service involved the following steps:

- **Departmental Staff Interviews:** The project team interviewed staff regarding their needs for clarification to the structure of existing fee items, or for addition of new fee items
- **Data Collection:** Data was collected for each item, including, time estimates and volume of activity. In addition, all budgeted costs and staffing levels for the FY 2010/11 fiscal year were entered into the Matrix Consulting Group's analytical software model
- **Cost Analysis:** The full cost of providing each service included in the analysis was established. Cross-checks such as revenue reports and allocation of not more than 100% of staff resources to both fee and non-fee related activities assured the validity of the data used in the Study.
- **Review and Approval of Results with City Staff:** Departments and City Management have reviewed and approved these documented results.

A more detailed description of user fee methodology, as well as legal and policy considerations are provided in subsequent chapters of this report.

2. SUMMARY OF RESULTS

Results of this analysis indicated, on average, an annual subsidy is provided to the fee payer for plan review and permitting services provided by the Building Safety Division. While some services showed an average overcharge, and others an average undercharge, the net impact of this analysis indicates the need for an overall increase in fees for service. At full cost recovery, the potential additional revenue obtained from implementing these revised and/or additional fees for services is approximately \$349,000 above what is currently collected for these services.

More information on the specific cost calculation results and resulting fee tables are included Chapter 4 as well as the attachment to this report.

3. POLICY RECOMMENDATION HIGHLIGHTS

The Matrix Consulting Group strongly recommends that the City use the information contained in this report and the Division's staff report to discuss, adopt, and implement policies regarding the following:

(1) Adopt a Fee Schedule Based on Project Type and Size Rather Than Valuation

The methodology applied in this Study is primarily based on the estimated level service required to process, plan check, and inspect projects according to type and size of project. It is more defensible and accurate than traditional valuation-based fees.

(2) Implement a Formal Cost Recovery Policy

Jurisdictions generally do not consciously subsidize building code enforcement and regulation activities. The project team recommends the City try to recover as much of the service costs as is as feasible. For most fee related services, the Matrix Consulting Group recommends setting fees at 100% cost recovery.

In addition, the City should perform a complete update of its User Fee Study on a periodic basis. In general, 3 to 5 years for fee and rate studies is considered a best management practice. The purpose of a comprehensive update is to completely revisit the analytical structure, service level estimates and assumptions applied in the previous study, and to account for any major shifts in cost components or organizational structures.

In between comprehensive updates, the City could utilize published industry economic factors such as CPI or other regional factors to update the cost calculations established in the Study on an annual basis. Alternatively, the City could also consider the use of its own anticipated labor cost increases such as step increases, benefit

enhancements, or cost of living raises. The latter example provides a more realistic reflection than a CPI, given the fact that labor costs generally comprise the majority of cost calculations for a jurisdiction. Use of an automatic increase mechanism based on the City's own labor costs also provides a factor that is specific to it and its operations, rather than one that is specific to a region or industry as a whole. Utilizing an annual increase mechanism would ensure that the City receives appropriate fee and revenue increases that reflect growth in costs.

2. LEGAL FRAMEWORK AND POLICY CONSIDERATIONS

A “user fee” is a charge for services provided by a governmental agency to a public citizen or group. In California, several constitutional laws such as Propositions 13, 4 and 218, State Government Codes 66014 and 66016, and more recently the Attorney General’s Opinion 92-506 set the parameters under which the user fees typically administered by local government are established and administered. Specifically, California State Law, Government Code 66014(a), stipulates that user fees charged by local agencies “...may not exceed the estimated reasonable cost of providing the service for which the fee is charged”.

1. GENERAL PRINCIPLES AND PHILOSOPHIES REGARDING USER FEES

Local governments are providers of many types of general services to their communities. While all services provided by local government are beneficial to constituents, some services can be classified as globally beneficial to all citizens, while others provide more of a direct benefit to a specific group or individual. The following table provides examples of services provided by local government within a continuum of the degree of community benefit received:

Services that Provide General “Global” Community Benefit	Services that Provide Both “Global” Benefit and also a Specific Group or Individual Benefit	Services that Provide a Primary Benefit to an Individual or Group, with less “Global” Community Benefit
<ul style="list-style-type: none"> • Police • Park Maintenance 	<ul style="list-style-type: none"> • Recreation / Community Services • Fire Suppression / Prevention 	<ul style="list-style-type: none"> • Building Permits • Planning and Zoning Approval • Site Plan Review • Engineering Development Review

Funding for local government is obtained from a myriad of revenue sources such as taxes, fines, grants, special charges, user fees, etc. In recent years, alternative tax revenues, which typically offset subsidies for services provided to the community, have become increasingly limited. These limitations have caused increased attention on user fee activities as a revenue source that can offset costs otherwise subsidized (usually) by the general fund. In the table above, services in the “global benefit” section tend to be funded primarily through voter approved tax revenues. In the middle of the table, one typically finds a mixture of taxes, user fee, and other funding sources. Finally, in the “individual / group benefit” section of the table, lie the services provided by local government that are typically funded almost entirely by user fee revenue.

The following are two central concepts regarding the establishment of user fees:

- **Fees should be assessed according to the degree of individual or private benefit gained from services.** For example, the processing and approval of a land use or building permit will generally result in monetary gain to the applicant, whereas Police services and Fire Suppression are examples of services that are essential to the safety of the community at large; and,
- **A profit making objective should not be included in the assessment of user fees.** In fact, California laws require that the charges for service be in direct proportion to the costs associated with providing those services. Once a charge for service is assessed at a level higher than the actual cost of providing a service, the term “user fee” no longer applies. The charge then becomes a tax subject to voter approval.

Therefore, it is commonly accepted that user fees are established at a level that will recover up to, and not more than, the cost of providing a particular service.

2. GENERAL POLICY CONSIDERATIONS REGARDING USER FEES

Undoubtedly, there are programs, circumstances, and services that justify a subsidy from a tax based or alternative revenue source. However, it is essential that

jurisdictions prioritize the use of revenue sources for the provision of services based on the continuum of benefit received.

Within the services that are typically funded by user fees, the Matrix Consulting Group recognizes several reasons why City staff or The Council may not advocate the full cost recovery of services. The following factors are key policy considerations in setting fees at less than 100 percent of cost recovery:

- **Limitations posed by an external agency.** The State or other agency will occasionally set a maximum, minimum, or limit the jurisdiction's ability to charge a fee at all. Examples include Transportation Permits commonly issued by Public Works departments, many types of Police records and processing fees, as well as charging for time spent copying and retrieving public documents in the City Clerk's office.
- **Encouragement of desired behaviors.** Keeping fees for certain services below full cost recovery may provide better compliance from the community. For example, if the cost of a permit for changing a water heater in a residential home is higher than the cost of the water heater itself, many citizens will avoid pulling the permit.
- **Affect on demand for a particular service.** Sometimes raising the "price" charged for services might reduce the number of participants in a program. This is largely the case for small residential projects, where the cost to the homeowner of obtaining a permit must be in accordance with the perceived value of the regulatory or public safety service received from the Building Safety Division.
- **Participation for individuals or groups that typically cannot afford services.** Policy makers may decide to fully subsidize or set fees at a level that will allow participation for certain segments of the community, such as for Senior programs or non-profit organizations.
- **Benefit received by user of the service and the community at large is mutual.** Many services that directly benefit a group or individual equally benefit the community as a whole. Examples include Recreation programs, Planning Design Review, historical dedications and certain types of special events, to name a few.

The Matrix Consulting Group recognizes the need for policy that intentionally subsidizes certain activities. The primary goals of a User Fee Study are to provide a fair

and equitable basis for determining the costs of providing services, and assure that the City is in compliance with State law.

Once the full cost of providing services is known, the next step is to determine the “rate” or “price” for services at a level which is up to, and not more than the full cost amount. The Council is responsible for this decision, which often becomes a question of balancing service levels and funding sources. The placement of a service or activity within the continuum of benefit received may require extensive discussion and at times fall into a “grey area”. However, with the resulting cost of services information from a User Fee Study, the Council can be assured that the adopted fee for service is reasonable, fair, and legal.

2. SPECIFIC LEGAL AND POLICY ISSUES REGARDING BUILDING PERMIT FEES.

For decades, most California jurisdictions (including the City of Modesto) have utilized the Uniform Building Codes (UBC) for performing plan check and inspection services, and based their fees for service on the UBC valuation tables published by ICBO. Under the Valuation Table method of establishing permitting fees, average costs (value) of construction per square foot are provided by “Valuation Tables” issued by the ICBO (International Conference of Building Officials) organization. The multipliers contained within these Tables are then multiplied by a project’s building occupancy type and size to establish the construction value of a project. Once a project’s value is determined from this Table, a graduated fee scale for value ranges is utilized to determine plan review and inspection fees.

The use of these Tables has come under considerable review and discussion over the past several years. Many, including the Attorney General of the State of

California, believe that the valuation tables do not provide a clear nexus between fees charged and levels of service provided. In 1993, the Attorney General issued opinion 92-506 pertaining to the following questions:

- Is a local agency prohibited from charging building permit and similar fees which exceed the estimated reasonable costs of providing the services rendered unless the amounts of the fees are approved by the electorate?
- May a local agency charge building permit and similar fees based upon the Uniform Building Code Valuation Tables, which are in excess of the estimated reasonable costs of providing the services rendered unless the amounts of the fees are approved by the electorate?
- If a local agency charges building permit and similar fees based upon the Uniform Building Code Valuation Tables without supporting evidence regarding the relationship between the fees and services rendered, are such fees valid?

The Attorney General presented the following conclusions in response to the questions raised above:

- A local agency is prohibited from charging building permit and similar fees which exceed the estimated reasonable costs of services rendered unless the amounts of fees are approved by the electorate
- A local agency may not charge building permit and similar fees based upon the Uniform Building Code Valuation Tables which are in excess of the estimated reasonable costs of providing the services rendered unless the amounts of the fees are approved by the electorate.
- If a local agency charges building permit and similar fees based on the Uniform Building Code Valuation Tables without supporting evidence regarding the relationship between the fees and the services rendered, such fees are invalid to the extent they exceed the reasonable costs of providing the services rendered.

In addition, the Attorney General noted that the valuation tables are contained in a private publication issued by a nongovernmental association (ICBO), which presents no evidence of the following critical factors pertaining to the establishment of charges for service:

- That the fees set by these tables approximate the estimated costs of the specified services in any particular local jurisdiction in California; and,
- That any cost analysis has been made by the ICBO with respect to relation between the tables and costs of providing services

Finally, the Attorney General concluded that the Government Code sections related to charges for service do not confirm the reasonableness of fees set forth by the ICBO valuation tables, and that a jurisdiction may not adopt or charge the fees set forth in the tables.

Although the Attorney General's opinion specifically discusses the use of the UBC Valuation Tables, the Matrix Consulting Group considers this opinion equally applicable to the IBC Valuation Tables recently re-issued by the ICC for the following reasons:

- The ICBO/ICC have historically issued Valuation Tables for both the UBC and IBC in order to accommodate jurisdictions in California and across the country that adopt different code systems.
- The methodology utilized by ICBO/ICC to establish the construction cost multipliers for both tables is the same, where national averages of construction cost by building occupancy type present factors that reflect the value of construction per square foot.

However, in addition to the Attorney General's opinion, the Matrix Consulting Group also notes the following significant issues with the Valuation Tables:

- Valuation Tables have no correlation to the specific cost of providing services encumbered by a jurisdiction. The true costs of providing building permitting services in any jurisdiction are actually correlated to the level of effort required by City staff, not the cost of construction.
- Valuation Tables' components are subject to economic factors, which fluctuate at a higher frequency than typical costs encumbered by government agencies such as salaries, benefits, and overhead.
- Valuation Table-based fees generally result in an imbalance of revenue between commercial versus residential development. Based on the Matrix Consulting

Group's experience in analyzing building permit operations, valuation based fees for commercial occupancies do not consider the economies of scale achieved in required effort and costs associated with plan review and inspection of large projects.

Even with the knowledge and points stated above, utilization of the Valuation Table methodology for establishing building permit fees still remains the standard fee setting mechanism for most jurisdictions in California. In recent years, however, many jurisdictions have implemented cost based charging systems that do not rely on the valuation tables.

There are analyses that can closer correlate the cost of providing services to the charges for service established using the Valuation Table methodology. However, the Matrix Consulting Group considers it a best management practice for jurisdictions to move away from the Valuation Table fee setting methodology traditionally employed by governmental agencies. By performing a more thorough analysis that connects staff hours and costs to various project types and sizes, a jurisdiction can establish and implement building permit fees that are more in line with the requirements set forth in Government Code 66014 (a), which provides that "...fees shall not exceed the estimated reasonable cost of providing the service for which the fee is charged".

3. METHODOLOGY

The Matrix Consulting Group utilizes a cost allocation methodology, commonly known and accepted as the “bottom-up” approach to establishing User Fees. The term means that several cost components are calculated for each fee or service. These components then build upon each other to comprise the total cost for providing the service. The components of a full cost calculation for the City of Modesto’s building permit services are shown in the tables below. The following presents a breakdown of costs included in the fee calculation results shown in the appendix to this report:

Cost Component	Description
Direct	Fiscal Year 2010/11 budgeted salaries, benefits and allowable departmental expenditures
Departmental Overhead	Building Safety Division administration / management and clerical support, as well as a relative portion of CED Administrative Costs
Citywide Overhead	City costs associated with central service costs such as payroll, human resources, budgeting, City management, etc. These costs are established through the City’s detailed Cost Allocation Plan.

The general steps utilized by the project team to determine allocations of cost components to a particular fee or service are:

- Create a list of building occupancy types and miscellaneous project items
- Identify average time to process, plan check, and inspect each occupancy and/or project item
- Utilize the comprehensive allocation of staff time to establish an allocation basis for the other cost components; and,
- Distribute the appropriate amount of the other cost components to each fee or service based on the staff time allocation basis, or other reasonable basis.

The result of these allocations provides detailed documentation for the reasonable estimate of the actual cost of providing each service. The following are

critical points about the use of time estimates and the validity of cost allocation models.

1. USE OF TIME ESTIMATES

Time estimates are a measure of the service levels required to perform a particular service. One of the key study assumptions utilized in the “bottom up” approach is the use of time estimates for the provision of each fee related service. Utilization of time estimates is a reasonable and defensible approach, especially since these estimates are developed by experienced staff members who understand the service levels and processes unique to the City of Modesto.

The project team worked closely with the City’s staff in developing time estimates with the following criteria:

- Estimates are representative of average times for providing service. Extremely difficult or abnormally simple projects are excluded from the analysis;
- Estimates provided by staff are reviewed and approved by the department, and often involve multiple iterations before a Study is finalized;

The Matrix Consulting Group agrees that while the use of time estimates is not a perfect approach, it is the best alternative available for setting a standard level of service for which to base a jurisdiction’s fees for service, and it meets the requirements of California law.

2. VALIDITY OF THE COST ALLOCATION ANALYTICAL MODEL

Various mathematical “cross-checks” validate the use of our cost allocation model for establishing fees for service. In addition to the collection of time estimate data for each fee or service included in the User Fee Study, annual volume of activity data assumptions are also a critical component. Collecting data on the estimated volume of activity for each fee or service provides assurance that 100% of staff resources are

accounted for and allocated to a fee for service, or “other non fee” related category. Since there are no objectives to make a profit in establishing user fees, it is very important to ensure that services are not estimated at a level that exceeds budgeted resource capacity. If at least and not significantly more than 100% of staff resources are accounted for, then no more than 100% of costs associated with providing services will be allocated to individual services in the Study.

4. BUILDING SAFETY DIVISION - DETAILED RESULTS

The motivation behind a cost of services (User Fee) analysis is for the City Council and City Staff to maintain services at a level that is both accepted and effective for the community, and also to maintain control over the policy and management of these services.

The Building Safety Division maintains all City building codes and standards. The Division assists residents and developers with all building permits. All new construction projects in the City must go through the Plan Review and Building Inspection process completed by the Division.

As shown in the following table, the net result of the Study found an overall undercharge for services performed by the Building and Safety Division.

Projected Annual Revenue at Current Fees	Projected Annual Revenue at Full Cost per Unit	Annual Revenue Surplus / (Subsidy)	Cost Recovery Rate
\$1,099,000	\$1,448,000	\$(349,000)	76%

**Note: Figures shown above are rounded to the nearest thousand for reporting purposes.*

The results of the analysis for the Building Safety Division identified an overall annual subsidy of approximately \$349,000 provided to the public for plan review and inspection services. At current fee levels, the Division is recovering approximately 74% of the total City costs associated with providing its services.

Discussion of results in this chapter is intended as a summary of extensive and voluminous cost allocation documentation produced during the Study. The full analytical results were provided to City staff under separate cover from this summary report. The

attached table to this report includes more detailed cost calculation results for the Building Safety Division from two perspectives:

- **First, on a “Per Unit” Basis:** comparing the full cost of providing each unit of service to the current fee for each unit of service (where applicable).
- **Second, on an annualized basis:** the project team utilized volume of activity estimates to project annual subsidies and revenue impacts associated with the implementation of each fee for service at full cost recovery levels.

It should be noted that the results presented in this report are not a precise measurement. In general, the a cost of service analysis takes a “snapshot in time”, where the most current fiscal year of adopted budgeted cost information is compared to the most current complete fiscal year of revenue and workload data available. Workload data may then be adjusted to reflect “reasonable and defensible” estimates for purposes of analysis. Changes to the structure of fee names, along with the use of time estimates allow only for a reasonable projection of subsidies and revenue. Consequently, the Council and City staff should rely conservatively upon these estimates to gauge the impact of implementation going forward.

The Division wished to consider alternatives to the Valuation Table methodology for establishing building permit fees, for many of the reasons previously discussed in Chapter 2. As such, the Matrix Consulting Group worked with City staff to undergo a thorough analysis that connects staff hours and costs by various project types to fees for service.

Attachment A displays the resulting Building and Safety services cost calculations by major grouping of project types.

- **New Construction and Tenant Improvements:** focuses on the full cost of services related to the permitting, plan review, and inspection of new occupancies, commercial tenant improvements, residential additions, and

residential remodels. Important points to note about the fee structure in this section:

- Project types and sizes in this section were established on a per project and / or square footage size basis.
 - Smaller and more routine type projects are charged on a flat / per unit basis
 - Complex, larger projects are charged on a deposit basis, with tracking of staff hours and billing based on fully burdened hourly rates. The deposit amount for each project can be set at an amount up to and not exceeding the number shown in the "Total Cost per Unit" column of the table.
- **Minor Remodels and Improvements:** presents full cost of services results related to small projects that do not fit directly into the structure identified for in the "New Construction and Tenant Improvements" section above. Common projects seen in this area include minor residential and commercial improvements such as re-roofs, window replacement, retaining walls, pools, etc. These project types and sizes were analyzed on a flat-fee, per project basis.
 - **MPE Simple Stand Alone Permits:** presents full cost of services results related to Mechanical, Plumbing and Electrical projects that are "stand-alone" or "singular" in nature, meaning they are not part of an application for a project shown in either section noted above.
 - **Fee Supporting and Other Non-Fee Related Activities:** Accounts for the amount of time spent by the Building Official and administrative support to the Neighborhood Preservation program. Costs associated with this activity are not included in the fees for service established above, and would require alternate funding sources.
 - **Blended Full Cost Recovery Hourly Rates:** Establishes a full cost recovery hourly rate for the plan review and inspection functions of the Division. These rates would be charged against any deposit-based project, or in the event that the Division received a rare project for which a fee was not established through this study. These hourly rates could also be charged for "service required in excess of standard" on smaller projects, such as excessive plan review revisions or failed inspections.

5. CONCLUSION

The City of Modesto engaged the Matrix Consulting Group to determine the total cost of services provided to its citizens and businesses building permitting services. To calculate the total cost services, Matrix Consulting Group employed both a widely accepted and defensible methodology, as well as the experience and input of City staff to complete the necessary data collection and discussion to complete the analysis. City leaders can now use this information to make informed decisions and set its fees to meet the fiscal and policy goal objectives of the City.

Overall, this Cost of Services Study concluded that the City under-recovers its costs by approximately \$349,000 per year providing its *fee-related* services. While the detailed documentation of the Study will show an over-collection for certain fees (on a per unit basis), and an undercharge for others, overall, the City is providing an annual subsidy to fee payers for all services included in the analysis.

The project team recommends the City try to recover as much of the service costs as is feasible. For most fee related services, the Matrix Consulting Group recommends setting fees at 100% cost recovery. However, as discussed in previous chapters of this report, several policy factors often warrant adoption of fee levels at less than 100%.

ATTACHMENT

Cost Recovery Report Table

Cost Recovery Report Table - Fee Related Services Only

FEE NO.	Fee Name	Fee Type (D = Deposit / F = Flat / AC = Annual Cost / H = Hourly)	Current Fee / Deposit (\$)	Total Cost Per Unit (\$)	Surplus / (Deficit) per Unit (\$)	Annual Recoverable Volume	Revenue at Current Fee - Annual (\$)	Total Cost - Annual (\$)	Surplus / (Deficit) - Annual (\$)
NEW CONSTRUCTION AND TENANT IMPROVEMENTS									
1	Comm w/o interior impr.	D	9,731	4,541	5,190	3	29,193	13,624	15,569
2	Comm w/ interior impr.	D	14,058	14,504	(446)	6	84,348	87,022	(2,674)
3	Residential 2nd Unit	F	1,145	1,911	(766)	-	-	-	-
4	Residential Custom Home / Duplex (5,000 s.f or less)	F	1,657	2,801	(1,144)	-	-	-	-
5	Residential Custom Home / Duplex (greater than 5,001 s.f.)	D	3,250	2,801	449	-	-	-	-
6	Residential Tract - master plan review	F	-	2,041	(2,041)	-	-	-	-
7	Residential Tract - Production Home	F	1,000	1,884	(884)	31	31,000	58,418	(27,418)
8	Apartment / condo	D	16,500	4,555	11,945	5	82,500	22,777	59,723
9	Hotel / Motel	D	43,000	27,096	15,904	-	-	-	-
10	Accessory Building (<500 s.f.)	F	550	514	36	23	12,650	11,811	839
11	Residential Addition (<500 s.f.)	F	734	1,492	(758)	-	-	-	-
12	Residential Addition (> 500 s.f.)	D	1,130	2,003	(873)	-	-	-	-
13	Commercial Addition (<3,000 s.f.)	F	1,533	2,113	(580)	9	13,797	19,016	(5,219)
14	Commercial Addition (>3,000 sf)	D	-	2,113	(2,113)	-	-	-	-
15	TI (<3,000 s.f.)	F	1,533	1,565	(32)	175	268,275	273,921	(5,646)
16	TI (>3,000 sf)	D	2,670	1,905	965	-	-	-	-
MINOR REMODELS / IMPROVEMENTS									
21	Residential Remodel (no or minor structural review required)	F	439	694	(255)	384	168,576	266,379	(97,803)
27	Residential Garage	F	385	1,014	(629)	-	-	-	-
28	Minor Residential Improvements: Such as Deck, Patio Cover, Carport, Awning, Balcony, Deck, covered Porch, Enclosed Patio	F	203	524	(321)	64	12,992	33,510	(20,518)
29	Minor Commercial Improvements: Such as Deck, Patio Cover, Carport, Awning, Balcony, Deck, covered Porch, Enclosed Patio, Single Interior Partition, Demising Wall	F	-	1,047	(1,047)	-	-	-	-
30	Demolition	F	169	237	(68)	39	6,591	9,231	(2,640)
40	Re-roof - Residential	F	192	275	(83)	795	152,640	218,312	(65,672)
41	Re-roof - Commercial	F	-	439	(439)	-	-	-	-
42	Signs (all types)	F	385	252	133	165	63,525	41,577	21,948
47	Swimming Pool (All Types)	F	515	432	83	59	30,385	25,459	4,926
62	Mobile home permit- Installation	F	230	524	(294)	4	920	2,094	(1,174)
66	Fee Collection for Fire / Annual MH	F	-	55	(55)	21	-	1,156	(1,156)
67	City / County Sphere	F	-	92	(92)	13	-	1,192	(1,192)
MPE SIMPLE STAND ALONE PERMITS (see MPE Expanded Tab)									
71	MPE Permit Processing	F	-	92	(92)	1,383	-	126,802	(126,802)
72	Minor MPE Single / COMBO	F	88	170	(82)	1,383	121,836	235,259	(113,423)
73	MPE Comm/ Industrial (per project)	F	-	712	(712)	-	-	-	-
91	E - PV Systems - Residential	F	-	262	(262)	-	-	-	-
92	E - PV Systems - Commercial	D	-	864	(864)	-	-	-	-

Cost Recovery Report Table - Fee Related Services Only

FEE NO.	Fee Name	Fee Type (D = Deposit / F = Flat / AC = Annual Cost / H = Hourly)	Current Fee / Deposit (\$)	Total Cost Per Unit (\$)	Surplus / (Deficit) per Unit (\$)	Annual Recoverable Volume	Revenue at Current Fee - Annual (\$)	Total Cost - Annual (\$)	Surplus / (Deficit) - Annual (\$)
FEE SUPPORTING AND OTHER NON-FEE RELATED ACTIVITIES									
96	Neighborhood Preservation Division Support (annual time)	AC	-	225,425	(225,425)	-	-	-	-
BLENDED FULL COST RECOVERY HOURLY RATES									
101	Plan Review - General (Non-Structural)	H	127	183	(56)	1	127	183	(56)
102	Inspection	H	-	170	(170)	1	-	170	(170)
TOTAL - ALL ACTIVITIES							1,098,714	1,447,912	(349,198)

Notes: Above fees do not include outsourced structural review costs.

User Fee Study
BUILDING SAFETY DIVISION

FY 10-11

MODESTO, CALIFORNIA

Final Results: August 25, 2010

matrix 
consulting group

Schedule of Current and Potential Fees

Fee No	Fee Name	Fee Type (V=Valuation, F=flat, H=Hourly, AC=Annual Cost, NF = Non-Fee Related, P = %)	Annual Volume Performed	Annual Volume Collected	Variance	Current Fee / Revenue (\$)
NEW CONSTRUCTION AND TENANT IMPROVEMENTS						
1	Comm w/o interior impr.	D	3	3	0	\$9,731.00
2	Comm w/ interior impr.	D	6	6	0	\$14,058.00
3	Residential 2nd Unit	F	1	0	1	\$1,145.00
4	Residential Custom Home / Duplex (5,000 s.f or less)	F	1	0	1	\$1,657.00
5	Residential Custom Home / Duplex (greater than 5,001 s.f.)	D	1	0	1	\$3,250.00
6	Residential Tract - master plan review	F	1	0	1	\$0.00
7	Residential Tract - Production Home	F	31	31	0	\$1,000.00
8	Apartment / condo	D	5	5	0	\$16,500.00
9	Hotel / Motel	D	1	0	1	\$43,000.00
10	Accessory Building (<500 s.f.)	F	23	23	0	\$550.00
11	Residential Addition (<500 s.f.)	F	1	0	1	\$734.00
12	Residential Addition (> 500 s.f.)	D	1	0	1	\$1,130.00
13	Commercial Addition (<3,000 s.f.)	F	9	9	0	\$1,533.00
14	Commercial Addition (>3,000 sf)	D	1	0	1	\$0.00
15	TI (<3,000 s.f.)	F	175	175	0	\$1,533.00
16	TI (>3,000 sf)	D	1	0	1	\$2,870.00
MINOR REMODELS / IMPROVEMENTS						
21	Residential Remodel (no or minor structural review required)	F	384	384	0	\$439.00
27	Residential Garage	F	1	0	1	\$385.00
28	Minor Residential Improvements: Such as Deck, Patio Cover, Carport, Awning, Balcony, Deck, covered Porch, Enclosed Patio	F	64	64	0	\$203.00
29	Minor Commercial Improvements: Such as Deck, Patio Cover, Carport, Awning, Balcony, Deck, covered Porch, Enclosed Patio, Single Interior Partition, Demising Wall	F	1	0	1	\$0.00
30	Demolition	F	39	39	0	\$169.00
31	Duplicate / Replacement Job Card	F	1	0	1	\$0.00

Fee No	Fee Name	Fee Type (V=Valuation, F=flat, H=Hourly, AC=Annual Cost, NF = Non-Fee Related, P = %)	Annual Volume Performed	Annual Volume Collected	Variance	Current Fee / Revenue (\$)
32	Freestanding Wall or Fence (Non-Engineered)- 0 - 100 l.f.	F	1	0	1	\$0.00
33	Freestanding Wall or Fence (Non-Engineered)- ea add'l 100 l.f.	F	1	0	1	\$0.00
34	Freestanding Wall or Fence (Engineered)- 0 - 100 l.f.	F	1	0	1	\$0.00
35	Freestanding Wall or Fence (Engineered)- ea add'l 100 l.f.	F	1	0	1	\$0.00
36	Stucco / Siding Application - Commercial - up to 500 s.f.	F	1	0	1	\$0.00
37	Stucco / Siding Application - Commercial - ea addl 500 s.f.	F	1	0	1	\$0.00
38	Stucco / Siding Application - Residential - up to 500 s.f.	F	1	0	1	\$0.00
39	Stucco / Siding Application - Residential - ea addl 500 s.f.	F	1	0	1	\$0.00
40	Re-roof - Residential	F	795	795	0	\$192.00
41	Re-roof - Commercial	F	1	0	1	\$0.00
42	Signs (all types)	F	165	165	0	\$385.00
43	Storage Racks - ≤ 8 ft. high - 0 - 100 l.f.	F	1	0	1	\$0.00
44	Storage Racks - ≤ 8 ft. high - ea add'l 100 l.f.	F	1	0	1	\$0.00
45	Storage Racks - > 8 ft. high - 0 - 100 l.f.	F	1	0	1	\$0.00
46	Storage Racks - > 8 ft. high - ea add'l 100 l.f.	F	1	0	1	\$0.00
47	Swimming Pool (All Types)	F	59	59	0	\$515.00
52	ADA Parking/Re-striping (≤ 1 stall)	F	1	0	1	\$0.00
53	ADA Parking/Re-striping (> 1 stall)	F	1	0	1	\$0.00
54	Window / Door / Sliding Glass Door (≤ 5)	F	1	0	1	\$0.00
55	Window / Door / Sliding Glass Door (> 6)	F	1	0	1	\$0.00
56	Relocate Building	F	1	0	1	\$0.00
59	First Time Home Buyers Inspection	F	1	0	1	\$0.00
60	Mobile home permit- Site Prep	F	1	0	1	\$0.00
61	Mobile home permit- Foundation	F	1	0	1	\$0.00
62	Mobile home permit- Installation	F	4	4	0	\$230.00
63	Relocate Building	F	1	0	1	\$0.00
64	Grading (first 10K CY)	F	9	9	0	\$2,151.00
65	Grading Inspection - (each addl 10K CY)	F	1	0	1	\$0.00
66	Fee Collection for Fire / Annual MH	F	21	21	0	\$0.00

Fee No	Fee Name	Fee Type (V=Valuation, F=flat, H=Hourly, AC=Annual Cost, NF = Non-Fee Related, P = %)	Annual Volume Performed	Annual Volume Collected	Variance	Current Fee / Revenue (\$)
67	City / County Sphere	F	13	13	0	\$0.00
	MPE SIMPLE STAND ALONE PERMITS (see MPE Expanded Tab)					
71	MPE Permit Processing	F	1383	1383	0	\$0.00
72	Minor MPE Single / COMBO	F	1383	1383	0	\$88.10
73	MPE Comm/ Industrial (per project)	F	1	0	1	\$0.00
91	E - PV Systems - Residential	F	1	0	1	\$0.00
92	E - PV Systems - Commercial	D	1	0	1	\$0.00
	FEE SUPPORTING AND OTHER NON-FEE RELATED ACTIVITIES					
96	Neighborhood Preservation Division Support (annual time)	AC	1	1	0	\$0.00
	BLENDED FULL COST RECOVERY HOURLY RATES					
101	Plan Review - General (Non-Structural)	H	10	1	9	\$127.00
102	Inspection	H	10	1	9	\$0.00
NF	NON-USER FEE ACTIVITIES	AC	1	1	0	-

Net Available Work Hours Calculation

	No of Employees	1	1	1	4	1
Time Category	Source	Sr. Building Inspector	Chief Building Official	Plan Review Engineer	Building Inspector II	Deputy Chief Building Officer
Gross Hours Available	8 hours / 5 days per week	2080	2080	2080	8320	2080
Vacation	Annual Accrual	120	120	120	480	120
Sick	Annual Accrual / Average Taken	48	48	48	192	48
Holiday	Annual - Official City / County	88	88	88	352	88
Training	Annual - Estimated / Budgeted	35	35	35	140	35
Meetings	Annual Estimated	97	145	97	388	97
Breaks	Annual Mandated	120	120	120	480	120
Office Hours	Annual Estimated	360	120	120	1440	120
Subtotal of Reductions		(868)	(676)	(628)	(3472)	(628)
TOTAL NET AVAILABLE HOURS		1212	1404	1452	4848	1452

Net Available Work Hours Calculation

	No of Employees	1.5	1	1	1
Time Category	Source	Admin Office Assistant II	Admin Office Assistant III	Sr. Admin Office Assistant	Account Clerk
Gross Hours Available	8 hours / 5 days per week	3120	2080	2080	2080
Vacation	Annual Accrual	180	120	120	120
Sick	Annual Accrual / Average Taken	72	48	48	48
Holiday	Annual - Official City / County	132	88	88	88
Training	Annual - Estimated / Budgeted	12	8	8	8
Meetings	Annual Estimated	145.5	97	97	97
Breaks	Annual Mandated	180	120	120	120
Office Hours	Annual Estimated	180	120	120	120
Subtotal of Reductions		(902)	(601)	(601)	(601)
TOTAL NET AVAILABLE HOURS		2219	1479	1479	1479

Net Available Work Hours Calculation

	No of Employees		12.5
Time Category	Source	Average per Employee	Total
Gross Hours Available	8 hours / 5 days per week	2080	26000
Vacation	Annual Accrual	120	1500
Sick	Annual Accrual / Average Taken	48	600
Holiday	Annual - Official City / County	88	1100
Training	Annual - Estimated / Budgeted	25	316
Meetings	Annual Estimated	101	1261
Breaks	Annual Mandated	120	1500
Office Hours	Annual Estimated	216	2700
Subtotal of Reductions		(718)	(8977)
TOTAL NET AVAILABLE HOURS		1362	17024

Schedule of Cost Inputs - Salaries and Benefits

CLASSIFICATION	SALARY (\$)	BENEFITS (\$)	TOTAL (\$)	FTE	AVE NET AVAIL HOURS
Chief Building Official	111,690	36,354	148,044	1.00	1,362
Plan Review Engineer / BI II	139,946	49,080	189,026	2.00	2,724
Sr BI / Building Inspector II	280,064	70,650	350,714	4.00	5,448
Deputy Chief Building Officer	101,194	33,738	134,932	1.00	1,362
Admin Office Assistant II	54,141	22,752	76,893	1.50	2,043
Admin Office Assistant III	42,636	22,578	65,214	1.00	1,362
Sr. Admin Office Assistant	44,846	16,914	61,760	1.00	1,362
Account Clerk	40,636	16,086	56,722	1.00	1,362
SUBTOTAL SALARIES AND BENEFITS	815,153	268,152	1,083,305	12.50	17,024

Schedule of Cost Inputs - Direct and Indirect Costs

BUDGETED EXPENSE	AMOUNT	NOTES / SOURCE
Personnel Salaries & Benefits		
Salaries & Wages	\$ 815,153	
Benefits	\$ 268,152	
Subtotal Personnel Cost	\$ 1,083,305	
Operating Services & Supplies		
Postage	\$ 1,600	
Mail Services - Inside	\$ 5,019	
Printing and Binding	\$ 4,000	
Business Expenses	\$ 1,000	
Training Expenses	\$ 7,300	
Utilities	\$ 3,750	
Equipment Pool Maintain	\$ 10,172	
Records Services - Outside	\$ 360	
Repair & Maint - Outside Forces	\$ 10,475	
Equipment Pool Replace	\$ 22,500	
Services, Professional & Other	\$ 18,950	
Delivery Services	\$ 100	
Infrastructure Tech & Infor	\$ 7,737	
Replacement Tech & Info	\$ 15,280	
Operations Tech & Info	\$ 204,768	
Phones Tech & Infor	\$ 8,405	
Building Service - City Forces	\$ 62,332	
Office Supplies	\$ 6,000	
Books and Periodicals	\$ 6,700	
Tools, Shop and Field Supplies	\$ 3,480	
Memberships & Dues	\$ 765	
Liability Insurance	\$ 37,793	
Housing Demolition	\$ 2,000	
Subtotal Operating Cost	\$ 440,486	
Excluded Costs		
Services, Professional & Other	\$ (18,950)	Pass through of outside consultant review as needed
Subtotal Excluded Cost	\$ (18,950)	
Overhead		
CED Administration	\$ 58,420	MCG CED Allocation based on FTE
Citywide Overhead	\$ 169,384	Current Cost Allocation Plan FY 0910
Subtotal Overhead Cost	\$ 227,804	
TOTAL COSTS	\$ 1,732,645	

Time Estimate Collection Worksheet

EMPLOYEE	DEPT./DIV. GENERAL & ADMIN.	NEW CONSTRUCTI ON AND TENANT IMPROVEME NTS	1	2	3	4	5	6	7	8	9	10	11	12
			Comm w/o Interior Impr.	Comm w/ Interior Impr.	Residential 2nd Unit	Residential Custom Home / Duplex (5,000 s.f. or less)	Residential Custom Home / Duplex (greater than 5,001 s.f.)	Residential Tract - master plan review	Residential Tract - Production Home	Apartment / condo	Hotel / Motel	Accessory Building (<500 s.f.)	Residential Addition (<500 s.f.)	Residential Addition (> 500 s.f.)
Chief Building Official	817.20		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Plan Review Engineer / BI II	0.00		11.50	29.00	3.00	6.00	6.00	0.00	1.00	10.00	55.00	1.01	3.50	3.50
Sr. BI / Building Inspector II	0.00		14.30	54.00	8.00	10.00	10.00	12.00	10.00	16.00	100.00	1.93	5.00	8.00
Deputy Chief Building Officer	1362.00		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Admin Office Assistant II	2043.00		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Admin Office Assistant III	817.20		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Sr. Admin Office Assistant	1362.00		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Account Clerk	1362.00		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Annual Volume	1.00		3.00	6.00	1.00	1.00	1.00	1.00	31.00	5.00	1.00	23.00	1.00	1.00
Total Time Per Unit	7763.40		25.80	83.00	11.00	16.00	16.00	12.00	11.00	26.00	155.00	2.94	8.50	11.50

Time Estimate Collection Worksheet

	13	14	15	16		21	22	27	28	29	30	40	41	42
EMPLOYEE	Commercial Addition (<3,000 s.f.)	Commercial Addition (>3,000 s.f.)	TI (<3,000 s.f.)	TI (>3,000 s.f.)	MINOR REMODELS / IMPROVEMENTS	Residential Remodel (no or minor structural review required)	Residential Remodel (City portion, add outsourced structural)	Residential Garage	Minor Residential Improvements: Such as Deck, Patio Cover, Carport, Awning, Balcony, Deck, covered Porch, Enclosed Patio	Minor Commercial Improvements: Such as Deck, Patio Cover, Carport, Awning, Balcony, Deck, covered Porch, Enclosed Patio, Single Interior Partition, Demising Wall	Demolition	Re-roof - Residential	Re-roof - Commercial	Signs (all types)
Chief Building Official	0.00	0.00	0.00	0.00		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Plan Review Engineer / BI II	4.63	4.63	2.97	2.97		1.00	1.00	2.10	1.00	2.00	0.86	0.44	1.00	0.53
Sr BI / Building Inspector II	7.43	7.43	6.00	8.00		3.00	3.00	3.70	2.00	4.00	0.88	1.14	1.50	0.91
Deputy Chief Building Officer	0.00	0.00	0.00	0.00		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Admin Office Assistant II	0.00	0.00	0.00	0.00		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Admin Office Assistant III	0.00	0.00	0.00	0.00		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Sr. Admin Office Assistant	0.00	0.00	0.00	0.00		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Account Clerk	0.00	0.00	0.00	0.00		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Annual Volume	9.00	1.00	175.00	1.00		364.00	1.00	1.00	64.00	1.00	39.00	795.00	1.00	165.00
Total Time Per Unit	12.06	12.06	8.97	10.97		4.00	4.00	5.80	3.00	6.00	1.34	1.58	2.50	1.44

Time Estimate Collection Worksheet

	47	62	66	67		71	72	73	91	92		96		101
EMPLOYEE	Swimming Pool (All Types)	Mobile home permit-Installation	Fee Collection for Fire / Annual MH	City / County Sphere	MPE SIMPLE STAND ALONE PERMITS (see MPE Expanded Tab)	MPE Permit Processing	Minor MPE Single / COMBO	MPE Comm/ Industrial (per project)	E - PV Systems - Residential	E - PV Systems - Commercial	FEE SUPPORTING AND OTHER NON-FEE RELATED ACTIVITIES	Neighborhood Preservation Division Support (annual time)	BLENDED FULL COST RECOVERY HOURLY RATES	Plan Review - General (Non-Structural)
Chief Building Official	0.00	0.00	0.00	0.00		0.00	0.00	0.00	0.00	0.00		544.80		0.00
Plan Review Engineer / BI II	0.47	1.00	0.00	0.50		0.50	0.00	1.00	0.50	1.00		0.00		1.00
Sr. BI / Building Inspector II	2.03	2.00	0.00	0.00		0.00	1.00	3.00	1.00	4.00		0.00		0.00
Deputy Chief Building Officer	0.00	0.00	0.00	0.00		0.00	0.00	0.00	0.00	0.00		0.00		0.00
Admin Office Assistant II	0.00	0.00	0.00	0.00		0.00	0.00	0.00	0.00	0.00		0.00		0.00
Admin Office Assistant III	0.00	0.00	0.00	0.00		0.00	0.00	0.00	0.00	0.00		544.80		0.00
Sr. Admin Office Assistant	0.00	0.00	0.00	0.00		0.00	0.00	0.00	0.00	0.00		0.00		0.00
Account Clerk	0.00	0.00	0.50	0.00		0.00	0.00	0.00	0.00	0.00		0.00		0.00
Annual Volume	69.00	4.00	21.00	13.00		1383.00	1383.00	1.00	1.00	1.00		1.00		10.00
Total Time Per Unit	2.50	3.00	0.50	0.50		0.50	1.00	4.00	1.50	5.00		1089.60		1.00

Time Estimate Collection Worksheet

EMPLOYEE	102	CROSS CHECKS			
	Inspection	HOURS UTILIZED	HOURS AVAIL / POSITION	BALANCE AVAILABLE	% UTILIZED
Chief Building Official	0.00	1,362	1,362	(0)	100.01%
Plan Review Engineer / BI II	0.00	2,618	2,724	106	96.12%
Sr BI / Building Inspector II	1.00	5,991	5,448	(543)	109.97%
Deputy Chief Building Officer	0.00	1,362	1,362	(0)	100.01%
Admin Office Assistant II	0.00	2,043	2,043	(0)	100.01%
Admin Office Assistant III	0.00	1,362	1,362	(0)	100.01%
Sr. Admin Office Assistant	0.00	1,362	1,362	(0)	100.01%
Account Clerk	0.00	1,373	1,362	(11)	100.78%
Annual Volume	10.00	17,472	17,024		
Total Time Per Unit	1.00				3%

Total Cost Allocation Calculations

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16		
	DEPT/DIV GENERAL & ADMIN	NEW CONSTRUCTION AND TENANT IMPROVEMENTS	Comm w/o Interior Impr.	Comm w/ Interior Impr.	Residential 2nd Unit	Residential Duplex (5,000 s.f. or less)	Residential Duplex (greater than 5,001 s.f.)	Residential Tract - master plan review	Residential Tract - Production Home	Apartment / condo	Hotel / Motel	Accessory Building (<500 s.f.)	Residential Addition (<500 s.f.)	Residential Addition (>500 s.f.)	Commercial Addition (<3,000 s.f.)	Commercial Addition (>3,000 s.f.)	Ti (<3,000 s.f.)	Ti (>3,000 s.f.)
Distribution % Based on Personnel Cost	100.000%	42.507%	0.478%	3.040%	0.087%	0.098%	0.098%	0.071%	2.041%	0.798%	0.947%	0.415%	0.092%	0.079%	0.884%	0.074%	9.570%	0.087%
Personnel																		
Salaries & Wages	815,153	344,868.13	3,879.88	24,782.38	544.20	797.79	797.79	581.37	16,036.46	6,488.58	7,716.56	3,383.57	425.02	570.36	5,415.47	601.75	78,008.19	542.85
Benefits	288,152	113,446.85	1,276.22	8,152.38	179.02	262.44	262.44	191.25	5,472.71	2,133.62	2,538.43	1,108.48	136.61	187.63	1,761.47	197.85	25,681.50	178.51
Subtotal Direct Personnel Costs	1,103,305	458,315	5,156	32,935	723	1,060	1,060	773	22,199	8,622	10,255	4,492	562	758	7,177	800	103,689	721
Operating Expenses																		
Postage	1,800	876.91	7.62	48.64	1.07	1.57	1.57	1.14	32.85	12.73	15.15	6.60	0.83	1.12	10.63	1.18	153.12	1.07
Mail Services - Inside	5,019	2,123.38	23.89	152.59	3.35	4.91	4.91	3.58	102.43	39.94	47.51	20.71	2.62	3.51	33.34	3.71	480.31	3.34
Printing and Binding	4,200	1,692.29	19.04	121.51	2.57	3.91	3.91	2.85	81.64	31.93	37.87	16.51	2.09	2.80	29.57	2.95	362.79	2.66
Business Expenses	1,000	423.07	4.78	30.40	0.67	0.98	0.98	0.71	20.41	7.98	9.47	4.13	0.52	0.70	6.84	0.74	95.70	0.67
Training Expenses	7,300	3,088.41	34.75	221.94	4.87	7.14	7.14	5.21	149.89	58.09	69.10	30.12	3.81	5.11	48.50	5.29	688.59	4.86
Utilities	3,750	1,586.51	17.95	114.01	2.50	3.67	3.67	2.87	79.53	29.84	36.50	15.47	1.96	2.62	24.91	2.77	358.87	2.50
Equipment Pool Maintain	10,172	4,203.46	46.42	306.25	6.79	9.95	9.95	7.25	207.60	80.94	98.29	41.97	5.30	7.12	67.58	7.51	873.44	6.77
Records Services - Outside	360	162.30	1.71	10.84	0.24	0.36	0.36	0.26	7.35	2.88	3.41	1.49	0.19	0.25	2.33	0.27	34.45	0.24
Repair & Maint - Outside Forces	10,475	4,431.65	49.80	318.46	6.99	10.25	10.25	7.47	213.78	83.35	99.16	43.22	5.46	7.33	69.59	7.73	1,002.43	6.97
Equipment Pool Replace	22,990	9,518.06	107.09	694.05	15.02	22.02	22.02	16.05	496.20	179.04	212.89	92.84	11.73	15.74	148.18	16.83	2,153.20	14.98
Services, Professionals & Other	16,960	6,917.16	90.20	678.12	12.95	19.55	19.55	13.52	388.75	150.79	179.39	78.19	9.88	13.29	129.89	13.99	1,813.47	12.62
Delivery Services	100	42.31	0.48	3.04	0.07	0.10	0.10	0.07	2.04	0.80	0.95	0.41	0.05	0.07	0.65	0.07	8.57	0.07
Infrastructure Tech & Infor	7,737	3,273.29	38.83	235.22	5.17	7.57	7.57	5.52	167.90	61.67	73.24	31.93	4.03	5.41	51.40	5.71	740.41	5.15
Replacement Tech & Infor	15,280	6,484.50	72.73	464.54	10.20	14.95	14.95	10.90	311.85	121.59	144.85	63.05	7.97	10.59	101.51	11.28	1,462.28	10.17
Operations Tech & Infor	204,798	86,531.03	974.83	6,226.38	138.70	200.41	200.41	146.04	4,179.11	1,626.44	1,938.42	844.93	106.77	143.28	1,360.38	151.18	18,586.91	139.31
Phones Tech & Infor	8,406	3,595.90	40.01	255.63	5.81	8.23	8.23	5.99	171.54	66.88	79.57	34.68	4.38	5.88	55.84	6.20	804.34	5.80
Building Service - City Forces	62,332	26,370.75	290.88	1,895.02	41.61	61.00	61.00	44.46	1,272.13	496.01	590.06	257.20	32.50	43.81	414.10	46.01	5,905.02	41.49
Office Supplies	6,000	2,536.42	26.50	162.41	4.01	5.87	5.87	4.28	122.45	47.75	56.30	24.78	3.13	4.20	39.85	4.43	574.10	4.39
Books and Periodicals	6,700	2,534.56	31.99	203.89	4.47	6.56	6.56	4.78	136.74	53.32	63.42	27.65	3.49	4.69	44.51	4.95	641.17	4.68
Tools, Shop and Field Supplies	3,490	1,472.26	16.56	105.80	2.32	3.41	3.41	2.46	71.02	27.69	32.94	14.36	1.81	2.44	2.27	333.03	2.32	
Memberships & Dues	765	323.66	3.64	23.28	0.51	0.75	0.75	0.55	15.61	6.09	7.24	3.18	0.40	0.54	5.08	0.56	73.21	0.51
Liability Insurance	37,793	16,998.05	179.90	1,148.99	25.23	36.99	36.99	26.95	771.32	300.74	357.70	156.95	19.71	26.44	251.08	27.30	3,616.70	25.16
Housing Demolition	2,000	845.14	9.62	60.80	1.34	1.98	1.98	1.43	40.82	15.22	18.53	8.25	1.04	1.40	13.28	1.48	191.40	1.33
Subtotal Operating Expenses	448,488	188,358	2,097	13,393	294	431	431	314	8,989	3,566	4,179	1,818	230	308	2,928	322	42,183	303
EXCLUSIONS																		
Services, Professionals & Other	(18,950)	(8,017)	(90)	(578)	(13)	(19)	(19)	(14)	(387)	(151)	(179)	(78)	(10)	(13)	(126)	(14)	(1,813)	(13)
Subtotal Exclusions	(18,950)	(8,017)	(90)	(578)	(13)	(19)	(19)	(14)	(387)	(151)	(179)	(78)	(10)	(13)	(126)	(14)	(1,813)	(13)
Total Budgeted Costs	1,504,841	636,652	7,163	46,750	1,009	1,473	1,473	1,073	30,712	11,975	14,245	6,209	785	1,063	9,897	1,111	144,010	1,002
DEPT/DIV GENERAL & ADMIN DIST. %	100%		0.789%	5.043%	0.111%	0.182%	0.182%	0.118%	3.385%	1.320%	1.570%	0.864%	0.086%	0.116%	1.102%	0.122%	16.873%	0.110%
G/A DISTRIBUTION		(636,652)	5,028	32,104	705	1,034	1,034	753	21,562	8,403	9,986	4,357	551	739	7,015	780	101,056	703
Total Departmental Costs	1,504,841		12,198	77,855	1,710	2,506	2,506	1,826	52,264	20,378	24,242	10,567	1,335	1,792	17,913	1,890	245,066	1,705
Overhead																		
CEC Administration	58,420		481	2,946	65	85	85	66	1,578	771	917	400	51	88	644	72	9,273	85
Citywide Overhead	189,384		1,337	8,542	188	276	276	200	5,734	2,239	2,680	1,109	148	187	1,887	207	28,888	187
Subtotal Overhead	247,804		1,799	11,487	252	370	370	266	7,312	3,007	3,607	1,509	197	264	2,531	279	38,161	262
GRAND TOTAL ANNUAL ALLOCATED COSTS	1,732,645		13,997	89,342	1,962	2,876	2,876	2,092	58,576	23,385	27,849	12,128	1,492	2,003	19,918	2,113	273,226	1,966
Adjustments																		
Service Credit (Interfund Agreements)	-48,000		13,987	86,342	1,862	2,876	2,876	2,096	58,978	23,365	27,819	12,128	1,492	2,066	19,823	2,180	281,226	1,898
% Allocation	100.00%		0.79%	5.04%	0.11%	0.19%	0.19%	0.12%	3.39%	1.32%	1.57%	0.88%	0.09%	0.12%	1.10%	0.12%	15.88%	0.11%
Allocation	(48,000)		-363,309,138	-232,573,828	-50,957,494,64	-74,703,571,9	-74,703,571,9	-54,438,125,6	-1,557,808,985	-607,391,519	-722,664,578	-314,057,978	-30,798,156,45	-53,407,893,7	-507,094,334,1	-58,346,359,11	-7304,539,959	-50,812,643,91
TOTAL ANNUAL ALLOCATED COSTS	1,732,645		13,924	87,022	1,917	2,901	2,901	2,041	56,418	22,777	27,096	11,611	1,492	2,003	19,918	2,113	273,021	1,966

Total Cost Allocation Calculations

		21	22	27	28	29	30	40	41	42	43	62	66	67		71	72		91	92		96	
	MINOR RENOVATIONS	Residential Remodel (no or minor structural review required)	Residential Remodel (City portion, add outsource structure)	Residential Garage	Minor Residential Improvements - Such as Deck, Patio Cover, Carport, Awning, Enclosed Porch, Balcony, Deck, covered Porch, Partition, Damaging Wall	Minor Commercial Improvements - Such as Deck, Patio Cover, Carport, Awning, Enclosed Porch, Balcony, Deck, covered Porch, Partition, Damaging Wall	Demolition	Re-roof - Residential	Re-roof - Commercial	Signs (all types)	Swimming Pool (All Types)	Mobile Home Installation	Fee Collection for Fire Annual MH	City/County Sphere	MPE SIMPLE STAND ALONE PERMITS (see MPE Expanded Tab)	MPE Permit Processing	Minor MPE Single / COMBO	MPE Comm/ Industrial (per project)	E-PV Residential	E-PV Commercial	FEE SUPPORTING OTHER NON-FEE RELATED ACTIVITIES	Neighborhood Preservation Division Support (annual time)	BLENDED FULL COST HOURLY RECOVERY RATES
Distribution % Based on Personnel Cost	100.000%	9.308%	0.024%	0.035%	1.171%	8.037%	0.023%	7.827%	0.016%	1.453%	0.889%	0.873%	0.048%	0.042%		4.430%	8.219%		0.009%	0.030%		7.878%	
Personnel																							
Salaries & Wages	815,153	75,860.42	197.59	288.89	9,543.00	298.18	###	82,171.72	124.88	11,840.59	7,290.22	596.45	329.04	339.43		36,111.03	66,997.91		74.59	246.01		64,197.37	
Benefits	288,152	24,954.58	69.00	99.03	3,120.28	98.09	894.87	20,451.95	41.08	3,695.07	2,286.02	199.21	109.25	111.88		15,872.05	27,939.57		24.54	80.93		21,118.31	
Subtotal Direct Personnel Costs	1,103,305	100,815	263	384	12,663	396	3,464	102,624	166	15,536	9,576	795	437	451		47,980	94,937		99	327		85,316	
Operating Expense																							
Printing	1,650	148.90	0.38	0.57	18.73	0.59	5.16	122.03	0.25	23.24	14.23	1.17	0.65	0.87		70.88	131.51		0.15	0.42		128.01	
Miscellaneous	5,019	467.08	1.22	1.78	58.76	1.84	18.19	382.80	0.77	72.90	44.64	3.67	2.03	2.00		222.34	412.51		0.48	1.51		395.27	
Printing and Binding	4,000	372.25	0.97	1.42	46.83	1.48	12.90	305.08	0.61	88.10	35.58	2.83	1.61	1.87		177.20	328.76		0.37	1.21		315.02	
Business Expenses	1,000	93.06	0.24	0.35	11.71	0.37	3.23	78.27	0.16	14.63	8.89	0.73	0.40	0.42		44.30	82.19		0.09	0.30		78.78	
Training Expenses	7,300	670.35	1.77	2.59	85.46	2.67	23.54	556.77	1.32	108.04	84.93	6.34	2.95	3.04		323.39	699.99		0.67	2.20		574.51	
Utilities	3,750	348.99	0.91	1.33	43.90	1.37	12.09	298.01	0.57	94.47	33.35	2.74	1.51	1.58		166.12	308.21		0.34	1.13		295.33	
Equipment Pool Maintain	10,172	946.63	2.47	3.61	118.08	3.72	32.81	775.82	1.56	147.75	90.47	7.44	4.11	4.24		450.62	838.04		0.93	3.07		801.10	
Records Services - Outside	360	33.50	0.09	0.13	4.21	0.13	1.16	27.48	0.06	5.23	3.20	0.28	0.15	0.15		15.95	28.99		0.03	0.11		28.35	
Repair & Maint - Outside Forces	10,475	974.83	2.54	3.71	122.63	3.83	33.78	799.33	1.60	152.16	93.17	7.86	4.23	4.36		484.04	890.85		0.96	3.18		824.86	
Equipment Pool Replace	22,500	2,093.91	5.48	7.97	263.41	8.23	72.58	1,718.08	3.45	326.83	200.12	16.46	9.08	9.37		996.74	1,848.29		2.08	6.70		1,771.99	
Services, Professional & Other	16,950	1,783.54	4.58	6.72	221.86	6.93	61.12	1,445.32	2.90	275.26	168.55	13.87	7.85	7.88		836.49	1,657.51		1.73	5.72		1,482.41	
Delivery Services	100	8.31	0.02	0.04	1.17	0.04	0.32	7.83	0.02	1.45	0.88	0.07	0.04	0.04		4.43	8.22		0.01	0.03		7.86	
Infrastructure Tech & Infor	7,757	720.63	1.88	2.74	90.58	2.83	24.86	590.10	1.19	102.58	88.82	8.66	3.12	3.22		347.75	636.91		0.71	2.34		608.53	
Replacement Tech & Infor	15,280	1,422.00	3.70	5.42	178.88	5.59	48.28	1,165.41	2.34	221.85	135.90	11.18	6.17	6.30		678.90	1,250.87		1.40	4.81		1,203.38	
Operations Tech & Infor	204,768	19,058.28	49.64	72.57	2,387.22	74.80	680.40	15,817.88	31.37	2,974.38	1,821.27	149.83	82.66	85.27		8,071.19	15,830.00		18.74	61.80		15,125.50	
Phones Tech & Infor	8,405	782.19	2.04	2.98	98.40	3.07	27.11	641.09	1.29	122.09	74.76	6.19	3.39	3.50		372.34	690.81		0.77	2.54		661.94	
Building Services - City Forces	82,332	6,800.79	15.11	22.09	729.72	22.80	201.03	4,754.08	9.55	905.41	654.40	49.51	25.16	25.98		2,781.29	5,123.10		3.70	18.81		4,808.80	
Office Supplies	6,000	598.38	1.45	2.13	70.24	2.19	19.35	457.62	0.92	87.15	53.37	4.39	2.42	2.50		263.80	493.14		0.55	1.81		472.53	
Books and Periodicals	6,700	623.52	1.62	2.37	78.44	2.45	21.81	511.01	1.03	97.32	59.59	4.80	2.70	2.78		296.81	550.88		0.61	2.02		527.66	
Tools, Shop and Field Supplies	3,460	323.86	0.84	1.23	40.74	1.27	11.22	285.42	0.53	90.55	30.95	2.55	1.40	1.45		154.16	286.02		0.52	1.08		274.07	
Memberships & Dues	785	71.19	0.19	0.27	8.98	0.28	2.47	68.29	0.12	11.11	8.80	0.58	0.31	0.32		33.89	62.86		0.07	0.23		60.28	
Liability Insurance	37,793	3,517.12	9.16	13.39	442.44	13.82	121.89	2,982.47	5.79	548.97	338.14	27.85	15.26	15.74		1,674.22	3,106.23		3.46	11.41		2,976.39	
Housing Demolition	2,000	188.13	0.48	0.71	23.41	0.73	6.45	152.64	0.31	29.05	17.79	1.46	0.81	0.83		88.60	184.38		0.18	0.60		157.51	
Subtotal Operating Expense	440,488	40,993	107	158	5,167	161	1,421	33,596	67	8,339	5,018	397	218	161		19,513	36,204		40	133		34,999	
EXCLUSIONS																							
Services, Professional & Other	(18,930)	(1,784)	(5)	(7)	(22)	(7)	(61)	(1,446)	(3)	(275)	(189)	(14)	(8)	(6)		(839)	(1,558)		(2)	(6)		(1,492)	
Subtotal Exclusions	(18,930)	(1,784)	(6)	(7)	(22)	(7)	(61)	(1,446)	(3)	(275)	(189)	(14)	(8)	(6)		(839)	(1,558)		(2)	(6)		(1,492)	
Total Budgeted Costs	1,504,841	140,045	366	533	17,617	650	4,853	114,774	231	21,859	13,386	1,101	608	627		66,564	123,684		138	454		119,514	
DEPT/DIV GENERAL & ADMIN DIST. %		15.436%	0.040%	0.069%	1.942%	0.061%	0.536%	12.651%	0.025%	2.409%	1.475%	0.121%	0.067%	0.069%		7.348%	13.633%		0.015%	0.050%		13.083%	
OIA DISTRIBUTION		98.274	256	374	12,363	388	3,408	90,541	182	15,339	9,392	773	429	440		46,780	86,763		97	319		83,185	
Total Departmental Costs	1,504,841	238,318	621	908	29,980	937	8,259	196,318	392	37,198	22,777	1,874	1,034	1,086		113,444	210,477		234	773		201,679	
Overhead																							
CEO Administration	58,420	9,018	23	34	1,134	35	313	7,361	16	1,408	882	71	99	40		4,293	7,984		9	29		7,631	
Citywide Overhead	183,384	26,146	68	100	3,289	103	908	21,429	43	4,031	2,498	208	113	117		12,448	23,092		28	85		22,718	
Subtotal Overhead	241,804	35,164	92	134	4,423	138	1,219	28,790	59	5,439	3,380	279	153	157		16,741	31,076		37	114		29,349	
SUBTOTAL ANNUAL ALLOCATED COSTS	1,746,645	273,482	712	1,042	34,403	1,075	6,478	224,134	450	43,896	26,339	2,150	1,186	1,244		130,183	241,532		289	897		225,423	
Adjustments																							
Service Credit (Interfund Agreements)	-46,000	273,482	712	1,041	34,403	1,075	6,478	224,134	450	43,896	26,339	2,150	1,186	1,244		130,183	241,532		289	897		231,436	
%	100.00%	15.44%	0.04%	0.06%	1.94%	0.06%	0.54%	12.86%	0.03%	2.41%	1.48%	0.12%	0.07%	0.07%		7.35%	13.84%		0.02%	0.05%		13.07%	
Allocation	\$ (46,000)	-7,103,428,984	-18,502,241,174	-27,061,290,7	-893,582,077	-27,921,204,63	-246,17	-5821,942,0	-11,893,7	-1,068,73	-878,895,5	-95,860,2	-30,814,2	-31,783,5		-339,139,2	-627,558,6		-6,994,15	-23,036,0		-8011,321,8	
TOTAL ANNUAL ALLOCATED COSTS	1,700,645	266,379	694	1,014	33,610	1,047	6,231	218,312	439	41,577	25,459	2,094	1,156	1,192		126,802	238,259		282	864		225,423	

Total Cost Allocation Calculations

	161	182	
			Plan Review - General (Non-Structure) Inspection
Distribution % Based on Personnel Cost	100.000%	0.084%	0.059%
Personnel			
Salaries & Wages	815,153	522.19	484.45
Benefits	265,152	171.78	159.26
Subtotal Direct Personnel Costs	1,080,305	694	644
Operating Expenses			
Postage	1,600	1.03	0.95
Mail Services - Inside	5,019	3.22	2.98
Printing and Binding	4,000	2.56	2.38
Business Expenses	1,000	0.64	0.55
Training Expenses	7,300	4.68	4.34
Utilities	3,750	2.40	2.23
Equipment Pool Maintain	10,172	6.52	6.05
Records Services - Outside	360	0.23	0.21
Repair & Maint - Outside Forces	10,476	6.71	6.23
Equipment Pool Replaces	22,500	14.41	13.37
Services, Professional & Other	18,950	12.14	11.25
Delivery Services	100	0.06	0.06
Infrastructure Tech & Infor	7,737	4.98	4.60
Replacement Tech & Info	15,200	9.79	9.08
Operations Tech & Info	204,708	131.17	121.08
Phones Tech & Infor	8,405	5.36	5.00
Building Service - City Forces	82,332	53.03	49.04
Office Supplies	8,000	5.14	4.77
Books and Periodicals	8,700	5.53	5.13
Tools, Shop and Field Supplies	3,460	2.23	2.07
Memberships & Dues	765	0.49	0.45
Liability Insurance	37,793	24.21	22.46
Housing Demolition	2,000	1.28	1.19
Subtotal Operating Expenses	445,111	283	262
EXCLUSIONS			
Services, Professional & Other	(18,950)	(12)	(11)
Subtotal Exclusions	(18,950)	(12)	(11)
Total Budgeted Costs	1,061,355	682	633
DEPT/DIV GENERAL & ADMIN DIST. %		0.106%	0.089%
G/A DISTRIBUTION		676	628
Total Departmental Costs	1,061,355	1,358	1,261
Overhead			
CEO Administration	58,420	52	58
Citywide Overhead	159,384	180	187
Subtotal Overhead	217,804	232	245
SUBTOTAL ANNUAL ALLOCATED COSTS	1,279,159	1,590	1,506
Adjustments			
Service Credit (Interfund Agreements)	-46,000	1,683	1,746
%	100.00%	0.11%	0.10%
Allocation	\$ (46,000)	48,996	45,308
TOTAL ANNUAL ALLOCATED COSTS	1,233,159	1,638	1,751

Cost Recovery Report Table - Fee Related Services Only

FEE NO.	Fee Name	Fee Type (D = Deposit / F = Flat / AC = Annual Cost / H = Hourly)	Current Fee / Deposit (\$)	Total Cost Per Unit (\$)	Surplus / (Deficit) per Unit (\$)	Annual Recoverable Volume	Revenue at Current Fee - Annual (\$)	Total Cost - Annual (\$)	Surplus / (Deficit) - Annual (\$)
NEW CONSTRUCTION AND TENANT IMPROVEMENTS									
1	Comm w/o interior impr.	D	9,731	4,541	5,190	3	29,193	13,624	15,569
2	Comm w/ interior impr.	D	14,058	14,504	(446)	6	84,348	87,022	(2,674)
3	Residential 2nd Unit	F	1,145	1,911	(766)	-	-	-	-
4	Residential Custom Home / Duplex (5,000 s.f or less)	F	1,657	2,801	(1,144)	-	-	-	-
5	Residential Custom Home / Duplex (greater than 5,001 s.f.)	D	3,250	2,801	449	-	-	-	-
6	Residential Tract - master plan review	F	-	2,041	(2,041)	-	-	-	-
7	Residential Tract - Production Home	F	1,000	1,884	(884)	31	31,000	58,418	(27,418)
8	Apartment / condo	D	16,500	4,555	11,945	5	82,500	22,777	59,723
9	Hotel / Motel	D	43,000	27,096	15,904	-	-	-	-
10	Accessory Building (<500 s.f.)	F	550	514	36	23	12,650	11,811	839
11	Residential Addition (<500 s.f.)	F	734	1,492	(758)	-	-	-	-
12	Residential Addition (> 500 s.f.)	D	1,130	2,003	(873)	-	-	-	-
13	Commercial Addition (<3,000 s.f.)	F	1,533	2,113	(580)	9	13,797	19,016	(5,219)
14	Commercial Addition (>3,000 sf)	D	-	2,113	(2,113)	-	-	-	-
15	TI (<3,000 s.f.)	F	1,533	1,565	(32)	175	268,275	273,921	(5,646)
16	TI (>3,000 sf)	D	2,870	1,905	965	-	-	-	-
MINOR REMODELS / IMPROVEMENTS									
21	Residential Remodel (no or minor structural review required)	F	439	694	(255)	384	168,576	266,379	(97,803)
27	Residential Garage	F	385	1,014	(629)	-	-	-	-
28	Minor Residential Improvements: Such as Deck, Patio Cover, Carport, Awning, Balcony, Deck, covered Porch, Enclosed Patio	F	203	524	(321)	64	12,992	33,510	(20,518)
29	Minor Commercial Improvements: Such as Deck, Patio Cover, Carport, Awning, Balcony, Deck, covered Porch, Enclosed Patio, Single Interior Partition, Demising Wall	F	-	1,047	(1,047)	-	-	-	-
30	Demolition	F	169	237	(68)	39	6,591	9,231	(2,640)
40	Re-roof - Residential	F	192	275	(83)	795	152,640	218,312	(65,672)
41	Re-roof - Commercial	F	-	439	(439)	-	-	-	-
42	Signs (all types)	F	385	252	133	165	63,525	41,577	21,948
47	Swimming Pool (All Types)	F	515	432	83	59	30,385	25,459	4,926
62	Mobile home permit- Installation	F	230	524	(294)	4	920	2,094	(1,174)
66	Fee Collection for Fire / Annual MH	F	-	55	(55)	21	-	1,156	(1,156)
67	City / County Sphere	F	-	92	(92)	13	-	1,192	(1,192)
MPE SIMPLE STAND ALONE PERMITS (see MPE Expanded Tab)									
71	MPE Permit Processing	F	-	92	(92)	1,383	-	126,802	(126,802)
72	Minor MPE Single / COMBO	F	88	170	(82)	1,383	121,836	235,259	(113,423)
73	MPE Comm/ Industrial (per project)	F	-	712	(712)	-	-	-	-
91	E - PV Systems - Residential	F	-	262	(262)	-	-	-	-
92	E - PV Systems - Commercial	D	-	864	(864)	-	-	-	-

Cost Recovery Report Table - Fee Related Services Only

FEE NO.	Fee Name	Fee Type (D = Deposit / F = Flat / AC = Annual Cost / H = Hourly)	Current Fee / Deposit (\$)	Total Cost Per Unit (\$)	Surplus / (Deficit) per Unit (\$)	Annual Recoverable Volume	Revenue at Current Fee - Annual (\$)	Total Cost - Annual (\$)	Surplus / (Deficit) - Annual (\$)
FEE SUPPORTING AND OTHER NON-FEE RELATED ACTIVITIES									
96	Neighborhood Preservation Division Support (annual time)	AC	-	225,425	(225,425)	-	-	-	-
BLENDED FULL COST RECOVERY HOURLY RATES									
101	Plan Review - General (Non-Structural)	H	127	183	(56)	1	127	183	(56)
102	Inspection	H	-	170	(170)	1	-	170	(170)
TOTAL - ALL ACTIVITIES							1,098,714	1,447,912	(349,198)

Notes: Above fees do not include outsourced structural review costs.

Small Project Permit Fees
City of Modesto Building Safety Division

Table M-1
 (Based on Matrix Consulting Group User Fee Study)

Permit Category	Avg Volume / Year	Current Fee Per Unit	Full Cost Recovery per Unit	Rcmd Fee Per Unit	Avg Val of Project*	Rcmd Fee% of Val	Current Fee % of Val	Subsidy (Annual)	% Increase (for rcmd fee)	% Increase (for full cost recovery)
Water Heaters	118	\$81.00	\$265.00	\$110.00	\$790.33	14%	10%	\$18,290.00	36%	227%
Res. Reroof	611	\$192.00	\$278.00	\$278.00	\$8,069.97	3%	2%	\$0.00	45%	45%
HVAC Changeouts	425	\$86.00	\$265.00	\$190.00	\$8,809.81	2%	1%	\$31,875.00	121%	208%
Service Changes	265	\$87.00	\$265.00	\$190.00	\$2,542.87	7%	3%	\$19,875.00	118%	205%
Residential Garage/Carport	23	\$338.00	\$1,026.00	\$750.00	\$16,802.43	4%	2%	\$6,348.00	122%	204%
Res. Patio	66	\$211.00	\$529.00	\$390.00	\$5,460.26	7%	4%	\$9,174.00	85%	151%
Residential Remodel	259	\$519.00	\$702.00	\$702.00	\$26,051.77	3%	2%	\$0.00	35%	35%

TOTAL ANNUAL COST \$1,447,912.00

ANNUAL REVENUE \$1,098,714.00

BUDGET DEFICIT \$349,198.00

SUBSIDY W/O FEE INCREASE - SMALL PROJECT PERMITS ONLY \$281,712.00 81% of budget deficit

ANNUAL REVENUE INCREASE w/RECOMMENDED FEE \$196,150.00 56% of budget deficit

TOTAL SUBSIDY NEEDED w/ RECOMMENDED FEE \$85,562.00 6% of budget

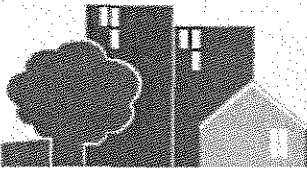
*sample data from Jan 2008 to December 2009

Vacant Boarded Building Program Costs

Attachment E

Position	Hourly Rate	Annual Rate	Overhead	Grand Total
Chief Building Official		\$111,694.33	1.5832	\$176,834.46
Bldg Inspection Program Coordinator		\$96,313.77	1.5832	\$152,483.96
Code Enforcement Officer	\$26.2716		1.5832	\$41.5932
Admin Office Asst II	\$17.6971		1.5832	\$28.0180

Total CEO Inspection Time 2010	1,394.51
Total Admin Time	66.00
Total CEO Cost	\$58,002.13
Total Admin Cost	\$1,849.19
 Subtotal	 \$59,851.32
 Bldg Inspection Program Coordinator CBO	 \$15,248.40 \$1,768.34
 Total Vacant Monitoring Cost	 \$136,719.38

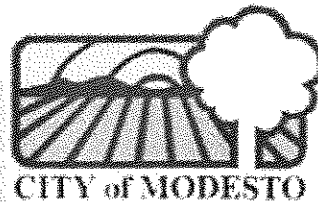


City of Modesto

Community and Economic Development Department
Building Safety and Neighborhood Preservation Division

2011 Fee Schedule

Building Inspection and Plan Review Services



Effective July 1, 2011

Fee Policies and Procedures

Intent and Purpose

The intent of this fee schedule is to cover the cost of providing building inspection and plan review services for new construction projects to ensure compliance with the currently adopted Building Codes. Previous fee schedules were based on the cost of the project or valuation. To better provide cost recovery to City of Modesto and to be fully transparent to the general public this cost based fee system has been developed. However, the City of Modesto recognizes that some fees may not fully cover the cost of services for the following rationale:

- 1) **Encouragement of building code compliance.** Keeping fees for certain services below full cost recovery may provide better compliance from the community. If the cost of inspection and plan review is near the cost of construction citizens may be compelled to opt to proceed with the project without permits and inspection.
- 2) **Affect on demand for a particular service.** Raising a fee for service may reduce the number participants in a fee program. This is largely the case for small residential projects, where the cost to the homeowner of obtaining a permit must be in accordance with the perceived value of the service provided.

In order to effectively administer this fee system, the Chief Building Official and or the Community and Economic Development Director must be responsible for the assessment and interpretation of this schedule. It is the intent of this Department to seek the most reasonable fee category for the project description provided to cover the costs associated with the service of plan review and inspections.

Minimum fees and per hour charges

Minimum Fee Permit. This fee was established to provide the Building Safety Division flexibility in assisting citizens, contractors, designers and developers with code compliance prior to issuance of a project permit and still recover the cost associated with this service. It is a non refundable fee and includes but not limited to the following services:

- One stop inspection
- Code Consultation
- Re inspection Fee
- Small projects that do not fit in the fee schedule.

Per Hour Charges. At the discretion of the Chief Building Official and or the Community and Economic Development Director, an hourly charge may be applied to provide additional service not already covered by the original permit. It is a non refundable fee and includes but not limited to the following services:

- Plan review for revisions of approved plans.
- Unscheduled or out of sequence inspection.
- After hours inspection
- Re inspection

Fee Category Definitions

Accessory Building: a small structure 120 to 500 square feet that is accessory to the main structure. Used for storage only and is not habitable.

Apartment/Condo: a single building with multiple living units as defined by the California Building Code that are not classified as one or two family dwellings by the California Residential Code.

Custom Residential Dwelling: One or Two family dwelling as defined in the California Residential Code not a part of a "in process" subdivision. This may include "infill" lots.

Deposit: Monies collected at the time application that may or may not cover the cost of services provided. City staff will monitor time spent on projects that are deposit based. Plan review costs will be analyzed and the applicant will be given an itemized statement of these costs upon plan approval. Inspection costs will be analyzed upon final inspection approval. If a refund is due, it will be given to the applicant upon issuance of Certificate of Occupancy. The balance of additional costs will be due prior to issuance of the Certificate of Occupancy.

Garage: a residential or commercial accessory structure that is used for storage only and is not habitable. Commercial accessory garage under this fee schedule may not be larger than 720 square feet and may not be used for any other purpose than storage. Other commercial garage structures will fall under the New Building without interior improvements fee category.

Master Plan Review: A fee will be due once the master plans of a subdivision have been approved. This fee does not include the administration and lot review of the individual dwelling permits.

Mechanical Plumbing Electrical -- Minor. This fee includes but not limited to HVAC replacements and new systems, plumbing repairs and maintenance, electrical circuitry for new lighting and electrical outlets, service changes and similar projects in residential and small commercial applications. Large commercial systems such as boilers and advanced mechanical systems will be assessed at the MPE commercial and Industrial category.

Production Home: Single Family Dwellings as defined in the California Residential Code that are a part of a subdivision. This fee covers the cost of administration, lot line review and inspections of each individual single family dwelling. Each single family dwelling will require a permit.

Residential Remodel: This fee category covers small residential projects not covered in any other category. Structural plan review would not be covered in this fee category. Should a structural plan review be needed for the project, a structural plan review would be included in the fee at the per hour charge listed in this schedule.

Residential Fee Schedule

Custom Residential Dwelling including duplex (Includes MPE)	
Small Residential Units including granny flats up to 1,300 square Feet	\$1,911
Dwellings up to 5,000	\$2,801
Dwellings 5,000 or greater	\$2,801 deposit
Residential Dwelling - Tract Homes (Includes MPE)	
Master Plan Review per development	\$2,041
Production Home (each)	\$1,884
Residential Additions, Remodels, Minor Improvements and Repairs	
Additions less than or equal to 500 square feet (includes MPE)	\$1,492
Additions >500 square feet (includes MPE)	\$2,003 deposit
Residential Remodel (no structural review needed) (includes MPE)	\$694
Improvements*: Decks, Patio Enclosures and Covers, Carports, Covered porch, etc	\$524
Accessory Buildings: 120 to 500 square feet (>500 square feet see Garage)	\$514
Garage	\$1,014
Re-roofing*	\$275
Mobile Home Installation (Park installation and permanent foundation)	\$524

Commercial Fee Schedule

New Construction (Includes MPE)	
New Building with without Interior Improvements (Shell)	\$4,541 deposit
New Building with Interior Improvements	\$14,504 deposit
Apartment/Condo	\$4,555 deposit
Hotel/Motel	\$27,096 deposit
Commercial Additions (Includes MPE)	
<3,000 square feet	\$2,113
>3,000 square feet	\$2,113 deposit
Commercial Remodels, Tenant Improvements, Minor Improvements and Repairs	
Tennant Improvement 500 to 3,000 square feet (Includes MPE)	\$1,565
Tennant Improvement >3,000 square feet (Includes MPE)	\$1,905 deposit
Minor Improvements and Remodels: Decks, awnings, carports, Single interior partition and demising walls, tenant improvements up to 500 square feet.	\$1,047
Accessory Buildings < 500 square feet (>500 square feet see Garage)	\$514
Garage (up to 720 square feet)	\$1,014
Re-roofing	\$439
Accessibility Review	
ADA CBC Chapter 11 Accessibility Review (hourly rate)	\$183
Certified Access Specialist Review and Inspection* (hourly rate)	\$90/hr
Admin Processing Fee	\$32
<i>*Currently in process of a RFP for these services</i>	

Miscellaneous Fees

Mechanical Plumbing Electrical	
Mechanical Plumbing Electrical - Minor* (see definitions)	\$262
Water Heater Replacement*	\$262
Mechanical Plumbing Electrical - Commercial/Industrial	\$804
Electrical Photovoltaic – Residential	\$262
Electrical Photovoltaic – Commercial	\$864 deposit
Miscellaneous	
Demolition	\$237
Signs (all types)	\$252
Swimming Pool (All types)	\$432
Vacant Building Registration (NPU)	\$203
Minimum Fee*	\$190
May be charged at the Chief Building Official and or Director's discretion and is non refundable.	
Hourly rates	
Inspection	\$170
Plan Review(Non Structural)	\$183
Plan Review* (Structural)	\$200
<i>*Currently in process of a RFP for these services</i>	

*Corresponds to Table M-1 subsidy for City Council consideration.

Proposed Fees - Planning Applications

September 23, 2010

Application Type	Existing Fee	Proposed Fee	Difference
Zoning Actions			
P-D Zone	\$7,415	\$4,972	-\$2,443
P-D Amendment (Planning Commission approval)	\$6,372	\$4,178	-\$2,194
P-D Amendment (City Council approval)	\$7,415	\$4,972	-\$2,443
Rezone ⁵	\$2,982	\$3,375	\$393
Prezone ⁵	\$2,982	\$3,375	\$393
Development Agreement	T&M, \$5,000 deposit	T&M, \$5,000 deposit	n/a
Development Agreement Amendment	T&M, \$5,000 deposit	\$3,905	n/a
Precise Plan/Precise Plan Amendment	\$7,317	\$4,972	-\$2,345
Area Plan	None	\$4,178	n/a
Annexation	\$11,753	\$4,833	-\$6,920
Minor Zoning Actions			
CUP With Development	\$6,275	\$4,178	-\$2,097
CUP Without Development	\$6,275	\$1,892	-\$4,383
CUP, signs and cell facilities	\$6,275	\$1,540	-\$4,735
CUP in single-family dwelling	\$330	\$805	\$475
Variance	\$6,168	\$2,049	-\$4,119
Variance for single-family dwelling	\$330	\$805	\$475
Exception	None	\$2,049	n/a
Development Plan Review ¹	None ¹	\$2,756	n/a
Development Plan Review, minor alteration ²	None ¹	\$391	n/a
Development Plan Review, minor residential ³	\$330	\$514	\$184
Final Development Plan, Planning Commission approval	\$6,275	\$4,178	-\$2,097
Final Development Plan, administrative approval	\$6,275	\$2,756	-\$3,519
Plot Plan Review (Planning Commission/BZA approval)	\$5,388	\$4,178	-\$1,210
Administrative Approval of Revised Plans	\$547	\$391	-\$156
Land Division			
Tentative Subdivision Map	\$6,534	\$4,178	-\$2,356
Tentative Parcel Map	\$5,369	\$2,493	-\$2,876
Lot Line Adjustment	\$314	\$647	\$333
Reversion to Acreage	\$4,728	None	n/a
Parcel Map Waiver	\$4,728	None	na/
Certificate of Compliance	\$1,512	None	n/a
General Plan/Specific Plan			
General Plan Amendment	T&M, \$5,000 deposit	\$4,972	n/a
Specific Plan review	T&M, \$10,000 deposit	T&M, \$10,000 deposit	n/a
Specific Plan Amendment (City Council approval)	\$7,962	\$4,972	-\$2,990
Specific Plan Amendment (administrative approval)	None	\$2,756	n/a
Environmental Review			
Environmental Impact Report	T&M, 30% of contract deposit	T&M, \$10,000 deposit	n/a
Mitigated Negative Declaration	T&M, \$5,000 deposit	T&M, \$5,000 deposit	n/a
Initial Study	\$518	\$309	-\$209
Staff evaluation of special studies	T&M, \$3,000 deposit	None	n/a
Miscellaneous			
Street/alley Abandonment	\$8,718	\$4,972	-\$3,746
Walkway Abandonment	\$5,525	None	n/a
Time Extension (Planning Commission/BZA approval)	\$4,884	\$1,214	-\$3,670
Time Extension (administrative approval)	\$4,884	\$100	-\$4,784
Concept Review ⁶	\$1,109	\$1,990	\$881
Director Determination (administrative approval)	None	\$100	n/a
Williamson Act Cancellation	None	\$1,865	n/a
Appeals of Administrative Decisions ⁴	\$200	\$349	\$149
Referral of Plans to Planning Commission/BZA	None	\$1,020	n/a
Building Plan Check	None	\$72	n/a
Address Change	None	\$107	n/a
Zoning Verification Letter	\$39	\$54	\$15

1 Prior to adoption of Development Plan Review, projects would have required P-D zoning or CUP

2 Minor site plan or façade modifications, cellular facilities

3 Second-story review, large family daycare

4 Fee subsidized - reduced to cover costs of noticing and holding hearing

5 Fee is currently subsidized (50% of actual cost)

6 Task Force recommendation - no fee

Planning Draft Fee Policies

Concurrent Processing: When two or more entitlement applications related to a single development proposal on the same parcel are submitted simultaneously, the application fees shall be the highest fee plus half of the fees for the remaining applications (exclusive of CEQA processing fees).

1. Time and Materials Fees:

- a. When multiple entitlement applications are filed for the same project and one or more of the applications is a time and materials fee, then the entire project shall be treated as a time and materials project for fee purposes.
- b. When deposited funds drop below 50% of the initial deposit amount, then additional funds shall be required to be deposited in an amount to be determined by the Director. This requirement may be waived by the Director if it is determined that additional funds are not needed to complete the entitlements or the entitlements are inactive.
- c. Once the project is completed, withdrawn or returned, the applicant shall be returned the balance of any remaining unused funds.

2. Refunds (non time & materials fees):

- a. If an application is withdrawn or returned before it is deemed complete or within two weeks of submittal, whichever occurs first, then the applicant shall be entitled to a full refund.
- b. If an application is withdrawn or returned after the initial period described above but no later than six months after submittal and prior to scheduling for a hearing or an administrative decision, then the applicant shall be refunded half of the application fees submitted.
- c. After six months from application submittal, or once an application has been scheduled for a public hearing or administrative decision, whichever occurs first, no refunds shall be given.

3. **Authority to determine fee when none exists:** If an application is made for an entitlement where no fee has been established, then the Director shall determine the appropriate fee based on the adopted fees for similar entitlements or entitlements requiring a similar process or amount of staff time.



City of Modesto
Community & Economic Development
Land Development Engineering

1010 Tenth Street, Suite 3100, Modesto CA 95354 (209) 571-5569 (209) 577-5461 fax

Encroachment Permit Fees¹ - Proposed 2011

Type of Permit/Service ⁸	Fee ⁷		Staking ⁴		Trench Restoration Fee	Paving ^{4,11}	
Curb & curb cuts - drive approach (100 l.f. Max.)	\$220.00	lot ⁹	\$4.50	l.f.		\$6.80	l.f.
Sidewalk (<100 l.f.)	\$220.00	lot ⁹					
Sewer service from lot to main ^{2,13}	\$79.00	each			<i>See Chart</i>		
Sewer main (50 l.f.) ^{2,3,13}	\$79.00	each	\$0.72	l.f.	<i>below</i>		
Storm drain (through curb)	\$170.00	each					
Utilities - major construction ^{2,5,13}	\$79.00	each				\$6.80	s.f.
Utilities - service & repair ^{2,5}	\$260.00	each				\$6.80	s.f.
Temporary street/right-of-way closures	\$290.00	day					
Street lights ²	\$530.00	each					
Rockwells or storm drain connectors ¹³	\$79.00	each					
Street construction ¹³	\$79.00	each					
Misc. improvements ^{10,13}	\$79.00	each					
Application Pre-Inspection	\$95.00	each					
Lane Closure Traffic Control Plan Review	\$60.00	each					
Detour Traffic Control Plan Review	\$120.00	each					
Monitoirng/Extraction Well-Application Fee	\$110.00	each					
Monitoirng/Extraction Well-Inspection Fee	\$91.00	each					
Install refractor steel pole	\$340.00	each					
Added refractor steel pole	\$340.00	each					
Install utility wood pole mount	\$810.00	each					
Added utility wood pole mount	\$840.00	each					
Install Street Light Standard	\$310.00	each					
Soil core sample	\$260.00	each					
Investigation of site ⁶	tbd.						
Other work not listed ¹²	tbd.						

Trench Restoration Fee Schedule
(See "NOTE" below)

PCI	Trench Depth over 4 feet	Trench Depth 4 feet or less
Between 100 and 70*	$(W+4) \times L = SF \times \2.50	$(W+2) \times L = SF \times \2.50
Between 69 and 26**	$(W+4) \times L = SF \times \1.25	$(W+2) \times L = SF \times \1.25
Between 25 and 0	No Fee	No fee

* \$2.50 per s.f. of Trench Influence Area

** \$1.25 per s.f. of Trench Influence Area

NOTE: The following companies have executed Pavement Maintenance Agreements with the City of Modesto and are **NOT** subject to the Trench Restoration Fee: AT&T, MID and PG&E

References: Previous Resolution 2003-446 and MMCs 5-6.08, 7-1.08, 7-1.108, 7-2.02, 7-2.15, 7-2.23, 7-2.28, 7-2.29, 7-2.32 and 7-2.33.

Encroachment Fees Schedule Notes & Footnotes

- 1 Additional fees charged if City employees perform paving or staking services.
- 2 A trench restoration fee of \$2.50/s.f. is charged in addition.
- 3 Applicant shall pay an additional \$3.75/l.f. for small laterals designed and drawn by the City.
- 4 Where no fee is shown, the work is to be performed by others as needed.
- 5 Utility relocation required for City projects is not subject to a charge.
- 6 Uninitiated Street Work will be assessed a "double fee" penalty.
- 7 Costs shall be paid for emergency or other work performed by City for public health and safety in addition to the following minimum charges:
 - a. Cleanup or dust control \$370.00 per street
 - b. Temporary paving \$233.00 per street
 - c. Temporary barricades \$142.00 each
- 8 Permits are required for all work done in all public rights-of-way, including public utility easements.
- 9 For lots greater than 100' frontage, each 100' or part thereof is considered to be one "lot" (distance to be measured to nearest 100 feet).
- 10 Improvements not otherwise listed such as water line extensions, irrigation lines, irrigation line replacements, storm drain lines, etc.
- 11 Chargeable only when paving is done by City. Developer/Owner shall repave all trenches, unless otherwise approved by the City Engineer.
- 12 To be calculated by the Public Works Director and other pertinent staff in each instance, based on the actual cost of doing the work, including overhead.
- 13 Inspection to be charged on a time and material basis.



**City of Modesto
Community & Economic Development
Land Development Engineering**

1010 Tenth Street, Suite 3100, Modesto CA 95354 (209) 571-5569 (209) 577-5461 fax

Engineering Development Fees - Proposed 2011

Resolution ??

SERVICE	FEE
Reversion to acreage checking fee	\$900.00 each
Final parcel map checking fee	\$1,620.00 each
Final Subdivision map checking fee	
First 10 lots	\$2,600.00 each
Each additional lot	\$23.00 each
Improvement plan checking fee	T&M
On-Site Storm Drain Review	T&M
Rough Grading Review	T&M
Summary Abandonment	\$2,240.00 each
Property owner's association doc. checking fee	\$350.00 each
Street Trees - <i>furnished & installed by City</i>	\$200.00 each
Monument Deposit Fee - <i>refundable</i>	\$360.00 per monument
Street Signs - <i>Each intersection & installed by City</i>	\$280.00 each
PRINT FEES	
Bonds - 18" x 26"	\$0.43 each
Certificate of Correction	\$300.00 each
Legal Description Check Fee ^A	\$260.00 each
Reciprocal Access Agreement Preparation Fee	\$790.00 each
Water Availability Analysis	Cost + \$1,000 each
Water and Wastewater Capacity Analysis	Cost + \$1,000 each
Reimbursement Agreements	\$1,850.00 each
Will-Serve Letter Fee ^B	\$460.00 each
Outside Service Agreement Fee	\$200.00 each
Stormwater Quality Review Fee	T&M each
GIS Subdivision Mapping Fee	\$290.00 each
Microfilm Fee	\$1.00 page
As-Built Process Fee	\$170.00 each
PUE and PE Dedication & Abandonment Fee ^C	\$460.00 each

Engineering Development Fees - Notes & Footnotes

Note: Uninitiated Street Work will be assessed a "double fee" penalty

- A. Land Surveyor portion of charge will be on a T&M basis because this effort varies significantly**
- B. Significant additional connection fees apply. Accordingly, 50% subsidy is recommended.**
- C. The proposed fee does not include Land Surveyor review cost. Land Surveyor time will be charged on a time & materials basis.**

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-385**

RESOLUTION AUTHORIZING THE SOLE SOURCE PROCUREMENT OF THE GOVNOW WEB PAY SYSTEM FOR THE FINANCE DEPARTMENT, CUSTOMER SERVICES DIVISION FROM SUNGARD PUBLIC SECTOR OF LAKE MARY, FLORIDA, AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE A PURCHASE ORDER FOR AN ESTIMATED TOTAL COST OF \$78,194

WHEREAS, the City Finance Department Customer Services Division currently uses an antiquated web pay system that requires staff time to manually facilitate, and

WHEREAS, installing an automatically integrated and full featured web pay system would allow citizens to manage their accounts and make payments, saving valuable staff time, and

WHEREAS, the system is scalable and has the capacity to accommodate the addition of other divisions at a later time, and

WHEREAS, the expense of hiring additional staff can be avoided with the use of this system, and

WHEREAS, the GovNow solution is proprietary software provided solely by SunGard Public Sector and integrates Internet web based functionality into our current applications,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the sole source procurement of the GovNow Web Pay System from SunGard Public Sector, Lake Mary, Florida.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a Purchase Order for an estimated total cost of \$78,194.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Burnside

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-386**

RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE FURNISHING OF HOT PATCH WORK FOR THE DEPARTMENT OF PUBLIC WORKS, WATER DIVISION, TO GARRETT THOMPSON CONSTRUCTION, INC., MODESTO, CA AS “PRIMARY” CONTRACTOR, UNITED PAVEMENT MAINTENANCE, HUGHSON, CA AS “SECONDARY” CONTRACTOR, AND PATCH CREW, MODESTO CA AS “THIRD” CONTRACTOR, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE PURCHASE AGREEMENTS FOR AN ESTIMATED ANNUAL COST OF \$749,700

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the furnishing of hot patch work, and

WHEREAS, the Purchasing Division issued RFB No. 1213-01 Hot Patch Work to twenty-five (25) prospective bidders, six (6) of which were local vendors, posted the RFB on the City’s website and formally advertised as required by law, and

WHEREAS, bids were formally opened in the City Clerk’s Office. Five (5) companies choose to respond, three (3) of which were local vendors. All five (5) companies provided responsive and responsible proposals, and

WHEREAS, in order to ensure continued services to the City, contracts shall be 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, and

WHEREAS, based on providing responsive and responsible bids, City staff recommends the award of bids for the furnishing of hot patch work for the Department of Public Works, Water Division, to Garrett Thompson Construction, Inc., Modesto, CA as “primary” contractor, United Pavement Maintenance, Hughson, CA as “secondary” contractor, and Patch Crew, Modesto CA as “third” contractor, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. The award of bids for the furnishing of hot patch work for the Department of Public Works, Water Division, to Garrett Thompson Construction, Inc., Modesto, CA as “primary” contractor, United Pavement Maintenance, Hughson, CA as “secondary” contractor, and Patch Crew, Modesto CA as “third” contractor, conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted in Fiscal Year 2012-13 for the furnishing of hot patch work in the Water Fund 4100 (Cost Center 55080, 55050) and Water CIP Fund 4180 (Projects-100574, 100573, 100687),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid for the furnishing of hot patch work for the Department of Public Works, Water Division, to Garrett Thompson Construction Inc., Modesto, CA as “primary” contractor, United Pavement Maintenance, Hughson, CA as “secondary” contractor and Patch Crew, Modesto, CA as “third” contractor.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase agreement for an estimated annual cost of \$749,700.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh


NOES: Councilmembers: None

ABSENT: Councilmembers: Burnside

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-387**

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF
MODESTO AND OFFICER JAMES MURPHY FOR THE PURCHASE OF
RETIRED CITY OF MODESTO POLICE CANINE, CAESAR; AND
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE
THE AGREEMENT**

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

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

WHEREAS, it is necessary to adopt a resolution authorizing the purchase of a
City of Modesto police canine by its assigned handler,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves the agreement between the City of Modesto and Officer Murphy
for the purchase of retired police canine, Caesar.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

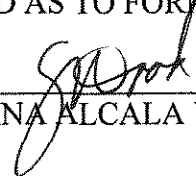
NOES: Councilmembers: None

ABSENT: Councilmembers: Burnside

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-388**

**RESOLUTION APPROVING A PREQUALIFIED CONSULTANT LIST
CONSISTING OF BURCHARD & RINEHART, BENDER ROSENTHAL, INC.,
ASSOCIATED RIGHT OF WAY SERVICES, INC., HULBERG & ASSOCIATES,
INC., AND BC VALU FOR ON-CALL REAL PROPERTY APPRAISAL
SERVICES FOR VARIOUS CAPITAL IMPROVEMENT PROGRAM
PROJECTS FOR A PERIOD NOT TO EXCEED THREE YEARS**

WHEREAS, over the next several years, there are a number of capital improvement projects that will require acquisition of real property, as well as permanent and temporary easements, and

WHEREAS, obtaining value appraisals from qualified appraisers is an important component of these acquisitions, and

WHEREAS, in the past, both the Community and Economic Development (CED) Department and Utility Planning and Projects (UPP) Department utilized an on-call appraiser list to obtain the needed services, and

WHEREAS, the most recent on-call appraiser list expired in February 2012, prompting a process to develop a new list, and

WHEREAS, in accordance with Administrative Directive 3.1, Selection Procedures for Professional Consultants, staff solicited and formally advertised a Request for Qualifications for Real Property Appraisal Services to 14 firms, and

WHEREAS, a selection committee composed of staff members from UPP and CED carefully reviewed the nine replies received and selected six firms for interviews, after which five firms were selected as the most qualified to provide the needed services, and

WHEREAS, the firms of Burchard & Rinehart, Bender Rosenthal, Inc., Associated Right of Way Services, Inc., Hulberg & Associates, Inc., and BC Valu were chosen as the most qualified to provide the needed services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the prequalified consultant list consisting of Burchard & Rinehart, Bender Rosenthal, Inc., Associated Right of Way Services, Inc., Hulberg & Associates, Inc., and BC Valu for On-Call Real Property Appraisal Services for various Capital Improvement Program projects for a period not to exceed three years.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Burnside

ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-389**

**RESOLUTION APPROVING A PREQUALIFIED CONSULTANT LIST TO
INCLUDE BARTLE WELLS ASSOCIATES, CAROLLO ENGINEERS, INC.,
THE FCS GROUP, HF&H CONSULTANTS, LLC, AND MUNICIPAL
FINANCIAL SERVICES FOR DEVELOPMENT OF UTILITY RATE AND
CONNECTION FEE STUDIES FOR A PERIOD NOT TO EXCEED THREE
YEARS**

WHEREAS, the City of Modesto has adopted programs to construct substantial improvements and repairs to our water, wastewater, and storm drain systems to address the challenges of population growth and limitations on conveyance and disposal, to meet expected, new, more restrictive permit conditions, and to improve reliability, and

WHEREAS, in order to fund these improvements and normal operating costs, it may be necessary to increase rates and connection fees in the future, and

WHEREAS, in order to take the first step in establishing a prequalified list of firms to provide utility cost of service and connection fee studies, a Request for Qualifications (RFQ) was issued, and

WHEREAS, in accordance with Administrative Directive 3.1, Selection Procedures for Professional Consultants, City staff solicited and formally advertised an RFQ to 177, including 16 local engineering and/or financial consulting firms, and

WHEREAS, Staff received nine Statements of Qualifications and after careful review by staff from the Utility Planning and Projects, Finance, and Public Works Departments, the following five firms were selected:

- Bartle Wells Associates
- Carollo Engineers, Inc.
- FCS Group
- HF&H Consultants LLC
- Municipal Financial Services,

and

WHEREAS, this prequalified list will be active for three years from the date of Council approval, at which time the City may decide to extend the list, and

WHEREAS, Request for Proposals will be issued to all firms on the prequalified list. Firms will then be selected based on an evaluation and ranking of all submitted proposals in accordance with City of Modesto policies, and

WHEREAS, the City will select a professional services firm that the City believes will best fit the needs and circumstances of each utility cost of service and connection fee study, and

WHEREAS, the City retains the right to recruit consultants for individual projects and not be restricted to only using the approved prequalified list, and

WHEREAS, it is intended that the staff will request proposals and negotiate a scope of work and agreement with the most qualified consultant before recruiting consultants that are not on the prequalified list, and

WHEREAS, the City will also select additional project teams, including Proposition 218 specialists, financial advisors, and if required, consulting engineers,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a prequalified consultant list consisting of Bartle Wells Associates, Carollo Engineers, Inc., the FCS Group, HF&H Consultants LLC, and Municipal Financial Services, for a period not to exceed three (3) years.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Burnside

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-390**

**RESOLUTION AMENDING THE POSITION ALLOCATION FOR FISCAL
YEAR 2012-13 TO REFLECT THE RESTORATION OF POSITIONS THROUGH
THE USE OF SAVINGS ACHIEVED VIA LABOR CONCESSIONS**

WHEREAS, the current position allocation for Fiscal Year 2012-13 includes positions that were eliminated through the implementation of the Annual Operating Budget reductions approved by Council on June 21, 2012, and

WHEREAS, the Community and Economic Development department budget for Fiscal Year 2012-13 included a .6 position reduction of one (1) Infrastructure Financing Program (IFP) Administrator in IFP Admin, and

WHEREAS, the Finance department budget for Fiscal Year 2012-13 included a .5 position reduction of one (1) Financial Analyst II in the Accounting Division, and

WHEREAS, the Police department budget for Fiscal Year 2012-13 included 7.0 Police Officer position reductions, of which 5 have been restored through reducing of Worker's Compensation funding from the General Fund, and

WHEREAS, savings achieved through the negotiations MCMA and Unrepresented union groups were in the amount of \$506,012 for the General Fund and \$710,075 in Non-General Fund, and

WHEREAS, recommended use of these General Fund savings were presented to the City Council, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Position Allocation for Fiscal Year 2012-13 as follows:

1. Community and Economic Development Department to restore .6 Infrastructure Financing Program Administrator position in Cost Center 14160.
2. Finance Department to restore .5 Financial Analyst II position in Cost Center 12110.
3. Police Department to restore 2.0 Police Officer positions in Cost Center 19320.

This resolution shall become effective on and after September 25th, 2012.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

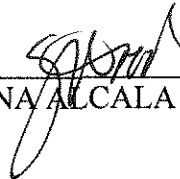
NOES: Councilmembers: None

ABSENT: Councilmembers: Burnside

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-391**

**RESOLUTION ACCEPTING THE REPORT BACK ON SAVINGS RECEIVED
THROUGH LABOR CONCESSIONS**

WHEREAS, at the time Council adopted the Fiscal Year 2012-13 Operating Budget, staff was in negotiations with various bargaining groups, and

WHEREAS, Council adopted an operating budget that funded various positions through a decrease in funding from the General Fund to the Worker's Compensation Fund in the amount of \$610,783 and directed staff to report back on labor concession agreements and the savings achieved, and

WHEREAS, savings in the General Fund and Non-General Fund were achieved through labor concession agreements including those with the MCMA and Unrepresented union groups, and

WHEREAS, savings achieved through the negotiations MCMA and Unrepresented union groups were in the amount of \$506,012 for the General Fund and \$710,075 in Non-General Fund, and

WHEREAS, negotiations are ongoing and the most up-to-date concessions was presented to Council as part of staff's presentation, and

WHEREAS, recommended use of these General Fund savings were presented to the City Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the report back on savings received through labor concession agreements for the Fiscal Year 2012-2013 Annual Operating Budget.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Burnside

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-392**

**RESOLUTION AMENDING THE FISCAL YEAR 2011-2012 ANNUAL
OPERATING BUDGET TO CREATE A TRANSFER FROM THE GENERAL
FUND TO THE WORKER'S COMPENSATION FUND AND TO RESCIND THE
GENERAL FUND RATE HOLIDAY TAKEN IN FISCAL YEAR 2011-12**

WHEREAS, in Fiscal Year 2011-12 there was a General Fund rate holiday taken from the Worker's Compensation Fund in the amount of \$1,750,000,

WHEREAS, the General Fund has achieved unanticipated savings which allow the General Fund to make its Worker's Compensation Fund contribution, and

WHEREAS, recommended use of these General Fund reserves were presented to the City Council, and

WHEREAS, in order to reflect the General Fund's contribution to the Worker's Compensation Fund for Fiscal Year 2011-12, the Annual Operating Budget must be amended as shown in **Exhibit A**, which is **attached** hereto and incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2011-12 Annual Operating Budget as shown in **Exhibit A**.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

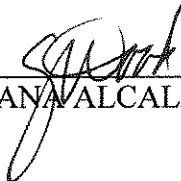
NOES: Councilmembers: None

ABSENT: Councilmembers: Burnside

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney

Exhibit A

The Fiscal Year 2011-12 Operating Budget will be amended as follows:

	<u>Expense</u>	<u>Increase/(Decrease)</u>	<u>Description</u>
From:	0100-70100-75320	\$1,750,000	Use of current FY 11/12 savings to fund the General Fund worker's compensation payment in FY 11/12
	<u>Revenue</u>	<u>Increase/(Decrease)</u>	<u>Description</u>
To:	5320-65320-60100	\$1,750,000	To fund the General Fund worker's Compensation payment in FY 11-12

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-393**

**RESOLUTION AMENDING THE FISCAL YEAR 2012-2013 ANNUAL
OPERATING BUDGET TO RECOGNIZE LABOR CONCESSION SAVINGS
AND IMPLEMENT THE COUNCIL APPROVED USE OF THE SAVINGS
DESCRIBED IN EXHIBIT B**

WHEREAS, savings in the General Fund and Non-General Fund were achieved through labor concession agreements including those with the MCMA and Unrepresented union groups, and

WHEREAS, savings achieved through the negotiations MCMA and Unrepresented union groups were in the amount of \$506,012 for the General Fund and \$710,075 in Non-General Fund, and

WHEREAS, negotiations are ongoing and the most up-to-date concessions was presented to Council as part of staff's presentation

WHEREAS, recommended use of these General Fund savings were presented to the City Council, and

WHEREAS, in order to reflect these savings the Fiscal Year 2012-2013 Operating Budget must be amended as shown in **Exhibit B**, which is **attached** hereto and incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the recommendations for use of labor concession savings and approves the amendment of the Fiscal Year 2012-2013 Annual Operating Budget as shown in **Exhibit B**.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Burnside

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Exhibit B

The Fiscal Year 2012-13 Operating Budget will be amended as follows:

	<u>Revenue</u>	<u>Increase/(Decrease)</u>	<u>Description</u>
From:	General Fund	\$506,012	FY 2012-13 General Fund Savings Achieved through Labor Concessions from MCMA and Unrepresented Union Groups
To:	<u>Expense</u>	<u>Increase/(Decrease)</u>	<u>Description</u>
	3220-14160-51403/51903	\$70,500	Restoration of salary and benefits expense for 0.6 IFP Administrator position in Community and Economic Development
	0100-14410-54500	\$70,500	Restoration of service credit expense for 0.6 IFP Administrator position in Community and Economic Development
	3220-14160-45004	(\$70,500)	Restoration of service credit revenue for 0.6 IFP Administrator position in Community and Economic Development
	0100-12110-51403/51903	\$45,000	Restoration of salary and benefits expense for 0.5 Financial Analyst II position in Finance
	0100-19320-51403/51903	\$105,682	Restoration of salary and benefits expense for 1.0 Police Officer position in the Police Department
	0100-19320-51403/51903	\$105,682	Restoration of salary and benefits expense for 1.0 Police Officer position in the Police Department
	Total:	\$326,864	Total amount used of \$506,012 Labor Concession Savings

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-394**

RESOLUTION APPROVING THE SUBMISSION OF THE CITY OF MODESTO CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT FOR FISCAL YEAR 2011-2012 TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL DOCUMENTS RELATED TO THE SUBMISSION OF THE CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT

WHEREAS, the City of Modesto receives several Federal grants from the U.S. Department of Housing and Urban Development (HUD), and

WHEREAS, the City of Modesto Consolidated Annual Performance and Evaluation Report (CAPER) reflects the activities of the City and its sub-recipients for the period of July 1, 2011, through June 30, 2012, and

WHEREAS, each year the City must review and report on the performance of activities funded under the Community Development Block Grant (CDBG), HOME Investment Partnership Grant, and Emergency Solutions Grant (ESG) funds, and

WHEREAS, reporting for American Recovery and Reinvestment Act (ARRA) and Neighborhood Stabilization Program (NSP) funds are a separate process and are not included in the CAPER, and

WHEREAS, the CAPER was made available for public review and comment for a 30-day period, and

WHEREAS, the draft CAPER was made noticed for public review and comment in the Modesto Bee on August 23, 2012 and Vida Del Valle on August 29, 2012, and

WHEREAS, all public comments, and staff responses to these comments, must be presented to the City Council for review and approval, and

WHEREAS, the Citizens' Housing and Community Development Committee met on September 5, 2012, and approved the draft CAPER and recommended it be forwarded to City Council for approval, and

WHEREAS, a duly noticed public hearing was held by the Council on September 25, 2012, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto, California, to consider submission of the CAPER.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the submission of the City of Modesto Consolidated Annual Performance and Evaluation Report for Fiscal Year 2011-2012, a copy of said report is on file in the office of the City Clerk.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all documents related to the submission of the CAPER.

BE IT FURTHER RESOLVED that staff is hereby authorized to submit the report to the U.S. Department of Housing and Urban Development.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2012, by Councilmember Lopez, who moved its adoption, with motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Burnside

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-395**

**RESOLUTION ACCEPTING THE STATE OF CALIFORNIA (CALTRANS)
FISCAL YEAR 2012-13 ENVIROMENTAL JUSTICE PLANNING GRANT IN
THE AMOUNT OF \$247,500, ON BEHALF OF THE COMMUNITY AND
ECONOMIC DEVELOPMENT DEPARTMENT AND AUTHORIZING THE CITY
MANAGER, OR HIS DESIGNEE, TO EXECUTE ANY NECESSARY GRANT
ACCEPTANCE AND ADMINISTRATION DOCUMENTS**

WHEREAS, the problems and challenges associated with the Crows Landing Road corridor and the surrounding neighborhoods are serious, well-documented and include high unemployment, lack of educational attainment, significant poverty levels, housing issues, health & safety concerns, and slow economic growth, and

WHEREAS, a cooperative arrangement between the City of Modesto and County of Stanislaus is a practical approach, and the best and most effective way to prepare a transportation corridor study that will lead to measurable implementation of positive change in the trends listed above by promoting and facilitating long-term enhanced sustainability and safety, and

WHEREAS, the City of Modesto intends to locally promote the fundamental values associated with embracing smart growth and sustainability principles, and social and environmental justice for all citizens and residents, in order to facilitate the realization of a better City, County and San Joaquin Valley.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts of the State of California (Caltrans) Fiscal Year 2012-13 Environmental Justice grant award, in the amount of \$247,500, and committing staff time the equivalent of approximately \$24,750 to devote to grant-eligible work.


BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute any necessary grant acceptance and administration documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2012, by Councilmember Geer, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

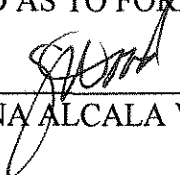
NOES: Councilmembers: None

ABSENT: Councilmembers: Burnside

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-396**

**RESOLUTION AMENDING THE FISCAL YEAR 2012-2013 MULTI-YEAR
OPERATING GRANT FUND BUDGET TO ESTABLISH A NEW MULTI-YEAR
BUDGET FOR THE STATE OF CALIFORNIA (CALTRANS) FISCAL YEAR
2012-13 ENVIRONMENTAL JUSTICE PLANNING GRANT, AND TO
APPROPRIATE \$247,500 IN GRANT REVENUE AND EXPENSE**

WHEREAS, the problems and challenges associated with the Crows Landing Road corridor and the surrounding neighborhoods are serious, well-documented and include high unemployment, lack of educational attainment, significant poverty levels, housing issues, health & safety concerns, and slow economic growth, and

WHEREAS, a cooperative arrangement between the City of Modesto and County of Stanislaus is a practical approach, and the best and most effective way to prepare a transportation corridor study that will lead to measurable implementation of positive change in the trends listed above by promoting and facilitating long-term enhanced sustainability and safety, and

WHEREAS, the City of Modesto intends to locally promote the fundamental values associated with embracing smart growth and sustainability principles, and social and environmental justice for all citizens and residents, in order to facilitate the realization of a better City, County and San Joaquin Valley.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2012-2013 Multi-Year Operating Grand Fund budget is hereby amended to establish a new multi-year budget for the State of California (Caltrans) Fiscal Year 2012-13 Environmental Justice planning grant and appropriate \$247,500 in revenue and expense.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of September, 2012, by Councilmember Geer, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Burnside

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-397**

RESOLUTION REQUIRING THAT MODESTO CITY COUNCIL CANDIDATES PAY A \$500.00 DEPOSIT AND MAYOR AND MODESTO CITY SCHOOL BOARD CANDIDATES PAY A \$1,000 DEPOSIT TOWARDS THEIR CANDIDATE STATEMENTS AT THE TIME OF FILING THEIR NOMINATION PAPERS, AND PAY THE ACTUAL COST OF PRINTING THEIR CANDIDATE STATEMENTS IN THE SAMPLE BALLOT IN ALL FUTURE CITY OF MODESTO AND MODESTO CITY SCHOOL BOARD ELECTIONS BEGINNING WITH THE NOVEMBER 5, 2013 ELECTION

WHEREAS, pursuant to Section 85300 of the Political Reform Act, added by Proposition 73 of the June 1988 Statewide Primary Election, Public Funds; Prohibition, “No public officer shall expend and no candidate shall accept any public monies for the purpose of seeking elective office”, and

WHEREAS, State Elections Code Section 13307(e) provides that before the opening of the nomination period, the Council must determine whether the candidates shall pay for their statements and it was determined that candidates will be charged a \$500.00 deposit at the time of filing their nomination form, and

WHEREAS, the City Clerk was directed, pursuant to Election Code Section 13307(c) to bill the candidate for any additional actual expense or refund any excess paid depending on the final actual cost,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby declares that City of Modesto Council Candidates shall be required to pay a \$500 deposit and City of Modesto Mayoral and Modesto City School Board Candidates shall be required to pay a \$1,000 deposit for all future Regular Municipal Elections beginning with the November 5, 2013 election as a condition of having his or her candidate statement included in the voter pamphlet;

NOW, THEREFORE, BE IT FUTHER RESOLVED by the Council of the City of Modesto that all Candidates are required to pay their account balances in full before running for future office in the City of Modesto or Modesto City School Board elections.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of October, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-398**

**RESOLUTION APPROVING AN OUTSIDE SERVICE AGREEMENT
BETWEEN THE CITY OF MODESTO AND RAED F. AFANI FOR WATER
SERVICE FOR THE PROPERTY LOCATED AT 4249 N. MCHENRY AVENUE
IN MODESTO, APN: 046-008-011 AND AUTHORIZING THE CITY MANAGER,
OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the property located at 4249 N. McHenry Avenue is not connected to City's water system, and

WHEREAS, this property is located outside Modesto City limits, and inside the City's Sphere of Influence, and

WHEREAS, this property is inside, contiguous to, or near the former service area of the Del Este Water company, and

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

WHEREAS, it has been determined that a sufficient quantity of potable water is available for normal usage by the proposed development, and

WHEREAS, the proposed building meets all of the Stanislaus Consolidated Fire District's fire code requirements, and

WHEREAS, the water connection fees will be paid and associated permits be obtained prior to beginning any on site construction, and

WHEREAS, the property owner shall enter into a North McHenry outside service agreement for water with the City, as required for water service outside of City limits,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an outside service agreement for water service for a property located at 4249 N. McHenry Avenue (APN 046-008-011).

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

The foregoing documents were introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of October, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-399**

**RESOLUTION AUTHORIZING THE DIRECTOR OF FINANCE TO HAVE THE
AUTHORITY TO APPROVE UP TO \$25,000 OF CASH-ON-HAND CHANGE
FUNDS (AN INCREASE OF \$5,000)**

WHEREAS, the City has a cash-on-hand account which includes cash drawers for making change for customers who make cash payments in City departments, for making change in the City's various parking garages, for use in police investigative services, and petty cash drawers for reimbursements to employees making small miscellaneous business expenses, and

WHEREAS, on April 1, 2008, the City Council, by motion, approved a request from staff authorizing the Director of Finance the authority to approve cash-on-hand accounts up to a cumulative amount of \$20,000, and

WHEREAS, currently the total balance in the cash-on-hand account is \$19,380 which is \$820 below the maximum authorized amount, and

WHEREAS, the amount in the cash-on-hand account has grown due to an increase in the Police Investigative Services fund and the new Parking Garage 'Pay on Foot Stations', and

WHEREAS, the City staff would like to ensure responses in a timely manner for future requests related to the cash-on-hand account,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Director of Finance to have the authority to approve up to \$25,000 of cash-on-hand change funds.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of October, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

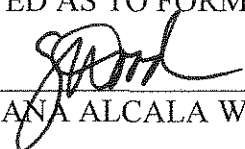
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-400**

RESOLUTION AUTHORIZING THE SOLE SOURCE PROCUREMENT FOR THE PURCHASE AND DELIVERY OF SULFUR DIOXIDE FOR THE PUBLIC WORKS DEPARTMENT, WASTEWATER DIVISION, TO SIERRA CHEMICAL, SPARKS, NV, FOR A ONE YEAR AGREEMENT WITH FOUR (4) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE A PURCHASE AGREEMENT FOR AN ESTIMATED ANNUAL COST OF \$90,233

WHEREAS, sulfur dioxide is used at the Water Quality Control Secondary facility to dechlorinate secondary treated wastewater before it is discharged into the San Joaquin River. The dechlorination system consists of one 50,000-pound bulk storage tank and two (2) 1,900 pound sulfonators, and

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the furnishing of Ferric Chloride, and

WHEREAS, the Purchasing Division issued RFB No. 1112-09 Sulfur Dioxide, to eight (8) prospective bidders, posted the bid on the City's website and formally advertised as required by law. No local vendors provide this type of chemical, and

WHEREAS, bids were formally opened in the City Clerk's Office. No companies chose to respond, and

WHEREAS, City staff researched and discovered that Sulfur Dioxide is manufactured by one company in the United States, one in Mexico and two (2) in Canada. Manufacturers sell direct to distributors and customers in full rail cars only. Public Works Department, Wastewater Division, purchases Sulfur Dioxide by the truckload, which can only be provided by one distributor for Northern California, Sierra Chemical located in Sparks, NV, and

WHEREAS, sufficient funds are budgeted annually in the following appropriation unit: 4210-54312-52190, and

WHEREAS, the Modesto Municipal Code, MMC 8-3.203, generally requires all purchases, which meet or exceed \$50,000.00 for material, equipment or contractual services to be formally bid. However, there are exceptions to the rule set forth in the Modesto Municipal code. One exception, MMC 8-3.204 (b), which states that where the Purchasing Agency's requirements can be met solely by a single article or process,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the sole source procurement for the furnishing of Sulfur Dioxide for the Public Works Department, Wastewater Division, to Sierra Chemical, Sparks, NV.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase agreement for an estimated annual cost of \$90,233.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of October, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-401**

**RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF
MODESTO AND MODESTO CITY SCHOOLS FOR THE SERVICES OF FOUR
MODESTO POLICE OFFICERS/SCHOOL RESOURCE OFFICERS TO
PROVIDE DIRECT LAW ENFORCEMENT SERVICES AT 12 SCHOOL SITES
IN AN AMOUNT NOT TO EXCEED \$448,000; AND AUTHORIZING THE CITY
MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, Modesto City Schools (MCS) would like to have the services of four Modesto police officers to provide prevention, intervention, and enforcement services to students, their families and staff at the following schools: Beyer, Davis, Downey, Johansen, Modesto, Enochs, Elliott, and Gregori High Schools, and Hanshaw, Mark Twain, Roosevelt and LaLoma, and

WHEREAS, the Modesto Police Department can provide specially trained, uniformed police officers to provide campus supervisor training, in-services, and consultations with site staff and District administrators, and

WHEREAS, the police officers can act as liaisons between the Modesto Police Department and MCS, and

WHEREAS, the police officers can take any law enforcement action at the district school sites, if warranted, and

WHEREAS, the term of this Agreement is July 1, 2012, to June 30, 2013, and

WHEREAS, the City will be compensated by MCS in an amount not to exceed \$448,000 for the services of four Modesto police officers,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement between the City of Modesto and Modesto City Schools for the services of four Modesto Police Officers/School Resource Officers to

provide direct law enforcement services at 12 school sites in an amount not to exceed \$448,000.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of October, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-402**

RESOLUTION ACCEPTING THE WORK BY DANS WATER WELL & PUMP SERVICE, INC., FOR THE "DEL RIO REPLACEMENT TEST WELL" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER UPON RECEIPT OF APPROVED WARRANTY BOND, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING \$123,085

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the Del Rio Replacement Test Well project has been completed by Dan's Water Well & Pump Service, Inc., in accordance with the contract agreement dated January 24, 2012,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Del Rio Replacement Test Well project is hereby accepted as complete from said contractor Dan's Water Well & Pump Service, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder upon receipt of approved Warranty Bond, and that payment of amounts totaling \$123,085 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 2nd day of October, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-403**

RESOLUTION APPROVING AN AGREEMENT WITH GEORGE OSNER, AICP, FOR ON-CALL ENVIRONMENTAL PLANNING SUPPORT SERVICES FOR VARIOUS CITY PROJECTS FOR ONE YEAR, WITH TWO ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, IN AN AMOUNT NOT TO EXCEED \$25,000 PER YEAR, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT, AND UP TO TWO ONE-YEAR EXTENSION OPTIONS

WHEREAS, the Utility Planning & Projects Department (UP&P) will require environmental planning support services, which may be beyond the ability of department staff to accomplish in a timely manner, and

WHEREAS, City staff members from the Community & Economic Development Dept. (C&ED) are typically able to perform these services; however, it is beneficial to also have an on-call consultant available for instances of scheduling conflicts with C&ED's workload, or when specific expertise is needed, and

WHEREAS, retaining an on-call consultant will then allow the department to have quick access to specific environmental planning support services, when needed, and

WHEREAS, George Osner, AICP, a former planner for the City of Modesto, has demonstrated the ability to provide quality service in a timely manner on past and current projects, and

WHEREAS, Mr. Osner has proven experience in coordinating with City and agency staff to complete environmental planning services, as well as advising City staff on environmental regulations, and

WHEREAS, Mr. Osner is familiar with the City's existing infrastructure, policies, and personnel, and has an in-depth knowledge of California Environmental Quality Act (CEQA) requirements, and

WHEREAS, given Mr. Osner's experience and prior satisfactory performance, Mr. Osner is deemed the most qualified to provide the requested on-call services, and

WHEREAS, there are no known local consultants with Mr. Osner's combined knowledge of CEQA, and City infrastructure, staff, and policies, and

WHEREAS, staff therefore recommends approval of an Agreement for On-call Environmental Planning Support Services with consultant, George Osner, AICP, and

WHEREAS, C&ED was contacted regarding the use of an on-call environmental consultant, and

WHEREAS, if C&ED staff is available to accomplish this work, then individual projects could be performed by them instead of using the on-call consultant, and

WHEREAS, it is intended to utilize the on-call consultant primarily in an advisory or peer-review capacity, and

WHEREAS, extensive processing or preparation of lengthy documents would be performed by C&ED staff, or may require procurement of a separate consultant, and

WHEREAS, the Utility Planning and Projects Department will coordinate environmental items with C&ED staff throughout the life of the agreement, and

WHEREAS, Mr. Osner will submit a written scope of services outlining the specific work, schedule, and cost estimate associated with each task order, and

WHEREAS, Mr. Osner will perform no service until Capital Improvement Services management has approved the proposed specific task order and a written Notice to Proceed is prepared and sent to Mr. Osner prior to commencement of services, and

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with George Osner, AICP, for On-call Environmental Planning Support Services for various City projects for one year, with two one-year extension options, at the sole discretion of the City, in an amount not to exceed \$25,000 per year. Total cost for three years is not to exceed \$75,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Agreement with Mr. Osner, and up to two one-year extension options.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of October, 2012, by Councilmember Gunderson, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-404**

RESOLUTION FINDING THAT THE FOLLOWING SUBSEQUENT PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 2007072023): AMENDING SECTION 9-3-9 OF THE ZONING MAP OF THE CITY OF MODESTO TO REZONE FROM MEDIUM DENSITY RESIDENTIAL ZONE, R-2, TO PROFESSIONAL OFFICE ZONE, P-O, PROPERTY LOCATED AT THE WEST SIDE OF COFFEE ROAD, OPPOSITE THORSEN AVENUE (MR. LYN BRIGHT)

WHEREAS, on October 14, 2008, the City Council of the City of Modesto certified the Final Master Environmental Impact Report (“Master EIR”) (SCH No. 2007072023) for the Modesto Urban Area General Plan, and

WHEREAS, Mr. Lyn Bright has proposed an amendment to Section 9-3-9 of the Zoning Map to rezone from Medium Density Residential Zone, R-2, to Professional Office Zone, P-O, property located on the west side of Coffee Road, opposite of Thorsen Avenue, and

WHEREAS, pursuant to Section 21157.1 of the Public Resources Code, the City of Modesto’s Community & Economic Development Department prepared an Environmental Assessment Initial Study EA/C&ED 2012-20 (“Initial Study”) which analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report, and

WHEREAS, in accordance with CEQA guidelines beginning on September 12, 2012, the City caused to be published a 20-day notice of the City’s intent to make a finding that the subsequent project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on October 2, 2012, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed rezoning from Medium Density Residential Zone, R-2, to Professional Office Zone, P-O, a copy of which is **attached** hereto as **Exhibit "A"**, and incorporated herein by reference, and based on substantial evidence in the Initial Study makes the following findings:

1. An Initial Study was prepared by the City of Modesto that analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report.
2. The subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158 of the Public Resources Code, that was not identified in the Master EIR.
3. No new or additional mitigation measures or alternatives are required.
4. The subsequent project is within the scope of the project covered by the Master EIR.
5. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of October, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A
Initial Study
EA/C&ED 2012-20

City of Modesto

**Finding of Conformance to
General Plan Master EIR:**

**Initial Study Environmental Checklist
C&ED No. 2012-20**

For the proposed:

**Coffee Road Rezone from Medium Density Residential, (R-2)
to Professional Office, (P-O)**

**Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division**

June 21, 2012

(Intentional Blank Page)

City of Modesto

Master EIR Initial Study Environmental Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master Environmental Impact Report ("Master EIR" or "MEIR"). This Initial Study Environmental Checklist ("Initial Study") is used in determining whether the Coffee Road Rezone to P-O is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 2007072023) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformance.

A subsequent project is "within the scope" of the Master EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and
2. no new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. [Public Resources Code Section 21158(d)]

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (CEQA Guidelines Section 15384)

II. PROJECT DESCRIPTION

- A. Title: Coffee Road Rezone to P-O
- B. Address or Location: West side of Coffee Road, opposite of Thorsen Avenue (APN 013-070-067)
- C. Applicant: Mr. Lyn Bright
- D. City Contact Person: Katharine Martin, Associate Planner

Project Manager: Katharine Martin
Department: Community and Economic Development Department, Planning Division
Phone Number: 209-577-5267
E-mail address: kamartin@modestogov.com

- E. Current General Plan Designation(s): Mixed Use (MU)
- F. Current Zoning Classification(s): Medium Density Residential (R-2)
- G. Surrounding Land Uses:
 - North: Low Density Residential (R-1); Preschool and Elementary School Uses
 - South: Medium-Density Residential (R-2); Duplex and Triplex Residential Uses
 - East: Single-Family Residential Uses (County of Stanislaus Unincorporated Area)
 - West: Low Density Residential (R-1); Single-Family Residential Uses

- H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

The applicant proposes to rezone the vacant, undeveloped 1.35-acre Medium Density Residential (R-2) parcel to Professional-Office (P-O) Zone. The applicant's representative has indicated that the owner intends to development the site with a medical office building in the future. A conceptual site plan was provided to illustrate how the site could be developed with a one or two story building. A future staff level approval (Development Plan Review) for any new development will be required if the rezoned is approved.

- I. Other Public Agencies Whose Approval is Required: None

III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. **Within the Scope** - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. All of the following statements are found to be true:

- A. The subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158 of the Public Resources Code, that was not identified in the Master EIR.
- B. No new or additional mitigation measures or alternatives are required.
- C. The subsequent project is within the scope of the project covered by the Master EIR.
- D. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

2. **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following statements are all found to be true:

- A. The subsequent project is within the scope of the project covered by the Master EIR.
- B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.
- C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

3. **Focused EIR Required**- On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. All of the following statements are found to be true:

- A. The subsequent project is within the scope of the project covered by the Master EIR.
- B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.
- C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

Original signed copy on file with CEDD

Project Manager

Title

Date

4. Within the Scope Analysis of this Document:

The Master EIR allows projects to be found within the scope of the MEIR if certain criteria are met. If the following statements are found to be true for all 21 impact categories included in this Initial Study, then the proposed project is addressed by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

		YES	NO
(1)	The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(2)	City policies which reduce, avoid, or mitigate environmental effects will continue to be in effect and, therefore, would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template. Project impacts would be mitigated to a less-than-significant level using MEIR mitigations only.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(3)	Federal, State, regional, and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(4)	No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(5)	The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(6)	Development within the project will comply with all appropriate mitigation measures contained and enumerated in the 2008 General Plan Master EIR.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed Sections 1 through 21 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any "no" response must be explained.

		YES	NO
(1)	Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(2)	This project is described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(a)	No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(b)	No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(c)	Policies remain in effect which require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, discloses whether the proposed project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is "within the scope" of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR. Adoption of the findings specified in Section III.1, above after completion of the Initial Study fulfills the City's obligation in that situation.

All environmental effects cited reflect 2025 conditions resulting from the Urban Area General Plan, as identified in the Master EIR.

The environmental impact analysis in the Master EIR for the Urban Area General Plan is organized in twenty-one subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of reference, the sections are numbered in the same order as the analyses in Chapter V.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable traffic and circulation impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Increased automobile traffic will result in roadway segments (see MEIR on Table 1-7, pages V-1-32 to V-1-34) operating at LOS D, Modesto's significance threshold for automobile traffic, or lower (LOS E or F).

Effect: The substantial increase in traffic relative to the existing load and capacity of the street system will cause, either individually or cumulatively, the violation of automobile service standards established by StanCOG's Congestion Management Plan for designated roads and highways.

Effect: A substantial increase in automobile vehicle miles traveled and automobile vehicle hours of travel and a decrease in average automobile vehicle speed (see MEIR Table 1-6, page V-1-31).

Cumulative Impacts

Effect: Potential for growth inducement or acceleration of development resulting from highway and local road projects.

Effect: Substantial increase in traffic in relation to the existing traffic load and capacity of the street system, including a violation, either individually or cumulatively, of an automobile LOS standard established by the Congestion Management Plan for designated roads and highways.

Effect: Increased demand for capacity-enhancing alterations to existing roads or automobile traffic reduction.

Other impact categories affected by Traffic and Circulation are addressed throughout this Initial Study (see also Section 2, Degradation of Air Quality; Section 3, Generation of Noise; Section 7 Loss of Sensitive Wildlife and Plant Habitat; Section 8, Disturbance of Archaeological/Historic Sites; Section 14 Increased Demand for Fire Services; Section 18, Energy; Section 19, Visual Resources; Section 20, Land Use and Planning, and Section 21, Climate Change).

b. Master EIR and/or New Mitigation Measures Applied to the Project

Traffic and Circulation mitigation measures pertinent to this project are found on MEIR pages V-1-9 through V-1-28. All mitigation measures appropriate to the project, including any new measures, will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes none from the MEIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-1.B of the Master EIR provides analysis of Traffic and Circulation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
1. TRAFFIC AND CIRCULATION				
1) The proposed project exceeds traffic generation assumptions in the Master EIR for the site by 100 trips or more and City Engineering and Transportation staff has determined that the project would have additional potentially significant project-specific effects that are not avoided or reduced by the Master EIR's mitigation measures.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would cause additional roadway segments in the General Plan area to exceed LOS D and/or cause additional violations of standards in the Congestion Management Plan, and/or cause an increase in automobile vehicle miles or vehicle hours of travel or a decrease in automobile travel speed, as compared to the impacts disclosed in the Master EIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project would cause emergency response times to exceed acceptable standards established by the Fire Department, as compared to impacts disclosed in the Master EIR (see Section 14, Increased Demand for Fire Services).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5) The proposed project would result in less parking than required by the Municipal Code or as determined by staff.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6) The proposed project would conflict with adopted policies, plans, or programs that support alternative transportation, including, but not limited to the Regional Transportation Plan, the Sustainable Communities Strategy, the Bicycle Action Plan, and so on.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
7) The proposed project would result in an increase in automobile vehicle miles traveled on a per capita basis, in excess of that considered in the Urban Area General Plan MEIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1-3) The proposed project is consistent with the General Designation and the traffic volumes assumed in the MIER. The project will not result in an increase 100 additional trips than what was assumed in the MIER or a significant degradation in the Level of Service and therefore no new mitigation measures are necessary.
- (2) The project will not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment). The City Engineering and Traffic Department has evaluated the project and has determined that the existing design layout of the project is in accordance to City standards.
- (4) Police and Fire Staff have reviewed this proposal and have indicated that there is no emergency access problem.
- (5) No development is proposed with this rezoning; however, future development will be required to provide for parking as required by the City's Zoning Code.
- (6) The proposed project has been reviewed by Traffic, Planning and Transit staff and would not conflict with any adopted plans for alternative transportation.
- (7) The project would not cause an increase in vehicle miles traveled beyond what is assumed in the General Plan MEIR.

2. DEGRADATION OF AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable air quality impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Expected automobile traffic will result in increased operational emissions of reactive organic gases (ROG) and oxides of nitrogen (NO_x) (see MEIR Table 2-8, page V-2-27).

Effect: Expected automobile traffic will result in increased emissions of particulate matter 10 microns or less (PM₁₀) and 2.5 microns or less in diameter (PM_{2.5}) (see MEIR Table 2-8, page V-2-27).

Effect: Expected automobile traffic will result in increased carbon monoxide (CO) levels in the project area (see MEIR Table 2-7, page V-2-26, and Table 2-8, page V-2-27).

Cumulative Impacts

The Master EIR indicates the same impacts identified as direct impacts above will contribute to regional impacts on air quality for the criteria pollutants ROG, NO_x, PM₁₀, and PM_{2.5}.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Air quality mitigation measure(s) pertinent to the proposed project are found on pages V-2-13 through V-2-24 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The application is a proposal to rezone a portion of the subject property from the R-2 Zone to the P-O Zone. The appropriate mitigation to be applied to any future development of the site includes: AQ-40 and AQ-42 through AQ-56 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-2.B of the Master EIR is the analysis of air quality impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
2. DEGRADATION OF AIR QUALITY				
1) The proposed project exceeds the project-level emissions thresholds established for CO, ROG, NO _x , PM ₁₀ , and PM _{2.5} by the San Joaquin Valley Air Pollution Control District (SJVAPCD) and is not consistent with the development assumptions for the project site, as established in the Urban Area General Plan and Master EIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project does not incorporate the best management practices established by the SJVAPCD for CO, ROG, NO _x , PM ₁₀ , and PM _{2.5} .	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project does not comply with the air quality policies in the Modesto Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project would expose sensitive receptors to pollutant concentrations in excess of those expected to occur as a result of implementation of the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5) The proposed project would create objectionable odors affecting a substantial number of people.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed project to rezone from R-2 Medium Density Residential to P-O Professional Office is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of MU "Mixed Use", which assumed traffic volumes and emissions consistent with the type and intensity of professional office uses that would be permitted by this rezoning.
- (2) Any future development at the site will be required to adhere to applicable City Zoning Ordinances, Standards, and applicable best management practices during the construction process.
- (3) The proposed project to rezone from R-2 Medium Density Residential to P-O Professional Office is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of MU "Mixed Use". The Mixed Use land use designation allows for uses as permitted within the P-O Zone.
- (4-5) Any future development at the site will be required to adhere to applicable City Zoning Ordinances, Standards, and applicable best management practices during the construction process.

3. GENERATION OF NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable noise impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Future automobile traffic noise levels and roadway construction and maintenance activities resulting from development of the Urban Area General Plan will exceed the City's noise thresholds at various locations, but particularly in areas adjacent to heavily traveled roadways (see MEIR Table 3-3, page V-3-10, and Figure VII-2 and Table 3-6, pages V-3-18 and V-3-19).

Effect: Expected noise from airport operations and airport construction projects may expose up to 468 dwellings and three churches to noise levels of 65 dB CNEL and up to eight dwellings to noise levels of 70 dB CNEL.

Effect: Expose noise-sensitive land uses to noise from the construction of bicycle and transit projects.

Effect: Expose noise-sensitive land uses to noise from freight and passenger rail operations.

Cumulative Impacts

Effect: Traffic from development in the City of Modesto would, when combined with traffic from new development in the County and other cities, contribute to a cumulative increase in roadside noise levels on major roads and highways throughout Stanislaus County.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-11 through V-3-15 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section V, Mitigation Applied to Project.

Discussion:

The application is a proposal to rezone the subject property from R-2 Medium Density Residential to the P-O Professional Office Zone. No development is proposed with the application. The appropriate mitigation to be applied to any future development of the site includes: N-1, N-2 and N-7 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-3.B of the MEIR discloses noise impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of the proposed project’s effects are based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3. GENERATION OF NOISE				
1) The proposed project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project will not comply with the noise policies of, or otherwise be inconsistent with, the Modesto Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project will result in an increase in ambient noise levels in the project vicinity above those disclosed in the Master EIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels disclosed in the Master EIR implementation of the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The application is a proposal to rezone the subject property from R-2 Medium Density Residential to the P-O Professional Office Zone to facilitate future development of the site. No development is proposed with the application. Any future development would be required to adhere to the City's noise ordinance.
- (2-4) The proposed project to rezone the subject property from R-2 Medium Density Residential to the P-O Professional Office Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of MU "Mixed Use". No development is proposed with the application; however, any increase in ambient noise levels would be construction-related and temporary. Any future development would be required to adhere to the City's noise ordinance.

4. EFFECTS ON AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on agricultural lands expected after application of mitigations/policies:

Direct Impacts

Effect: Between 1995 and 2025, development of the Urban Area General Plan may convert up to approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area to urban uses.

Effect: Approximately 1,200 acres of urban development along a 28.5-mile boundary 350 feet wide between urban and agricultural uses could be affected by continued agricultural operations, including noise, dust, and chemical overspray or drift.

Cumulative Impacts

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County, accounting for the conversion of as much as approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area from 1995 to 2025.

b. Master EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural land mitigation measures pertinent to the proposed project are found on pages V-4-6 to and V-4-8 of the Master EIR. All mitigation measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

No new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-4.B of the Master EIR discloses the impacts resulting from the implementation of the Urban Area General Plan on agricultural lands. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
4. EFFECTS ON AGRICULTURAL LANDS				
1) The proposed project is inconsistent with the Urban Area General Plan's policies relating to agricultural land.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project will either directly or indirectly result in the development of land outside the 2008 Urban Area General Plan's planning area boundary.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project will conflict with existing zoning for agricultural use, or there is an existing Williamson Act contract on the project site.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project will involve other changes in the existing environment not anticipated in the Master EIR which, due to their location or nature, could result in conversion of farmland to non-agricultural use.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed project to rezone from R-2 Medium Density Residential to the P-O Professional Office Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of MU "Mixed Use". The site is surrounded by urban uses and would not result in development of land outside of the City's General Plan boundary.
- (2-4) The project site is not zoned for agricultural use. There is no existing Williamson Act contract on the property. The site is surrounded by urban uses and would not cause the conversion of additional farmland to a non-agricultural use.

5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on long-term water supplies expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts have been disclosed in the Master EIR.

Cumulative Impacts

Effect: Operational yields of the Modesto and Turlock subbasins, both of which underlie the City of Modesto, are unknown, although the City is participating in a study with the United States Geological Survey in order to quantify the operational yields of both subbasins. Groundwater withdrawals from both basins by the City, when combined with other users' withdrawals, may result in overdrafting both subbasins.

Effect: Despite available options, during drought years, significant water shortages are forecast for the San Joaquin River basin, which includes both the Modesto and Turlock subbasins, by 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Water supply mitigation measures pertinent to the proposed project are found on pages V-5-6 through V-5-12 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The application is a proposal to rezone the subject property from R-2 Medium Density Residential to the P-O Professional Office Zone. No development is proposed with the application; however, the appropriate mitigation to be applied to any future development of the site includes: WS-11 and WS-13 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-5.B of the Master EIR discloses impacts on long-term water supplies resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES				
1) The proposed project is inconsistent with water supply policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) Water demand for the proposed project will exceed estimates for similar projects or for development on the project site anticipated in the Urban Area General Plan or sufficient water supplies are not otherwise available to serve the project from existing entitlements and resources.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would deplete groundwater supplies to a greater degree than anticipated in the Urban Area General Plan or would interfere with groundwater recharge.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

(1-3) The proposed project to rezone from R-2 Medium Density Residential Zone to the P-O Professional Office Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of MU "Mixed Use", which assumed water demand to be consistent with the type and intensity of development that would be permitted by this rezoning. The Mixed Use land use designation allows for uses as permitted within the P-O Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

6. INCREASED DEMAND FOR SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on sanitary sewer services after application of mitigations/policies:

Direct Impacts

Effect: Development resulting from implementation of the Urban Area General Plan will require substantial new sewage treatment and disposal capacity, treatment plant improvements, sewer mains and collection lines, and pump stations. The Wastewater Master Plan anticipates the need for these facilities and its EIR evaluates the impact of developing those facilities. Potential impacts include degradation of water quality through erosion and chemical releases; localized flooding; construction noise; exposure of construction workers and the public to hazardous materials; and on the habitat of the elderberry longhorn beetle, burrowing owl, and Swainson's hawk, as well as certain other regulated habitats. All of these impacts are mitigated to a less-than-significant level.

Additional impacts that are not mitigated to a less-than-significant level include loss of farmland cause by construction of the Phase IA tertiary treatment facility at the Jennings Road Secondary Treatment Facility, an increase in pollutant loads from increased wastewater flows to the San Joaquin River, and an increase in noise and criteria air pollutants due to construction activities, including traffic.

Cumulative Impacts

Effect: No additional cumulative impacts were identified in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Sewer service mitigation measures pertinent to the proposed project are found on pages V-6-3 through V-6-8 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The application is a proposal to rezone the subject property from R-2 Medium Density Residential to the P-O Professional Office Zone. No development is proposed with the application; however, the appropriate mitigation to be applied to any future development of the site includes: SS-4 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-6.B of the Master EIR discloses impacts on the Increased Demand for Sanitary Sewer Service resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
6. INCREASED DEMAND FOR SANITARY SEWER SERVICES				
1) The proposed project is inconsistent with wastewater policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project will generate sewage flows greater than those anticipated in the Urban Area General Plan for the project site.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1-3) The proposed project to rezone from R-2 Medium Density Residential Zone to the P-O Professional Office Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of MU "Mixed Use", which assumed wastewater generation to be consistent with the type and intensity of development that would be permitted by this rezoning. The Mixed Use land use designation allows for uses as permitted within the P-O Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on sensitive wildlife and plant habitat expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant impacts on sensitive wildlife and plant habitat are expected to occur with the application of the policies contained in the Urban Area General Plan.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will contribute to the cumulative impact of habitat loss in the San Joaquin Valley. Requiring density development than has occurred in the past or that is expected in the future would minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Wildlife and plant habitat mitigation measures pertinent to the proposed project are found on pages V-7-17 through V-7-24 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-7.B of the Master EIR discloses impacts on the Loss of Sensitive Wildlife and Plant Habitat resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT				
1) The project is inconsistent with the policies pertaining to the loss of sensitive wildlife and plant habitat contained in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on a candidate, sensitive, or special status species in excess of the impact disclosed in the Master EIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption, or other means, in excess of the impact disclosed in the Master EIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project would substantially interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6) The proposed project would conflict with provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed project to rezone from R-2 Medium Density Residential Zone to the P-O Professional Office Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of MU "Mixed Use". The Mixed Use land use designation allows for uses as permitted within the P-O Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.
- (2-4) The project site is located within the Baseline Developed Area of the City and is therefore completely surrounded by developed urban area. It is not a biologically sensitive site as defined by Figure V-7-1 of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.

(5-6) The proposal to rezone the property is not in conflict with any local policies or ordinances protecting biological resources, nor is in conflict with any adopted habitat conservation plan.

8. DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on archaeological/historical sites expected after application of mitigations/policies:

Direct Impacts

Effect: Modification resulting in a substantial adverse change in the significance of a historic resource or the demolition of a listed or eligible historic resource.

Effect: The modification or demolition of a structure more than 50 years in age may be significant.

Effect: Discovery of archaeological resources in areas outside of the riparian corridors, as a result of construction activities.

Effect: Construction in an area of high archaeological sensitivity.

Cumulative Impacts

Effect: No additional cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Archaeological or historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-16 through V-8-20 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-8.B of the MEIR discloses impacts on archaeological/historical resources resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
8. DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES				
1) The proposed project is inconsistent with the archaeological/historical resource policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would demolish a building eligible for listing as a historic resource or remove a landmark from the Modesto inventory.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would modify or demolish a structure more than 50 years in age.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed project to rezone from R-2 Medium Density Residential Zone to the P-O Professional Office Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of MU "Mixed Use". The Mixed Use land use designation allows for uses as permitted within the P-O Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.
- (2-4) The area of the proposed rezone is vacant. The site is not eligible for listing as a historic resource, nor is categorized as an existing historic landmark.
- (5) The area of the proposed rezone is vacant. The site is not eligible for listing as a historic resource, nor is categorized as an existing historic landmark.

9. INCREASED DEMAND FOR STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on storm drainage expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious surface area and associated increases in storm water runoff. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. This cumulative impact is considered significant and unavoidable.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Storm Drainage mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-9. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The application is a proposal to rezone the subject property from R-2 Medium Density Residential to the P-O Professional Office Zone. No development is proposed with the application; however, the appropriate mitigation to be applied to any future development of the site includes: SD-7 and SD-9 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-9.B of the MEIR discloses impacts on the demand for storm drainage resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
9. INCREASED DEMAND FOR STORM DRAINAGE				
1) The proposed project is inconsistent with the storm drainage policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite, as compared to impacts anticipated to result from	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
the Urban Area General Plan or create substantial unanticipated sources of polluted runoff.				
3) The proposed project does not utilize Low Impact Development strategies to reduce runoff from the site and increase infiltration, resulting in no net increase in runoff before and after development.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

(1-3) The proposed project to rezone from R-2 Medium Density Residential Zone to the P-O Professional Office Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of MU "Mixed Use", which assumed stormwater runoff to be consistent with the type and intensity of development that would be permitted by this rezoning. The Mixed Use land use designation allows for uses as permitted within the P-O Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on flooding and water quality expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Flooding and Water Quality mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-10-6 through V-10-9 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The application is a proposal to rezone the subject property from R-2 Medium Density Residential to the P-O Professional Office Zone. No development is proposed with the application; however, the appropriate mitigation to be applied to any future development of the site includes: FWQ-13 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-10.B of the Master EIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
10. FLOODING AND WATER QUALITY				
1) The proposed project is inconsistent with the flooding and water quality policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would place more housing within a 100-year flood hazard zone than assumed in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project would place structure within a 100-year flood hazard area so that they would impede or redirect floodwater or would substantially alter the existing on-site drainage pattern or a watercourse, in such a way as to cause flooding on- or offsite.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5) The proposed project does not comply with Modesto's Guidance Manual for New Development Storm Water Quality Control Measures.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6) The proposed project would violate water quality standards or waste discharge requirements.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7) The proposed project would substantially alter the existing drainage pattern of the site or area or a watercourse in a manner that would result in substantial erosion or siltation on- or offsite in excess of the assumptions of the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
8) The proposed project would create or contribute runoff, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff, not expected as part of Urban Area General Plan implementation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1-2) The proposed project to rezone from R-2 Medium Density Residential Zone to the P-O Professional Office Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of MU "Mixed Use". The Mixed Use land use designation allows for uses as permitted within the P-O Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.
- (3-4) The proposed project is to rezone from R-2 Medium Density Residential Zone to the P-O Professional Office Zone. The site is outside of the 100-year flood zone as defined by the FEMA 2008 Flood Insurance Rate Maps (FIRM).
- (5-8) Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

11. INCREASED DEMAND FOR PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on parks and open space expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Parks and open space mitigation measures pertinent to the proposed project are found on pages V-11-3 through V-11-9 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

There are no mitigation measures applicable to the project.

c. Project-Specific Effects

Section V-11.B of the MEIR discloses impacts of the Urban Area General Plan on parks and open space. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
11. INCREASED DEMAND FOR PARKS AND OPEN SPACE				
1) The proposed project is inconsistent with the parks and open space policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would eliminate parks or open space.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would cause an increase in the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility in question would occur or be accelerated or the proposed project would include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1-3) The proposed project to rezone from R-2 Medium Density Residential Zone to the P-O Professional Office Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of MU "Mixed Use". The Mixed Use land use designation allows for uses as permitted within the P-O Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.
- (2-3) The proposed rezone would not eliminate any parks or open spaces. The site is a vacant lot that if approved for development of Professional Office uses would not cause an increase in the use of existing parks or recreational areas.

12. INCREASED DEMAND FOR SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on school facilities expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR. By statute, the impact of new students is considered to be mitigated below a level of significance by payment of school impact fees and the exercise of any or all of the financing options set out in Government Code Section 65997.

Cumulative Impacts

Effect: Similar to direct impacts of implementation of the Urban Area General Plan, no residual significant direct impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. As long these policies are applied to all subsequent projects, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995).

The following schools mitigation measures on pages V-12-5 through V-12-7 of the Master EIR are pertinent to the proposed project. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures are listed in Section V, Mitigation Applied to Project.

Discussion:

There are no mitigation measures applicable to the project.

c. Project-Specific Effects

Section V-12.B of the Master EIR discloses impacts resulting from implementation of the Urban Area General Plan associated with increased demand for schools. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
12. INCREASED DEMAND FOR SCHOOLS				
1) The proposed project is inconsistent with the policies relating to schools in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which state that compliance results in less-than-significant impacts on schools.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

(1-2) The proposed project to rezone from R-2 Medium Density Residential Zone to the P-O Professional Office Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of MU "Mixed Use". The Mixed Use land use designation allows for uses as permitted within the P-O Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

13. INCREASED DEMAND FOR POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on police services expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Police services mitigation measures pertinent to the proposed project are found on pages V-13-2 through V-13-5 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

There are no mitigation measures applicable to the project.

c. Project-Specific Effects

Section V-13.B of the Master EIR discloses impacts on police services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
13. INCREASED DEMAND FOR POLICE SERVICES				
1) The proposed project is inconsistent with policies relating to police services in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed project to rezone from R-2 Medium Density Residential Zone to the P-O Professional Office Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of MU "Mixed Use". The Mixed Use land use designation allows for uses as permitted within the P-O Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.
- (2) The proposed rezone was referred to the City Police Department, who indicated no concerns with the project.

14. INCREASED DEMAND FOR FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on fire services expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-4 through V-14-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

There are no mitigation measures applicable to the project.

c. Project-Specific Effects

Section V-14.B of the Master EIR discloses impacts on fire services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
14. INCREASED DEMAND FOR FIRE SERVICES				
1) The proposed project is inconsistent with the fire service policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2) The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3) The proposed project, based upon substantial evidence, would cause the erosion or elimination of fire protection services in adjoining fire protection districts.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Discussion:

- (1) The proposed project to rezone from R-2 Medium Density Residential Zone to the P-O Professional Office Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of MU "Mixed Use". The Mixed Use land use designation allows for uses as permitted within the P-O Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards, including fire safety standards.
- (2-3) The proposed rezone was referred to the Modesto Regional Fire Authority, who indicated no concerns regarding need for increased services or effects upon response times.

15. GENERATION OF SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on solid waste expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Solid waste mitigation measures pertinent to the proposed project are found on pages V-15-4 through V-15-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-15.B of the Master EIR discloses solid waste impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
15. GENERATION OF SOLID WASTE				
1) The project is inconsistent with the solid waste policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The County is unable to expand its solid waste disposal capacity, as expected, causing all new development to result in cumulative impacts on the County's disposal capacity.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1-2) The proposed project to rezone from R-2 Medium Density Residential Zone to the P-O Professional Office Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of MU "Mixed Use". The Mixed Use land use designation allows for uses as permitted within the P-O Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

16. GENERATION OF HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts regarding hazardous materials expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Hazardous materials mitigation measures pertinent to the proposed project are found on pages V-16-8 through V-16-13 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-16.B of the Master EIR discloses impacts on hazardous materials resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
16. GENERATION OF HAZARDOUS MATERIALS				
1) The project is inconsistent with the hazardous materials policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3) The proposed project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project would be constructed on a contaminated site not known to the State of California as of March 2008.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed project to rezone from R-2 Medium Density Residential Zone to the P-O Professional Office Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of MU "Mixed Use". The Mixed Use land use designation allows for uses as permitted within the P-O Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.
- (2) The area proposed for rezoning is vacant and is overall is surrounded by urban residential uses. The Merryhill Country Preschool, Aspire University Charter School, and Sylvan Elementary School exists within one-quarter mile of the project site. However, the proposed rezone would allow for Professional Office uses only. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.
- (3) The project is not located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.
- (4) The project site is not known to contain any contaminants.

17. GEOLOGY, SOILS, AND MINERAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts related to geology, soils, and mineral resources expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Geology, soils, and mineral resource mitigation measures pertinent to the proposed project are found on pages V-17-9 and V-17-10 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of the proposed project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-17.B of the Master EIR discloses geology, soils, and mineral resource impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
17. GEOLOGY, SOILS, AND MINERAL RESOURCES				
1) The project is inconsistent with policies relating to geology, soils, and mineral resources contained in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2) The proposed project would expose people or structures to potential substantial adverse effects including the risk of loss, injury, or death involving fault rupture, strong seismic activity; location on an expansive soil; result in the loss of topsoil; location on soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater; result in the loss of known mineral resources that would be of value to the region and the state; or result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Discussion:

- (1) The proposed project to rezone from R-2 Medium Density Residential Zone to the P-O Professional Office Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of MU "Mixed Use". The Mixed Use land use designation allows for uses as permitted within the P-O Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

- (2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to energy expected after application of mitigations/policies:

Direct Impacts

Effect: Continued development in the Planned Urbanizing Area would have an impact on available energy supplies. Energy consumption likely would increase substantially by 2025 as a result of implementation of the Urban Area General Plan.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on energy consumption.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following energy mitigation measures pertinent to the proposed project are found on pages V-18-2 through V-18-8 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
18. ENERGY				
1) The proposed project is inconsistent with policies relating to energy in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would result in energy consumption during construction, operation, maintenance, or removal that is more wasteful, inefficient, and unnecessary than assumed in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

(1-2) The proposed project to rezone from R-2 Medium Density Residential Zone to the P-O Professional Office Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of MU "Mixed Use". The Mixed Use land use designation allows for uses as permitted within the P-O Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

19. EFFECTS ON VISUAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on visual resources expected after application of mitigations/policies:

Direct Impacts

Effect: New development in the Planned Urbanizing Area will occur in areas that are in agricultural production or are otherwise lightly developed, which could lead to the introduction of light and glare in areas that have little nighttime illumination.

Cumulative Impacts

Effect: No additional cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following visual resources mitigation measures pertinent to the proposed project are found on pages V-19-3 and V-19-4 in the Master EIR. All mitigation measures appropriate to the proposed project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
19. EFFECTS ON VISUAL RESOURCES				
1) The proposed project is inconsistent with policies relating to visual resources in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would degrade views from riverside areas and parks to a greater degree than assumed in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would degrade views of riverside areas from public roadways and nearby properties to a greater degree than assumed in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed project to rezone from R-2 Medium Density Residential Zone to the P-O Professional Office Zone is consistent with the Urban Area General Plan and the site’s General Plan Land Use designation of MU “Mixed Use”. The Mixed Use land use designation allows for uses as permitted within the P-O Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.
- (2-3) The project site is not in the vicinity of parks or riverside areas. No views into parks or riverside areas would be blocked or degraded from roadways or properties adjacent to the site.

20. LAND USE AND PLANNING

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to land use and planning expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following land use and planning mitigation measures pertinent to the proposed project are found on pages V-20-6 through V-20-17 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-20.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on land use and planning. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
20. LAND USE AND PLANNING				
1) The proposed project is inconsistent with land use and planning policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project contains elements that would physically divide an established community in a way not assumed in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project conflicts with a land use plan, policy or regulation established for the purpose of avoiding or mitigating an environmental impact by an agency that has jurisdiction over the proposed project.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project conflicts with an applicable habitat conservation plan or natural community conservation plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed project to rezone from R-2 Medium Density Residential Zone to the P-O Professional Office Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of MU "Mixed Use". The Mixed Use land use designation allows for uses as permitted within the P-O Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.
- (2) The site proposed for rezoning is vacant and is surrounded by urban uses. The project would not divide an established community.
- (3) The proposed rezoning does not represent a conflict with any land use plan, policy or regulation established for the purpose of avoiding or mitigating an environmental impact by an agency that has jurisdiction over the proposed project.
- (4) The proposed rezoning is not subject to any habitat conservation plan or natural community conservation plan.

21. CLIMATE CHANGE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to climate change expected after application of mitigations/policies:

Direct Impacts

Effect: Impacts resulting from implementation of the Urban Area General Plan are not substantial enough to result in a significant direct impact on climate change, as disclosed in the Master EIR.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on climate change.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following climate change mitigation measures pertinent to the proposed project are found on pages V-21-7 through V-21-10 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on climate change. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
21. CLIMATE CHANGE				
1) The proposed project is inconsistent with policies relating to climate change in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would result in average automobile trip lengths or CO ₂ emissions higher than those assumed in the Master EIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would conflict with the Sustainable Communities Strategy or Alternative Planning Strategy that the Air Resources Board has agreed will achieve the goals of AB 32.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1-3) The proposed project to rezone from R-2 Medium Density Residential Zone to the P-O Professional Office Zone is consistent with the Urban Area General Plan and the site's General Plan Land Use designation of MU "Mixed Use". The Mixed Use land use designation allows for uses as permitted within the P-O Zone. Any future development will be required to adhere to applicable City of Modesto Zoning Ordinances and Standards.

V. MITIGATION MEASURES APPLIED TO THE PROPOSED PROJECT

If the Initial Study results in the determination that a Finding of Conformance can be adopted for the proposed project Section A below applies. If the Initial Study results in the determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration/EIR must be prepared for the project then Section B, below applies.

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to Public Resources Code Section 21157.1(c), in order for a Finding of Conformance to be made, all appropriate mitigation measures from the Master EIR shall be incorporated into the proposed project. Urban Area General Plan Policies/Master EIR mitigation measures shall be made part of the proposed project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan.

All applicable and appropriate mitigation measures have been applied to the project (see mitigation measures listed below).

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the significance criteria for each environmental impact category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against the significance criteria thresholds established in the Master EIR for all impact categories in this Initial Study.

A Mitigated Negative Declaration or Focused EIR shall be prepared for the project. The following additional project-specific mitigation measures listed below are necessary to reduce the identified new significant effect:

Traffic and Circulation:

None

Degradation of Air Quality:

None

Generation of Noise:

None

Effects on Agricultural Lands:

None

Increased Demand for Long-Term Water Supplies:

None

Increased Demand for Sanitary Sewer Services:

None

Loss of Sensitive Wildlife and Plant Habitat:

None

Disturbance of Archaeological/Historic Sites:

None

Increased Demand for Storm Drainage:

None

Flooding and Water Quality:

None

Increased Demand for Parks and Open Space:

None

Increased Demand for Schools:

None

Increased Demand for Police Services:

None

Increased Demand for Fire Services:

None

Generation of Solid Waste:

None

Generation of Hazardous Materials:

None

Geology, Soils, and Mineral Resources:

None

Energy:

None

Effects on Visual Resources:

None

Land Use and Planning:

None

Climate Change:

None

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-405**

A RESOLUTION ACCEPTING THE STATE SUPPLEMENTAL LAW ENFORCEMENT GRANT, IN THE AMOUNT OF AT LEAST \$100,000, FROM THE STATE SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND FOR POLICE OVERTIME; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY PROGRAM DOCUMENTS

WHEREAS, in 1996, the State Legislature passed, and the Governor signed, Assembly Bill 3229, the Supplemental Law Enforcement Services Act, and

WHEREAS, the purpose of the law is to provide additional resources for local law enforcement, and

WHEREAS, Supplemental Law Enforcement Services Fund (SLESF) monies cannot be transferred to, or intermingled with, the monies in any other fund except that monies may be transferred from the SLESF to the City's General Fund to the extent necessary to facilitate the appropriation and expenditure of funds, and

WHEREAS, SLESF monies cannot be used to supplant existing budgeted funds, and

WHEREAS, a SLESF has been established in each county, and

WHEREAS, the funding for each county and city is based upon proportionate population, and

WHEREAS, the allocation to the City of Modesto, for Fiscal Year (FY) 2012/2013, of at least \$100,000, to be made in four installments of \$25,000 each, and

WHEREAS, the City Council is required to hold a public hearing to consider and approve the SLESF Expenditure Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that after holding a public hearing, it hereby accepts the Chief of Police's Expenditure

Plan for the FY 2012/2013 State Supplemental Law Enforcement Services Fund, allocation of at least \$100,000 for police overtime, training, technology, and equipment.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of October, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-406**

**RESOLUTION AMENDING THE FISCAL YEAR 2012/2013 MULTI-YEAR
OPERATING BUDGET TO APPROPRIATE REVENUES AND EXPENDITURES
OF AT LEAST \$100,000 FOR THE CITY OF MODESTO'S ALLOCATION
FROM THE STATE SUPPLEMENTAL LAW ENFORCEMENT SERVICES
FUND; AND AUTHORIZING THE DIRECTOR OF FINANCE, OR HER
DESIGNEE, TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, in 1996, the State Legislature passed, and the Governor signed,
Assembly Bill 3229, the Supplemental Law Enforcement Services Act, and

WHEREAS, the purpose of the law is to provide additional resources for local
law enforcement, and

WHEREAS, Supplemental Law Enforcement Services Fund (SLESF) monies
cannot be transferred to, or intermingled with, monies in any other fund except that
monies may be transferred from the SLESF to the City's General Fund to the extent
necessary to facilitate the appropriation and expenditure of funds, and

WHEREAS, SLESF monies cannot be used to supplant existing budgeted funds,
and

WHEREAS, a SLESF has been established in each county, and

WHEREAS, the funding for each county and city is based upon proportionate
population, and

WHEREAS, the allocation to the City of Modesto for Fiscal Year (FY)
2012/2013 of at least \$100,000, to be made in four installments of \$25,000 each, and

WHEREAS, the City Council is required to hold a public hearing to consider and
approve the SLESF Expenditure Plan, and

WHEREAS, the adopted FY 2012/2013 Police SLESF allocation in the amount of at least \$100,000 will be applied to account number 1340-19999-100724-42140,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the FY 2012/2013 Multi-Year Operating Budget to appropriate revenues and expenditures of at least \$100,000 for the City of Modesto's allocation from the State Supplemental Law Enforcement Services Fund for police overtime, training, technology, and equipment. as shown in **Exhibit A** attached hereto.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of October, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Exhibit A

The SLESF allocation for Fiscal Year 2012/2013 will be applied to:

<u>Revenue</u>	<u>Increase/(Decrease)</u>	<u>Description</u>
To:		
1340-19999-100724-42140	\$100,000	Intergov. – State – SLESF Revenue
<u>Expense</u>		
To:		
1340-19999-100724-51200	\$ 20,000	Overtime
1340-19999-100724-52300	\$ 6,000	Tools & Field Supplies < \$5K
1340-19999-100724-52301	\$ 65,000	Computer Equip. < \$5K
1340-19999-100724-53025	<u>\$ 9,000</u>	Training
	\$100,000	

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-407

RESOLUTION AMENDING THE FISCAL YEAR 2012-2013 ANNUAL
OPERATING BUDGET

WHEREAS, a financial analysis has been completed and it has been determined that a budget adjustment is required to the Annual Budgets of the City of Modesto for Fiscal Year 2012-2013,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2012-2013 annual operating budget as shown in **Exhibit A**, which is **attached** hereto and incorporated by reference herein.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of October, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)
APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

COMMUNITY AND ECONOMIC DEVELOPMENT

An adjustment is necessary to approve establishing a new Capital Improvement Project # 100721 (Expand ATMS-Briggsmore); and approve a \$70,000 budget funded 100% by CMAQ funding.

An adjustment is necessary to approve establishing a new Capital Improvement Project #100719 (New Traffic Signals 2013 – Village One #2 CFD); and approve a \$30,000 budget in CMAQ and City Match funding.

An adjustment is necessary to approve establishing a new Capital Improvement Project #100720 (New Traffic Signals 2013 – Gas Tax); and approve a \$60,000 budget in CMAQ and City Match funding.

An adjustment is necessary to approve establishing a new Capital Improvement Project # 100707 (2014 Pavement Rehabilitation); and approve a \$275,000 budget funded 100% by CMAQ funding.

An adjustment is necessary to approve establishing a new Capital Improvement Project # 100708 (2015 Pavement Rehabilitation); and approve a \$275,000 budget funded 100% by CMAQ funding.

PARKS, RECREATION AND NEIGHBORHOODS

A budget adjustment is necessary to establish the budget in the amount of \$309,773 for the RLF Housing Loan Program (1150) that was inadvertently omitted from the Multi-Year adopted budget.

An adjustment is necessary to establish a transfer in the amount of \$72,142 from CDBG NSP Entitlement (Fund 1131) to Capital Grants – Parks CIP Projects (Fund 3150) and appropriate funds to Capital Improvement Project #100698-Airport Neighborhood Community Center for the rehabilitation of the community center.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-408**

**RESOLUTION AUTHORIZING FOUR (4) DESIGNATED CITY OF MODESTO
STAFF TO SERVE AS GENERAL SERVICES ADMINISTRATION SURPLUS
PROPERTY SCREENERS**

WHEREAS, the Federal Property and Administrative Services Act of 1949, as amended, provides for the transfer of federal surplus personal property to the State Agency for Surplus Property (SASP) within each state, and

WHEREAS, the Department of General Services (DGS) is the State of California's SASP, and

WHEREAS, surplus General Services Agency (GSA) personal property is made available to the City of Modesto at a reduced cost through the donation program administered by the State of California DGS, and

WHEREAS, federal surplus personal property can be used by all City departments and includes all types and categories of property including but not limited to the following: airplanes, boats, communication equipment, furniture, tools, and motor vehicles, and

WHEREAS, Council approval is required by the State of California DGS, Office of Procurement-Surplus Property, to authorize designated City of Modesto personnel to review/screen and obtain surplus Federal personal property that is available through the GSA Federal Surplus Personal Property Program, and

WHEREAS, the City's approval to participate in the program has expired and needs to be renewed, and

WHEREAS, a requirement of that renewal process is to authorize no more than five (5) designated City of Modesto staff to serve as "screeners", and

WHEREAS, the four (4) City staff designated as screeners are: Mark L. Averell, Cindy Medley, Steve Fischio, and Jolene Gonzales,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes Mark L. Averell, Cindy Medley, Steve Fischio and Jolene Gonzales to serve as General Services Administration Surplus Property Screeners.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of October, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-409**

RESOLUTION AUTHORIZING THE AWARD OF CONTRACT FOR THE PURCHASE AND DELIVERY OF LIQUID POLYMERIC FLOCCULANTS FOR THE PUBLIC WORKS DEPARTMENT, WASTEWATER DIVISION, TO POLYDYNE, INC., RICEBORO, GA, FOR A ONE YEAR AGREEMENT WITH FOUR (4) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE A PURCHASE AGREEMENT FOR AN ESTIMATED ANNUAL COST OF \$31,740

WHEREAS, liquid polymeric flocculants are used at the Water Quality Control Secondary facility to enhance algae removal from the secondary treated wastewater before it is discharged into the San Joaquin River. The liquid polymeric flocculants are used in the Dissolved Air Flotation (DAF) system, and

WHEREAS, under the requirements of the City's National Pollutant Discharge Elimination System (NPDES) permit, the City is required to properly remove algae from the water that is discharged into the San Joaquin River. The permit is designed to protect the river habitat and surrounding environment. Liquid polymeric flocculants are essential to meet this requirement in the City's NPDES Permit. Failure to perform algae removal can result in fines, and

WHEREAS, there are no local vendors for this type of chemical. On April 16, 2012, the Bay Area Chemical Consortium (BACC), a group of public agencies, went through a competitive bid process for the purchase and delivery of liquid polymeric flocculants. The most responsive and responsible bidder that met the bid specifications was Polydyne, Inc., Riceboro, GA. The BACC Bid No. 08-2012 for liquid polymeric flocculants was awarded to Polydyne, Inc. The same bid pricing has been extended to the City of Modesto, and

WHEREAS, taking advantage of this process and awarding a contract by “piggybacking” on the terms of the BACC competitive bid process is an efficient and effective way to purchase the liquid polymeric flocculent, and saves the time and expense for the City to formally solicit RFB’s , and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2013-14, in the following appropriation unit: 4210-54312-52190, and

WHEREAS, Modesto Municipal Code (MMC) Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000.00 for material, equipment, or contractual services to be formally bid. However, there are exceptions to the rule set forth in the Modesto Municipal Code. One exception, MMC Section 8-3.204(d), is available where the Purchasing Manager, in his or her discretion, determines that a process other than the usual formal bid procedure set forth in MMC Section 8-3.203 will result in procurement for the City at the lowest possible cost commensurate with the desired quality. Acting within his discretion, the Purchasing Manager invoked that exception for this purchase due to the cost savings of staff time and the limited number of competitors. There are no local vendors who can supply this type of chemical, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the authorizing the award of contract for the purchase and delivery of liquid polymeric flocculants for the Public Works Department, Water Quality Control Division, to Polydyne Inc., Riceboro, CA, for a one year agreement with four (4) one-year extension options at the sole discretion of the City.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase agreement for an estimated annual cost of \$31,740.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of October, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-410**

A RESOLUTION AMENDING THE POSITION ALLOCATION IN THE MODESTO REGIONAL FIRE AUTHORITY ADOPTED BY THE CITY COUNCIL AS PART OF THE FY 12-13 BUDGET TO: (I) INCREASE ONE (1) EMERGENCY MEDICAL SERVICES COORDINATOR .75 ALLOCATION TO ONE (1) EMERGENCY MEDICAL SERVICES COORDINATOR 1.0 ALLOCATION IN COST CENTER 80121; (II) ADD ONE (1)-FIRE BATTALION CHIEF ALLOCATION IN COST CENTER 80121; (III) DELETE ONE (1) PUBLIC SAFETY BUSINESS SERVICES ANALYST ALLOCATION FROM COST CENTER 80121

WHEREAS, a Position Allocation for the Modesto Regional Fire Authority was adopted by Modesto City Council on June 21, 2012, as part of the Annual Budget of the City of Modesto for Fiscal Year 2012-2013, and

WHEREAS, the Modesto Regional Fire Authority has identified the fiscal resources necessary to increase one (1) Emergency Medical Services Coordinator .75 allocation to one (1) Emergency Medical Services Coordinator 1.0 position allocation to provide training, quality assurance, policy and procedure development and oversight of the Infection Control Program and the Exposure Control Program, and

WHEREAS, the Modesto Regional Fire Authority has revised their organizational structure and identified the need for one (1) Administrative Fire Battalion Chief to oversee the technical administrative responsibilities within MRFA and coordinate the health and safety program, and

WHEREAS, the Fire Battalion Chief-Administration will assume some of the duties of the Public Safety Business Services Analyst with the remaining responsibilities distributed to the other classes with the administrative unit.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Position Allocation for Fiscal Year 2012-2013 as follows:

1. Increase one (1) Emergency Medical Services Coordinator .75 allocation to one (1) Emergency Medical Services Coordinator 1.0 allocation in Cost Center 80121.
2. Add one (1) Fire Battalion Chief allocation in Cost Center 80121 (\$3,431-\$4180 monthly).
3. Delete one (1) Public Safety Business Services Analyst allocation from Cost Center 80121.

This resolution shall become effective on and after October 9, 2012.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 9th day of October, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-411**

A RESOLUTION APPROVING AN AGREEMENT WITH THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS IN THE AMOUNT NOT TO EXCEED \$67,389.00 TO PROVIDE UP TO 35-HOUR PER WEEK COMMUNITY POLICE OFFICER FOR THE WESTVIEW GARDENS HOUSING COMPLEX FOR A PERIOD OF TWELVE (12) MONTHS FROM JUNE 1, 2012 THROUGH MAY 31, 2013, WITH AN OPTION TO EXTEND THE AGREEMENT FOR AN ADDITIONAL TWELVE (12) MONTHS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Housing Authority of the County of Stanislaus operates the Westview Gardens Housing Complex in Modesto, California, and

WHEREAS, by agreement, the Modesto Police Department has assigned a Police Officer to the Housing Complex for twenty (20) years, and

WHEREAS, the Housing Authority is desirous to continue this police service which will provide for the presence of one police officer for up to 35 hours per week for patrol, investigation, response to calls, presentation of community crime resistance education, drug traffic suppression and drug education, graffiti abatement program education and coordination of the exchange of information between residents and other services of the City, and

WHEREAS, the term of this Agreement is June 1, 2012 through May 31, 2013, and

WHEREAS, this Agreement shall automatically renew for one (1) year, until May 31, 2014, unless terminated by 30-day's written notice by either party, and

WHEREAS, the cost of providing this service to the Westview Gardens Housing Complex is up to \$67,389.00 and will be reimbursed for by the Housing Authority of Stanislaus County, and to the police department, and

WHEREAS, this Agreement was contemplated in the current budget and both revenue and expenses are appropriated at the proper levels.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with the Housing Authority of the County of Stanislaus in the amount not to exceed \$67,389.00 to provide a 35-hour per week Community Police Officer for the Westview Gardens Housing Complex for a period of twelve (12) months, from June 1, 2012 through May 31, 2013, with an option to extend the Agreement for twelve (12) months.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of October, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

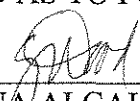
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-412**

RESOLUTION ACCEPTING THE WORK BY ROLFE CONSTRUCTION, FOR THE "JET-VAC DUMP SITE REHABILITATION" PROJECT AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER UPON RECEIPT OF APPROVED WARRANTY BOND, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING \$198,764

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the Jet-Vac Dump Site Rehabilitation project has been completed by Rolfe Construction, in accordance with the contract agreement dated March 6, 2012,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Jet-Vac Dump Site Rehabilitation project is hereby accepted as complete from said contractor Rolfe Construction, that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder upon receipt of approved Warranty Bond, and that payment of amounts totaling \$198,764 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of October, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO.2012-413**

**RESOLUTION AMENDING THE FISCAL YEAR 2012-13 MULTI-YEAR
BUDGET TO ESTABLISH THE EXPENSE AND REVENUE BUDGET FOR THE
MODESTO ARCH RESTORATION PROJECT WITH \$15,807 FROM THE
BRENDEN MANN GRANT AND ANY FUNDS RAISED THROUGH THE
CHAMBER OF COMMERCE**

WHEREAS, the Chamber of Commerce, in partnership with the City and community volunteers, embarked on a fund-raising campaign for monetary donations and in-kind services to restore the historic Modesto Arch, and

WHEREAS, the community has stepped forward to support this project and fund-raising efforts and in-kind services are anticipated to cover approximately \$80,000 of the project costs, and

WHEREAS, there remains a balance of funds in the Ted and Doctor Roberta Mann Foundation Grant in the amount of \$15,807, and

WHEREAS, the Mann Foundation has authorized the use of the remaining funds for the Arch Restoration Project, and

WHEREAS, the City of Modesto is the owner of the Modesto Arch and thereby responsible for its repair and maintenance.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the 2012-13 Multi-Year budget to establish the expense and revenue budget for the Modesto Arch Restoration project, as listed in **Exhibit A**.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of October, 2012, by Mayor Marsh, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Exhibit A

ESTABLISHING THE EXPENSE AND REVENUE BUDGET
FOR THE MODESTO ARCH RESTORATION PROJECT

Ted & Doctor Roberta Mann Foundation Downtown Beautification Grant:

<u>Revenue</u>	<u>Increase/(Decrease)</u>	<u>Description</u>
1340-100613-42503	(\$15,807)	Reduce Grant Donation (Move to Modesto Arch Restoration)

Modesto Arch Restoration Project Budget:

<u>Revenue</u>	<u>Increase/(Decrease)</u>	<u>Description</u>
1340-100702-42503	\$15,807	Mann Grant Donation

<u>Expense</u>	<u>Increase/(Decrease)</u>	<u>Description</u>
100702-Appr C	\$15,807	Misc. Supplies

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-414

RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF BRYAN SUTTERFIELD FROM THE CITY OF MODESTO HUMAN RELATIONS COMMISSION, EFFECTIVE AUGUST 28, 2012

WHEREAS, BRYAN SUTTERFIELD was appointed a member of the Human Relations Commission on January 2, 2007, and

WHEREAS, BRYAN SUTTERFIELD has tendered his resignation from the Human Relations Commission effective August 28, 2012.

NOW, THEREFORE, BE IT RESOLVED that the resignation of BRYAN SUTTERFIELD is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of this City, hereby expresses its sincere appreciation to BRYAN SUTTERFIELD for his service to the community.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Gunderson

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-415

RESOLUTION ACCEPTING THE RESIGNATION OF DANA CULBERTSON
FROM THE CITY OF MODESTO'S CITIZENS' HOUSING & COMMUNITY
DEVELOPMENT COMMITTEE

WHEREAS, on January 6, 2009, by Resolution No. 2009-007, the Modesto City Council reappointed Dana Culbertson to serve on the Citizens' Housing & Community Development Committee, and

WHEREAS, Dana Culbertson has expressed a desire to resign as he is unable to continue serving.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of the City, hereby expresses its sincere appreciation to Dana Culbertson for his service to the community and accepts his resignation.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Gunderson

ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:


SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-416

RESOLUTION ACCEPTING THE RESIGNATION OF JEANNIE MACDONALD
FROM THE CITY OF MODESTO'S HOUSING REHABILITATION LOAN
COMMITTEE

WHEREAS, on April 5, 2011, by Resolution No. 2011-109, the Modesto City Council reappointed Jeannie MacDonald to serve on the Housing Rehabilitation Loan Committee, and

WHEREAS, Jeannie MacDonald has expressed a desire to resign as she is unable to continue serving.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of the City, herby expresses its sincere appreciation to Jeannie MacDonald for her service to the community and accepts her resignation.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Gunderson

ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:


SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-417

A RESOLUTION APPROVING THE 2013 CITY COUNCIL MEETING
CALENDAR

BE IT HEREBY RESOLVED by the Council of the City of Modesto that the 2013 City Council Meeting Calendar, **attached** hereto as **Exhibit "A"**, is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Gunderson

ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:


SUSANA ALCALA WOOD, City Attorney

City Council Calendar 2013

January 2013

8th Council Meeting (regular)
 15th NO MEETING
 22nd Council Meeting (regular)
 29th NO MEETING – 5th Tuesday

February 2013

5th Council Meeting (regular)
 12th Council Meeting (regular)
 19th NO MEETING
 26th Council Meeting (regular)

March 2013

5th Council Meeting (regular)
 12th Council Meeting (regular)
 19th NO MEETING
 26th Council Meeting (regular)

April 2013

2nd CANCELLED*
 9th Council Meeting (regular)
 16th NO MEETING
 23rd Council Meeting (regular)

May 2013

7th Council Meeting (regular)
 14th Council Meeting (regular)
 21st NO MEETING
 28th Council Meeting (regular)

June 2013

4th Council Meeting (regular)
 11th Council Meeting (regular)
 18th NO MEETING
 25th Council Meeting (regular)

July 2013

2nd Council Meeting (regular)
 9th Council Meeting (regular)
 16th NO MEETING
 23rd NO MEETING
 30th NO MEETING – 5th Tuesday

August 2013

7th Council Meeting (special)**
 13th Council Meeting (regular)
 20th NO MEETING
 27th NO MEETING

September 2013

3rd Council Meeting (regular)
 10th Council Meeting (regular)
 17th NO MEETING
 24th Council Meeting (regular)

October 2013

1st Council Meeting (regular)
 8th Council Meeting (regular)
 15th NO MEETING
 22nd Council Meeting (regular)
 29th NO MEETING – 5th Tuesday

November 2013

6th Council Meeting (special) ***
 12th Council Meeting (regular)
 19th NO MEETING
 26th Council Meeting (regular)

December 2013

3rd Council Meeting (regular)
 10th Council Meeting (regular)
 17th CANCELLED per MMC 2-1.01
 24th CANCELLED per MMC 2-1.01

*April 2nd due to Spring Break

**August 7th Wednesday Meeting due to National Night Out on August 6th

*** November 6th Wednesday Meeting due to Election Day on November 5th

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-418**

**A RESOLUTION APPROVING AN AGREEMENT WITH THE SALVATION
ARMY TO CONSTRUCT IMPROVEMENTS AND GRANT REVOCABLE
LICENSE, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE,
TO EXECUTE THE AGREEMENT**

WHEREAS, on October 26, 2006, the City of Modesto Board of Zoning Adjustment, by Resolution No. 2006-22, granted a conditional use permit to the Salvation Army to allow a homeless shelter on the property located at 320 Ninth Street, Modesto, and

WHEREAS, in connection with improvements to the homeless shelter, the City requires the Salvation Army to provide for the storm drainage runoff, and

WHEREAS, due to the limitations of the site, storm drainage options are expensive, and

WHEREAS, the Salvation Army does not have funds budgeted for storm drain improvements, and

WHEREAS, the Salvation Army requested an exemption to use a portion of the adjacent City property located on D Street to retain storm water, and

WHEREAS, the Board of Zoning Adjustment, by Resolution No. 2006-22, required the installation a fence along the property line abutting the alley prior to occupancy, and

WHEREAS, in order to improve circulation of delivery vehicles on the east side of the building, the Salvation Army desires to use a portion of the City's adjacent property located on D Street, and

WHEREAS, the Agreement requires the Salvation Army to install "No Parking" signs to prohibit parking within the portion of the City property used as the off-site Storm Drainage System, and authorizes the Salvation Army to construct a fence on the City property, and

WHEREAS, the Agreement also outlines the requirements for maintaining the improvements, removal of the improvements, and the required surety bonds that the Salvation Army must furnish the City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with the Salvation Army to Construct Improvement and Grant Revocable License.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Gunderson

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-419**

RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE FURNISHING OF MATERIAL HAULING SERVICES FOR THE DEPARTMENT OF PUBLIC WORKS, STREETS DIVISION AND WATER DIVISION, TO DESTINATION ANYWHERE, INC., TRACY, CA, AS "PRIMARY" CONTRACTOR, GCU TRUCKING, INC., OAKDALE, CA, AS "SECONDARY" CONTRACTOR, AND BOB HARKRADER & SONS TRUCKING, INC., CERES, CA, AS "THIRD" CONTRACTOR, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE PURCHASE AGREEMENTS FOR AN ESTIMATED ANNUAL COST OF \$83,650

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the furnishing of material hauling services, and

WHEREAS, the Purchasing Division issued RFB No. 1112-34 Material Hauling Services to seven (7) prospective bidders, three (3) of which were local vendors, posted the RFB on the City's website and formally advertised as required by law, and

WHEREAS, bids were formally opened in the City Clerk's Office. Three (3) companies choose to respond, none of which were local vendors. All three (3) companies provided responsive and responsible bids, and

WHEREAS, in order to ensure continued services to the City, contracts shall be 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, and

WHEREAS, based on providing responsive and responsible bids, City staff recommends the award of bid for the furnishing of material hauling services for the Department of Public Works, Streets Division and Water Division, to Destination Anywhere, Inc., Tracy, CA as “primary” contractor, GCU Trucking, Inc., Oakdale, CA as “secondary” contractor, and Bob Harkrader & Sons Trucking, Inc., Ceres, CA as “third” contractor, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. The award of bid for the furnishing of material hauling services for the Department of Public Works, Streets Division and Water Division, to Destination Anywhere, Inc., Tracy, CA as “primary” contractor, GCU Trucking, Inc., Oakdale, CA as “secondary” contractor, and Bob Harkrader & Sons Trucking, Inc., Ceres, CA as “third” contractor, conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted in Fiscal Year 2012-13 for the furnishing of material hauling services in Appropriation Units: 1700-53130-53100, 4100-55050-5330 and 4100-55080-5330.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid for the furnishing of material hauling services for the Department of Public Works, Streets Division, to Destination Anywhere, Inc., Tracy, CA as “primary” contractor, GCU Trucking, Inc., Oakdale, CA as “secondary” contractor, and Bob Harkrader & Sons Trucking, Inc., Ceres, CA as “third” contractor.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue purchase agreements for an estimated annual cost of \$83,650.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Lopez, Muratore,
Mayor Muratore

NOES: Councilmembers: None

ABSENT: Councilmembers: Gunderson

ATTEST: Stephanie Lopez
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-420**

RESOLUTION AUTHORIZING THE AWARD OF CONTRACT FOR THE PURCHASE AND INSTALLATION OF A PARKING ACCESS AND REVENUE CONTROL SYSTEM (PARCS) FOR THE PUBLIC WORKS DEPARTMENT, MODESTO CITY/COUNTY AIRPORT, BY ACCESSING THE TERMS OF A COMPETITIVELY BID CONTRACT OF THE CITY OF MODESTO, TO AMANO MCGANN INC., SACRAMENTO, CA, FOR AN ESTIMATED TOTAL COST OF \$71,806

WHEREAS, on September 6, 2011, Council authorized the creation of a paid parking option at the Modesto City/County Airport, Resolution 2011-382, and established a \$5.00 per day parking fee for those using the alternative parking lot, and

WHEREAS, staff is recommending award to Amano McGann, Inc., for the PARCS System. Amano McGann, Inc., was previously awarded a contract, Council Resolution 2010-076, to provide PARCS for the City's three (3) parking garages. The Modesto City/County Airport PARCS system will be connected to the existing PARCS system for consistency and support from the Parking Services Division, and

WHEREAS, The Modesto Municipal Code (MMC), Section 8-3.203, generally requires all purchases, which meet or exceed \$50,000.00 for material, equipment or contractual services to be formally bid. However, there are exceptions to the rule set forth in the Modesto Municipal Code. One exception, MMC 8-3.204 (d), is available where the Purchasing Manager, in his discretion, determines that a process other than the usual formal bid procedure set forth in Section MMC 8-3.203 will result in procurement for the City at the lowest possible cost commensurate with the desired quality. Acting within his discretion, the Purchasing Manager invoked that exception for this purchase, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2012/13 in the following appropriation unit: 4320-59999-57970-100433.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of contract for the purchase and installation of a Parking Access and Revenue Control System (PARCS) for the Public Works Department, Modesto City/County Airport, by accessing the terms of a competitively bid contract of the City of Modesto, to Amano McGann Inc., Sacramento, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase order for an estimated total cost of \$71,806.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Gunderson

ATTEST: 
STEPHANIE LOPEZ, City/Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-421**

**A RESOLUTION RESCINDING MODESTO CITY COUNCIL RESOLUTION
NO. 2009-223**

WHEREAS, on May 26, 2009, the City Council, by Resolution No. 2009-223, approved the sole brand procurement of Accu-Tab S1 3" Calcium Hypochlorite tablets for the Public Works Department, Water Operations Division, to Clear Solutions West, Atwater, CA, for an estimated annual amount of \$70,000, and a total cost over five (5) years of \$350,000, and authorized the Purchasing Manager, or his designee, to issue a purchase agreement for two (2) years with three (3) one-year extension options, at the sole discretion of the City, and

WHEREAS, on June 14, 2012, PPG Industries, (PPG), the manufacturer of Accu-Tab calcium hypochlorite tablets and systems, severed their business relationship with their authorized Northern California distributor, Clear Solutions West, Atwater, CA, and

WHEREAS, on August 14, 2012, PPG Industries, Inc., provided a proposal to sell tablets and systems direct to the City of Modesto and honor current pricing,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby rescinds Resolution No. 2009-223, effective upon adoption of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Gunderson

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALACCLA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-422**

**A RESOLUTION RESCINDING MODESTO CITY COUNCIL RESOLUTION
NO. 2012-61**

WHEREAS, on February 14, 2012, the City Council, by Resolution No. 2012-61, approved the sole brand procurement of Accu-Tab PowerPro Chlorination Systems for the Public Works Department, Water Operations Division, from Clear Solutions West, Atwater, CA, for an annual cost not to exceed \$100,000, and a total cost over five (5) years of \$500,000, and authorized the Purchasing Manager, or his designee, to issue a purchase agreement for one year with four (4) one-year extension options, at the sole discretion of the City, and

WHEREAS, on June 14, 2012, PPG Industries, (PPG), the manufacturer of Accu-Tab calcium hypochlorite tablets and systems, severed their business relationship with their authorized Northern California distributor, Clear Solutions West, Atwater, CA, and

WHEREAS, on August 14, 2012, PPG Industries, Inc., provided a proposal to sell tablets and systems direct to the City of Modesto and honor current pricing.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby rescinds Resolution No. 2012-61, effective upon adoption of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Gunderson

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-423**

**A RESOLUTION AUTHORIZING THE AWARD OF A SOLE SOURCE
PROCUREMENT FOR THE PURCHASE AND DELIVERY OF ACCU-TAB
CALCIUM HYPOCHLORITE TABLETS, ACCU-TAB POWERPRO
CHLORINATION SYSTEMS AND RELATED EQUIPMENT, FOR THE PUBLIC
WORKS DEPARTMENT, WATER OPERATIONS DIVISION, TO PPG
INDUSTRIES, MONROEVILLE, PA**

WHEREAS, the Public Works Department, Water Operations Division, has two (2) contracts approved by Council, for the purchase of Accu-tab calcium hypochlorite tablets and Accu-tab Chlorination Systems. The contracts are for the purchase of chlorine tablets and the systems to deliver chlorine to various water well sites. The contracts were issued to the authorized distributor for Accu-Tab products, Clear Solutions West, Atwater, CA, and

WHEREAS, on June 14, 2012, PPG Industries, (PPG), the manufacturer of Accu-Tab calcium hypochlorite tablets and systems, severed their business relationship with their authorized Northern California distributor, Clear Solutions West, Atwater, CA, and

WHEREAS, PPG will provide the Accu-tab calcium hypochlorite tablets and Accu-tab Chlorination Systems direct to their customers and will not use a distributor at this time, and

WHEREAS, PPG has provided a proposal to sell tablets and systems direct to the City of Modesto and honor current pricing, and

WHEREAS, PPG will also provide spare equipment for all warranty issues previously supported by Clear Solutions West, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. However, there are exceptions to the rule set forth in the Modesto

Municipal Code. MMC Section 8-3.204(b) states, "Where the Purchasing Agency's requirements can be met solely by a single article or process." The sole source procurement for the purchase of PPG tablets and systems conforms to the Modesto Municipal Code,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the sole source procurement for the purchase and delivery of Accu-Tab Calcium Hypochlorite tablets, Accu-Tab Powerpro Chlorination Systems and related equipment, for the Public Works Department, Water Operations Division, to PPG Industries, Monroeville, PA, for a one-year agreement, with four (4) one-year extension options at the sole discretion of the City.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase agreement for an estimated annual cost of \$170,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Gunderson

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)
APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-424**

RESOLUTION APPROVING THE RELEASE OF FUNDS IN THE AMOUNT OF \$165,000 TO PURCHASE AND REHABILITATE REAL PROPERTY WHICH IS LOCATED AT 2513 PESCADERO PLACE TO BE CARRIED OUT BY THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS (HACS) AND AUTHORIZE THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN LOAN DOCUMENTS AND ALL RELATED CLOSING DOCUMENTS

WHEREAS, on January 26, 2012 a Special Council Study/Workshop session was held to outline a plan to move forward with expending the remaining NSP2 funds in the NSP2 General Acquisition and Rehabilitation activity, and

WHEREAS, on March 13, 2012, by Resolution 2012-104, Council approved the updated NSP2 Guidelines which included approving the HACS as the sub-recipient to expend the remaining NSP2 funds, and

WHEREAS, on September 4, 2012, City Council, by Resolution No. 2012-361, approved a NSP2 Memorandum of Understanding (MOU) with the HACS to expend the remaining funds budgeted in the NSP2 "General Acquisition and Rehabilitation" activity to not exceed \$2 million, and

WHEREAS, on September 4, 2012, by Resolution No. 2012-362, City Council approved all "boilerplate" loan agreement for the purchase and rehabilitation of 2513 Pescadero Place, and

WHEREAS, the CH&CDC sub-committee recommended the property acquisition and rehabilitation loan for real property located at 2513 Pescadero Place at its September 27, 2012 meeting, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the release of funds in the amount of \$165,000 to purchase and

rehabilitate real property which is located at 2513 Pescadero Place to be carried out by the Housing Authority of the County of Stanislaus that City.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute the loan documents and related closing documents for the release of funds.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Lopez, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Gunderson, Muratore

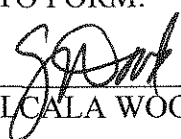
ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:


SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-425**

RESOLUTION APPROVING THE RELEASE OF FUNDS IN THE AMOUNT OF \$165,000 TO PURCHASE AND REHABILITATE REAL PROPERTY WHICH IS LOCATED AT 1421 ENTRADA WAY TO BE CARRIED OUT BY THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS (HACS) AND AUTHORIZE THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN LOAN DOCUMENTS AND ALL RELATED CLOSING DOCUMENTS

WHEREAS, on January 26, 2012 a Special Council Study/Workshop session was held to outline a plan to move forward with expending the remaining NSP2 funds in the NSP2 General Acquisition and Rehabilitation activity, and

WHEREAS, on March 13, 2012, by Resolution 2012-104, Council approved the updated NSP2 Guidelines which included approving the HACS as the sub-recipient to expend the remaining NSP2 funds, and

WHEREAS, on September 4, 2012, City Council, by Resolution No. 2012-361, approved a NSP2 Memorandum of Understanding (MOU) with the HACS to expend the remaining funds budgeted in the NSP2 "General Acquisition and Rehabilitation" activity to not exceed \$2 million, and

WHEREAS, on September 4, 2012, by Resolution No. 2012-362, City Council approved all "boilerplate" loan agreements for the purchase and rehabilitation of 1421 Entrada Way, and

WHEREAS, the CH&CDC sub-committee recommended the property acquisition and rehabilitation loan for real property located at 1421 Entrada Way at its meeting, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the release of funds in the amount of \$165,000 to purchase and

rehabilitate real property which is located at 1421 Entrada Way to be carried out by the Housing Authority of the County of Stanislaus that City.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute the required documents for the release of funds.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Lopez, Mayor Marsh
NOES: Councilmembers: None
ABSENT: Councilmembers: Gunderson, Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-426**

RESOLUTION ACCEPTING THE WORK BY K.J. WOODS CONSTRUCTION, INC., FOR THE "PRIMARY OUTFALL REHABILITATION PROJECT - PHASE II" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER UPON RECEIPT OF APPROVED WARRANTY BOND, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING \$6,560,631

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the Primary Outfall Rehabilitation Project – Phase II has been completed by K.J. Woods Construction, Inc., in accordance with the contract agreement dated September 6, 2011,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Primary Outfall Rehabilitation Project – Phase II is hereby accepted as complete from said contractor K.J. Woods Construction, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder upon receipt of approved Warranty Bond, and that payment of amounts totaling \$6,560,631 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Gunderson

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-427**

RESOLUTION APPROVING A UTILITY AGREEMENT BETWEEN THE CITY OF MODESTO AND COUNTY OF STANISLAUS FOR THE KIERNAN AVENUE WATER MAIN EXTENSION PROJECT, IN AN AMOUNT NOT TO EXCEED \$148,600, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the County of Stanislaus (County) intends to construct major improvements to the interchange at State Route 99 (SR99) and State Route 219 (SR219) (Kiernan Avenue) in the community of Salida, and

WHEREAS, the City of Modesto owns and maintains existing waterlines within the limits of the County's project, and

WHEREAS, as part of the interchange project, the County will replace the City's existing 8-inch water main with approximately 590 feet of new 16-inch pipeline, within the SR219 bridge crossing over SR99, to increase flow capacity and reliability of the Salida water system, and

WHEREAS, under the provisions of State Government Code, the County is responsible for costs to replace the existing 8-inch water line within the bridge since it will be directly impacted by the interchange project, and

WHEREAS, the City will be responsible for the additional cost to increase the pipeline size to 16 inches, and

WHEREAS, the estimated cost to install a new 16-inch pipeline is \$261,635, and the estimated cost to install a replaced 8-inch pipeline is \$113,035, and

WHEREAS, the City will be responsible for an estimated \$148,600, which is the difference between the estimated costs of the replaced 8-inch and the new 16-inch pipelines, and

WHEREAS, a Utility Agreement is necessary to clearly outline the responsibilities of both the City and the County for installation of the new 16-inch bridge waterline, and

WHEREAS, the draft Agreement was presented by County staff to the Stanislaus County Board of Supervisors at their regular meeting on July 24, 2012, and

WHEREAS, Board Action 2012-387 was approved, which authorized the County Director of Public Works to execute a future Utility Agreement with the City of Modesto for installation of the new 16-inch water pipeline, and

WHEREAS, City staff recommends approving a Utility Agreement with County of Stanislaus to replace the existing water pipeline with a 16-inch water pipeline within the Kiernan Avenue (SR219) bridge over SR99,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Utility Agreement between the City of Modesto and County of Stanislaus for the Kiernan Avenue Water Main Extension project, in an amount not to exceed \$148,600.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Gunderson

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-428**

RESOLUTION APPROVING THE REVISED EXPENDITURE PLAN FOR THE NEIGHBORHOOD STABILIZATION PROGRAM FOR THE ADDITION OF 29 UNITS OF NEW SENIOR/SPECIAL NEEDS HOUSING, AND A REDUCTION OF THE TOTAL FUNDING ALLOCATION TO THE EMANCIPATED FOSTER AND HOMELESS YOUTH PROGRAM AND AUTHORIZE STAFF TO PREPARE ALL NECESSARY AND SPECIFIC DOCUMENTATION REQUIRED TO ENACT THIS PLAN

WHEREAS, on January 26, 2012 a Special Council Study/Workshop session was held to outline a plan to move forward with expending the remaining NSP2 funds in the NSP2 General Acquisition and Rehabilitation activity, and

WHEREAS, on March 13, 2012, by Resolution 2012-104, Council approved the updated NSP2 Guidelines which included approving the HACS as the sub-recipient to expend the remaining NSP2 funds, and

WHEREAS, on September 4, 2012, City Council, by Resolution No. 2012-361, approved a NSP2 Memorandum of Understanding (MOU) with the HACS to expend the remaining funds budgeted in the NSP2 "General Acquisition and Rehabilitation" activity to not exceed \$2 million, and

WHEREAS, in an effort to ensure that the NSP2 expenditure deadline is met PRND staff were presented with an opportunity to revive two previously approved projects that have been placed on hold due to lack of funding, and

WHEREAS, together with HUD TA, staff proposed adjustments to the NSP Expenditure Plan which includes the amendment of the HACS NSP2 and NSP3 MOUs to include NSP Eligible Use E – Redevelopment in order to create 11 units of new affordable senior housing on Downey Avenue in addition to the existing Housing Authority Acquisition and Rehabilitation Activities, and

WHEREAS, the HACS will utilize a not to exceed \$700,000 in NSP2 funds to acquire the two parcels (416 Downey from the Redevelopment Successor Agency and 412 Downey from CDBG) as well as completing the “pre-development” process, and

WHEREAS, of the \$700,000, \$584,000 will come from acquisition and rehabilitation activity and \$116,000 will come from the unneeded funds from the EFY&HY activity, and

The HACS previously approved allocation of NSP3 funds will remain the same (not to exceed \$998,395). This funding will be used for the construction of the project.

Any additional funds required to complete the project will be paid for by the HACS.

Adding this activity (new development) to the eligible uses will likely result in four (4) to five (5) fewer units being completed in the acquisition and rehabilitation pool, however this project will leverage 11 multi-family units of senior housing.

WHEREAS, the Revised Expenditure Plan also includes the City of Modesto entering into an MOU with STANCO to utilize Eligible Use E – Redevelopment under the NSP2 program in order to complete a previously approved HOME project “Bennett Place” that has also been on hold due to lack of funding, and.

WHEREAS, in order to accomplish this goal, PRND staff recommend the City of Modesto enter into an MOU with STANCO to utilize Eligible Use E – Redevelopment (better known as new construction) under the NSP2 program, and

WHEREAS, in order for the project to be successful an allocation of \$700,000 in NSP2 funds is necessary for predevelopment activities, and

WHEREAS, this funding will come from undistributed funds initially allocated for SCAP/CICV and funds that are not needed in the development of Meadow Glen, the 32 unit EFY&HY activity, and

WEHRAS, \$982,000 in additional funds will be needed and staff anticipates these funds to come from future NSP2 program income, and

WHEREAS, the Revised Expenditure Plan also recommends decreasing the total number of EFY&HY units and funding allocation, and

WHEREAS, the proposed Revised Expenditure Plan will increase the overall NSP2 unit count from 175 to 190 while completing two previously approved projects that have been dormant due to lack of funding, and

WHEREAS, PRND staff will return to Council on November 13, 2012 with all necessary and specific documentation required to enact the proposed Revised Expenditure NSP Plan including any MOU amendments, NSP Substantial Amendment, and all loan documentation, and

WHEREAS, on October 17, 2012 this action was recommended for Council approval by the Citizens' Housing and Community Development Committee.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Revised NSP Expenditure Plan and authorize staff to prepare all necessary and specific documentation required to enact this Plan.

BE IT FURTHER RESOLVED that staff will return to Council on November 13, 2012 with the required documents for Council review prior to implementing the Revised NSP Expenditure Plan.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Geer, Lopez, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Burnside, Gunderson, Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-429**

RESOLUTION FINDING THAT THE FOLLOWING SUBSEQUENT PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 2007072023): AMENDMENT TO PLANNED DEVELOPMENT ZONE, P-D(585), PROPERTY LOCATED ON THE WEST SIDE OF LINCOLN AVENUE NORTH OF POPPYPATCH DRIVE SOUTH OF PENNY LANE, 421 LINCOLN AVENUE (STANISLAUS COUNTY AFFORDABLE HOUSING CORPORATION)

WHEREAS, on October 14, 2008, the City Council of the City of Modesto certified the Final Master Environmental Impact Report (“Master EIR”) (SCH No. 2007072023) for the Modesto Urban Area General Plan, and

WHEREAS, Stanislaus County Affordable Housing Corporation has proposed an amendment to Planned Development Zone, P-D(585) to expand the uses to allow non-seniors in addition to seniors in a previously-approved 18-unit senior housing development, property located on the west side of Lincoln Avenue north of Poppypatch Drive and south of Penny Lane, and

WHEREAS, pursuant to Section 21157.1 of the Public Resources Code, the City of Modesto’s Community & Economic Development Department prepared an Environmental Assessment Initial Study EA/C&ED EA/C&ED 2008-09, (“Initial Study”) previously prepared for the original approval of P-D(585), which analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report, and

WHEREAS, in accordance with CEQA guidelines beginning on October 5, 2012, the City caused to be published a 20-day notice of the City's intent to make a finding that the subsequent project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on October 23, 2012, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study previously prepared for the original approval of P-D(585), a copy of which is **attached** hereto as **Exhibit "A"**, and incorporated herein by reference, and based on substantial evidence in the Initial Study makes the following findings:

1. An Initial Study was previously prepared by the City of Modesto that analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report.
2. The subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158 of the Public Resources Code that was not identified in the Master EIR.
3. No new or additional mitigation measures or alternatives are required.
4. The subsequent project is within the scope of the project covered by the Master EIR.
5. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Geer, Lopez, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Burnside, Gunderson, Muratore

ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:



SUSANA ALCALA WOOD, City Attorney

EXHIBIT A
Initial Study
EA/C&ED 2008-09

City of Modesto

**Finding of Conformance to
General Plan Master EIR:**

Initial Study C&ED No. (2008-09)

For the proposed:

**Rezone from R-2 to Planned Development Zone, P-D, to Facilitate
Development of a 18-Unit Senior Housing Project**

**Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division**

January 22, 2008

**City of Modesto
Master EIR Initial Study Checklist**

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master EIR. This Initial Study Checklist is used in determining whether the Planned Development Project is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 1999082041) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformity.

A subsequent project is "within the scope" of the Master EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and
2. no new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. (Public Resources Code Section 21158(d))

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (State CEQA Guidelines Section 15384)

II. PROJECT DESCRIPTION

- A. Title: Rezone from R-2 to P-D, Planned Development Zone to Facilitate Development of an 18 unit Senior Housing Project
- B. Address or Location: North side of Poppypatch Dr., west of Lincoln Ave, located at 421 Lincoln Ave.
- C. Applicant: STANCO, 201 E. Rumble Road, Ste. E Modesto, CA 95355
- D. City Contact Person: David Wage

Project Manager: David Wage
Department: Community and Economic Development Department
Phone Number: (209) 577-5267
E-mail address: dwage@modestogov.com

- E. Current General Plan Designations: "MU" Mixed Use
- F. Current Zoning Classification: Medium Density Residential, R-2
- G. Surrounding Land Uses: North: Medium Density Residential, R-2
South: Medium Density Residential, R-2
East: Medium Density Residential, R-2
West: Low Density Residential, R-1

- H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

The 36,000 square foot site (.83-acre) project site is currently zoned R-2, Medium Density Residential. There is an existing single family home on the site. The applicant is proposing to rezone the property to P-D, Planned Development Zone, to facilitate development of an 18 unit senior housing project. The units will be covenant restricted for "very low income seniors." The proposed development will include the addition of two residential single story buildings that will contain a total of eight one-bedroom units and ten studio units. The existing home will be redeveloped as a community center to serve the residents.

- I. Other Public Agencies Whose Approval is Required:

None.

III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

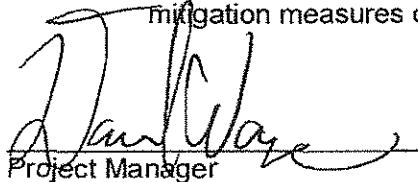
1. X **Within the Scope** - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. The following items are found to be true:
- A. The type of project is described in Chapter II of the Master EIR.
 - B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.
 - C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.
 - D. Based on the Initial Study, the City of Modesto finds and determines:
 - a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
 - b) No new or additional mitigation measures or alternatives are required.
 - E. The criteria for currency of the Master EIR were reviewed (section 5 below) and it was determined that the Master EIR is current for all areas of the Initial Study.

2. **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following items are found to be true:

- A. The type of project is described in Chapter II of the Master EIR.
- B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.
- C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

3. **Focused EIR Required**- On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. The following items are found to be true:

- A. The type of project is described in Chapter II of the Master EIR.
- B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.
- C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.


Project Manager

Assistant Planner
Title

January 22, 2008
Date

4. Within the Scope Analysis of this Document:

The Master EIR permits projects to be found within the scope of the MEIR if certain criteria are met. Basically, if the following statements are found to be true for all 20 sections of this Initial Study, then the project was covered by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

- | | YES | NO |
|---|-----|--------------------------|
| (1) The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR. | X | <input type="checkbox"/> |
| (2) City policies which reduce, avoid or mitigate environmental effects, will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template. | X | <input type="checkbox"/> |
| (3) Federal, State, Regional and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR). | X | <input type="checkbox"/> |
| (4) No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources. | X | <input type="checkbox"/> |
| (5) The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan. | X | <input type="checkbox"/> |
| (6) Development within the project will comply with all mitigation measures identified in the General Plan Master EIR. | X | <input type="checkbox"/> |

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed sections 1 through 20 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any "No" response must be discussed.

- | | YES | NO |
|---|-----|--------------------------|
| (1) Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project. | X | <input type="checkbox"/> |
| (2) This project was described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings: | X | <input type="checkbox"/> |
| (3) No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified. | X | <input type="checkbox"/> |
| (4) No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available. | X | <input type="checkbox"/> |

- (5) Policies remain in place that require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development. X

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is "within the scope" of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR. Adoption of a notice of conformity after completion of the Initial Study fulfills the City's obligation in that situation.

All environmental effects cited reflect year 2025 build-out of the Urban Area General Plan as identified in the MEIR.

The Master EIR for the General Plan organizes its analysis of environmental impacts into eighteen subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of cross-reference, the sections are numbered in the same order as the analyses in Chapter V.

In addition to the 18 Master EIR subject areas, the Initial Study checklist addresses the issues of land use/planning and aesthetics. The reason for including these additional issues is to ensure that consideration is being given to the full range of subjects of importance contained in Appendix G of the CEQA Guidelines. The format for the land use/planning and aesthetics sections differs from that of the other 18 subject areas since these two subjects were not addressed as distinct subjects in the Master EIR.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable traffic and circulation impacts within certain areas of the "Baseline Developed Area":

Effect: Increased traffic will result in certain roadway segments operating at LOS "D" or worse.

Effect: The substantial increase in traffic relative to the existing load and capacity of the street system will cause, violation, either individually or cumulatively, of a LOS standard established by the County CMP for designated roads and highways.

Effect: Creation of need for Capacity-enhancing modifications to existing facilities.

Effect: Increase in energy consumption associated with the operation of highway projects, rail improvements, and aviation facilities.

Effect: Severe contrast with existing neighborhood or area character caused by highway and transit projects.

DISCUSSION:

The proposed senior complex is compatible with the existing surrounding residential development located in this neighborhood. Because the project is consistent with the surrounding uses, the proposed project will not change to a level that will cause a change to the existing road capacities or levels of service.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Traffic and Circulation mitigation measures that may be pertinent to this project are found on MEIR pages V-1-15 through V-1-21. All feasible measures appropriate to the project – including any new measures - will be incorporated into or made conditions of approval of this project and will be listed in Section IV, *Mitigation Measures Applied to Project*.

c. Project-Specific Effects

Section V-1.B of the MEIR provides analysis of Traffic and Circulation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Significance Criteria: A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

- | | YES | NO |
|---|--------------------------|-------------------------------------|
| (1) Does the project contribute one hundred (100) or more peak hour trips to or from the site during the adjacent roadway's peak hour or the development's peak hour, to adjoining roads and generates more trips than assumed for their general plan land use category and zoning in the Master EIR. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Note:

If a project exceeds an additional one hundred (100) or more peak hour trips contribution, a site access study may be conducted to determine to what extent the project would exceed the year 2025 level of service (LOS) expected for the adjoining roadways under the Master EIR. The site access study would recommend new, project-specific mitigation measures. If the project also exceeds the Master EIR's traffic generation assumption, as determined by Engineering & Transportation staff, a comprehensive traffic study would be required that will include off-site traffic impact analysis.

- | | YES | NO |
|--|--------------------------|-------------------------------------|
| (2) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment). | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (3) Result in inadequate emergency access. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (4) Result in inadequate parking capacity. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

DISCUSSION:

- (1) Engineering and Transportation Staff reviewed the proposed project and have no comments pertaining to the project:
 - A. The proposed project will not generate traffic impacts to the adjacent roadways in excess of what was assumed under the MEIR. No traffic study is required.
 - B. A site access study is not required for this project.
- (2) The project will not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment). The City Engineering and Traffic Department has evaluated the project and has determined that the existing design layout of the project is in accordance to City standards.
- (3) Police and Fire Staff have reviewed this proposal and have indicated that there is no emergency access problem.
- (4) The proposed Senior Complex is parked at on-site space per-unit (18 spaces) which is adequate for the proposed project and consistent with past precedent for senior projects in the City of Modesto.

2. AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to air quality:

Effect: Projected City traffic levels will result in increased ambient carbon monoxide (CO) levels in the project area. *This is a significant and unavoidable impact.*

Effect: Projected City traffic levels will result in increased ROG and NOX levels in the project area. *This is a significant and unavoidable impact.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Air Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-2-11 through V-2-18 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

Mitigation Measures appropriate to this project include: AQ-17

c. Project-Specific Effects

Section V-2.B of the MEIR provides analysis of Air Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

- | | | YES | NO |
|-----|--|--------------------------|----|
| (1) | The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) adopted CEQA Guidelines. | <input type="checkbox"/> | X |
| (2) | The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD. | <input type="checkbox"/> | X |
| (3) | The project does not comply with the air quality policies of the Modesto Urban Area General Plan. | <input type="checkbox"/> | X |
| (4) | The project would expose sensitive receptors to substantial pollutant concentrations. | <input type="checkbox"/> | X |
| (5) | The project would create objectionable odors affecting a substantial number of people. | <input type="checkbox"/> | X |

DISCUSSION:

- (1) The project was referred to the San Joaquin Valley Unified Air Pollution Control District who determined that the project would not have a significant effect on the ambient air quality.
- (2) This project does incorporate the best management practices for PM10 reduction established by the SJVUAPD (see mitigations measures above).
- (3) Applicable General Plan Policies will be applied to the project. Therefore, project-specific effects will be less than significant for this impact (see mitigations measures above).
- (4) The project is not a significant contributor to pollution levels. PM10 emissions created through any construction will be mitigated as called for by the MEIR by the measures listed above.
- (5) The proposed project will not produce objectionable odors.

3. NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable environmental impacts relative to noise:

Effect: Traffic noise levels for future conditions in the plan area have the potential to result in an excess of the City's Noise Significance Standards.

Effect: Noise level projections based on the traffic levels anticipated in the General Plan indicate that noise will exceed the City's General Plan and noise ordinance standards.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-10 through V-3-15 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

Mitigation Measures appropriate to this project include: N-4, N-5 and N-6.

c. Project-Specific Effects

Section V-3.B of the MEIR provides analysis of noise impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

- | | | YES | NO |
|-----|--|--------------------------|----|
| (1) | The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance. | <input type="checkbox"/> | X |
| (2) | The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan. | <input type="checkbox"/> | X |
| (3) | The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? | <input type="checkbox"/> | X |
| (4) | The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project. | <input type="checkbox"/> | X |

DISCUSSION:

- (1) The City's noise policy is incorporated into the conditions of approval as a mitigation measure.
- (2) The project is consistent with the noise policies of the General Plan. The noise mitigation measures called for by the General Plan for projects within the baseline-developed area are incorporated into the conditions of approval for the project.
- (3) The only permanent noise levels produced by the project would be associated with traffic. The increased traffic levels are within the scope of what the MEIR assumed for the site. Therefore, this project will not result in a substantial permanent increase in ambient noise levels.
- (4) The project will not result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity. There will be some construction related noise, but the noise mitigation measures called for by the General Plan for projects within the baseline developed area, are incorporated into the conditions of approval for the project.

4. AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to agricultural lands:

Effect: Development within the urbanized Baseline Developed Area and Redevelopment Area will have a less-than-significant impact on agricultural lands.

Effect: Conversion of agricultural land will occur as available developable land is occupied within the City. This is a significant and unavoidable impact.

Effect: Growth within Modesto’s planning area would contribute considerably to the loss of agricultural land within Stanislaus County. This is a significant and unavoidable cumulative impact.

DISCUSSION:

The site is not zoned for agriculture or designated on the General Plan for future agricultural use. The proposed project will not affect areas zoned for agriculture or designated on the General Plan for future agricultural use. The project is an infill development and the surrounding properties are located within a fully developed urbanized area.

b. Master EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural Land mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-4-7 and V-4-8 MEIR. All feasible measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-4.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

- | | YES | NO |
|--|--------------------------|---------------------------------------|
| (1) The project is inconsistent with the Modesto Urban Area General Plan. | <input type="checkbox"/> | <input checked="" type="checkbox"/> X |
| (2) The project will directly result in the development of land outside the March 2003 planning area boundaries. | <input type="checkbox"/> | <input checked="" type="checkbox"/> X |
| (3) The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract. | <input type="checkbox"/> | <input checked="" type="checkbox"/> X |

- (4) The project will involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use. X

DISCUSSION:

- (1) The project is consistent with the General Plan land use policies. It is an infill project, proposed within the urbanized area of the City. There are no agricultural parcels affected by the proposal and no agricultural and will be converted.
- (2) The project is within the Baseline-Developed area of the City and therefore will not result in the development of land outside the March 2003 planning area boundaries.
- (3) The project site is not zoned for agriculture nor is it under Williamson Act contract.
- (4) The project will not involve changes to the existing environment that could result in the conversion of farmland to non-agricultural uses. The project is completely surrounded by urbanized land.

5. WATER SUPPLY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to water supply:

Effect: Urban Area General Plan policies are established to limit groundwater extractions to the safe yield of the aquifer and thereby avoid aquifer over drafting. In addition, the UWMP requires that new urban development would proceed in conjunction with the availability of water supplies and distribution facilities. It is assumed that increased entitlement of surface water supplies such as a water transfer from another water purveyor would undergo independent environmental review pursuant to CEQA. *This is a less-than-significant impact.*

Effect: Development to the future projected City population would require expansion of the MRWTP to its full 60 mgd capacity, development of additional groundwater wells, and construction of additional water distribution and treatment facilities. Construction of some of the required facilities would most likely require site-specific environmental impact assessments to be conducted under CEQA. *Consequently, the potential environmental impacts of the Urban Area General Plan are considered less-than-significant.*

Effect: During drought years, despite available options, significant water shortages are forecast for the San Joaquin River basin by the year 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions. *This is a significant and unavoidable cumulative impact.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Water Supply mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-5-7 through V-5-8 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-5.B of the MEIR provides analysis of Water Supply impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

- | | YES | NO |
|---|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan. | <input type="checkbox"/> | X |
| (2) Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed. | <input type="checkbox"/> | X |

DISCUSSION:

- (1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity. The Mixed-Use General Plan designation allows a "recommended intensity of 14 dwelling units per acre," for the subject mixed use area. The Mixed-use area which surrounds the subject property is currently developed at density of 7.8 units per acre. The Mixed-use area could reach a density of 10.4 units per acre, assuming the build out of all undeveloped properties in the Mixed-use area at the maximum density. The proposed project will not result in a density greater than what is permitted in the General Plan for a Mixed-use area. The project is consistent with the General Plan.
- (2) The project was referred to Engineering and Transportation for comment and there was no determination that there is insufficient capacity to serve the project.

6. SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sanitary sewer services:

Effect: The City has already begun to implement the provisions of the Wastewater Master Plan (WMP) to meet future demand for sanitary sewer services. As City wastewater treatment facilities are expanded to meet the needs of the Baseline Developed, Redevelopment, and Planned Urbanizing Areas, the City will obtain the necessary wastewater discharge and NPDES permits from the Central Valley RWQCB, as required under Urban Area General Plan Policy V-D.2(a). Implementing the WMP, requirement of Best Management Practices for post-construction activities, as well as the Urban Area General Plan policy cited above, will avoid violation of wastewater discharge requirements. *As a result, this impact would be less-than-significant.*

Effect: The City has adopted the WMP specifically to ensure that sewer capacity will match the level of growth projected by the Urban Area General Plan. Development within the Baseline

Developed and the Planned Urbanizing Areas that is consistent with the Urban Area General Plan will not have a significant effect on capacity. Urban Area General Plan Policy III-D.1(d) will ensure that development in the Planned Urbanizing Area will fund the necessary improvements. *This is a less-than-significant impact.*

Note on the WMP Master EIR. The WMP Master EIR identified a number of impacts and mitigation measures. Its mitigation measures have been adopted by the City and are being implemented by the City under the WMP. Those impacts are being independently addressed under that Master EIR and do not need to be considered under this Initial Study. Refer to the WMP Master EIR for details.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Sewer Service mitigation measure(s) pertinent to the project being analyzed in this Initial Study, are found on pages V-6-4 through V-6-7 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-6.B of the MEIR provides analysis of Sanitary Sewer Service impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

- | | YES | NO |
|---|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan. | <input type="checkbox"/> | X |
| (2) The project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments. | <input type="checkbox"/> | X |

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity. The Mixed-Use General Plan designation allows a "recommended intensity of 14 dwelling units per acre," for the subject mixed use area. The Mixed-use area which surrounds the subject property is currently developed at density of 7.8 units per acre. The Mixed-use area could reach a density of 10.4 units per acre, assuming the build out of all undeveloped properties in the Mixed-use area at the maximum density. The proposed project will not result in a density greater than what is permitted in the General Plan for a Mixed-use area. The project is consistent with the General Plan.

(2) The project was referred to Engineering and Transportation for comment and there was no indication that there is insufficient capacity to serve the project.

7. SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sensitive wildlife and plant habitat:

Effect: Although many sensitive species live in riparian habitats within the planning area, the policies of the plan will ensure that impacts of the Urban Area General Plan will be less-than-significant.

Effect: Requiring higher residential density than the suburban norm and a compact pattern of growth within the designated planning area to the year 2025 will minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Wildlife and Plant Habitat mitigation measure pertinent to the project being analyzed in this Initial Study are found on pages V-7-19 through V-7-21. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project regarding sensitive wildlife and plant habitat. The project site is not a biologically sensitive site as defined by Figures V-7-1a through V-7-1e of the MEIR.

c. Project-Specific Effects

Section V-7.B of the MEIR provides analysis of Wildlife and Plant Habitat impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

- | | YES | NO |
|---|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan. | <input type="checkbox"/> | X |
| (2) Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species. | <input type="checkbox"/> | X |
| (3) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. | <input type="checkbox"/> | X |

DISCUSSION:

- (1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

- (2) The project site is not a biologically sensitive site as defined by Figures V-7-1a through V 7-1e of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.
- (3) There is no conflict with any local policies or ordinances protecting biological resources.

8. ARCHAEOLOGICAL OR HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to archaeological or historical sites:

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.

Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

Effect: The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. This would be a less-than-significant impact with the imposition of new mitigation measure Cultural-1.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Archaeological or Historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-13 and V-8-14 MEIR.

DISCUSSION:

Mitigation Measures applicable to this project include: AH-8, Master EIR.

c. Project-Specific Effects

Section V-8.B of the MEIR provides analysis of Archaeological/Historical impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

- | | | |
|---|--------------------------|----|
| | YES | NO |
| (1) The project is inconsistent with the Modesto Urban Area General Plan. | <input type="checkbox"/> | X |
| (2) The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site. | <input type="checkbox"/> | X |

DISCUSSION:

- (1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

- (2) The project would not adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site. The mitigation measure called for by the General Plan is incorporated into the conditions of approval for the project.

9. STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to storm drainage:

Effect: The potential impacts on storm water drainage that could occur from the project were qualitatively evaluated with respect to several factors including: extent of the projected increase in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions; regulatory criteria and guidelines; and professional judgment. Because the Urban Area General Plan includes policies that require new development in all three sections of the planning area to install approved drainage facilities, the potential impacts of the Urban Area General Plan on storm water drainage are considered *less-than-significant*.

Effect: The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious areas and associated urban storm water drainage. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. *This cumulative impact is considered significant and unavoidable.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8.

DISCUSSION:

Mitigation measures appropriate to this project include: SD-7, MEIR. This mitigation measure is addressed by conditions of approval.

c. Project-Specific Effects

Section V-9.B of the MEIR provides analysis of Storm Drainage impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

- | | YES | NO |
|--|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan. | <input type="checkbox"/> | X |
| (2) The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite. | <input type="checkbox"/> | X |
| (3) Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff. | <input type="checkbox"/> | X |

DISCUSSION:

- (1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity. The Mixed-Use General Plan designation allows a "recommended intensity of 14 dwelling units per acre," for the subject mixed use area. The Mixed-use area which surrounds the subject property is currently developed at density of 7.8 units per acre. The Mixed-use area could reach a density of 10.4 units per acre, assuming the build out of all undeveloped properties in the Mixed-use area at the maximum density. The proposed project will not result in a density greater than what is permitted in the General Plan for a Mixed-use area. The project is consistent with the General Plan.
- (2) The project does not propose to increase the impervious surface, the residential development already exists. The project will meet the standards contained in the "Guidance Manual for New Development-Storm Water Quality Control Measures," adopted by the City as required by the above-listed mitigation measures.
- (3) The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to flooding and water quality:

Effect: Increased runoff can accelerate soil erosion, stream channel scouring, and sedimentation of channels, and also increase pollutant transport to waterways. The potential impacts of the project on flooding are considered less-than-significant because the Urban Area General Plan Update includes policies to restrict development in the floodplain and therefore would avoid exposing persons and property to flood hazards. In addition, new development under the Urban Area General Plan is required to install storm water drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions.

Effect: The potential impacts of the project on surface-water quality are considered less-than-significant because the City policies and capital improvement projects for storm water drainage facilities would minimize discharges of urban pollutants to natural waterways. The City drainage program policies require new development to prepare drainage plans and implement urban

runoff control measures; larger Specific Plan developments must have storm drainage systems designed to control pollutant runoff. The City's implementation policies for the municipal NPDES storm water permit require new development to implement an appropriate selection of permanent pollution control measures. Permanent erosion control measures such as seeding and planting vegetation for new cut-and-fill slopes, directing runoff through vegetation, or otherwise reducing the offsite discharge of particulates and sediment are the most effective method of controlling offsite discharges of urban pollutants.

Effect: The City's future development will contribute to cumulative water quality effects. EPA regulations for NPDES storm water permits and new proposed regulatory additions to the rules have become much more comprehensive in recent years and are being implemented to reduce pollutant runoff from both large- and small-scale activities. Implementation of NPDES-permitting programs throughout the county will reduce potential water-quality impacts to a less-than-significant level.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Flooding and Water Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-10-7 through V-10-10 MEIR. All feasible measures appropriate to the project have been incorporated into the conditions of approval.

DISCUSSION:

Mitigation measures appropriate to this project include: FWQ-14, MEIR. This mitigation measure is addressed by conditions of approval.

c. Project-Specific Effects

Section V-10.B of the MEIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2) The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	<input type="checkbox"/>	X
(3) The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures.	<input type="checkbox"/>	X
(4) The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	<input type="checkbox"/>	X

DISCUSSION:

- (1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity. The Mixed-Use General Plan designation allows a "recommended

intensity of 14 dwelling units per acre," for the subject mixed use area. The Mixed-use area which surrounds the subject property is currently developed at density of 7.8 units per acre. The Mixed-use area could reach a density of 10.4 units per acre, assuming the build out of all undeveloped properties in the Mixed-use area at the maximum density. The proposed project will not result in a density greater than what is permitted in the General Plan for a Mixed-use area. The project is consistent with the General Plan.

- (2) The project would comply with the Federal Clean Water Act and the Porter Cologne Act requirements.
- (3) The project will comply with the Guidance Manual for New Development Storm Water Quality Control Measures.
- (4) The project would not create or contribute to runoff water in excess of the capacity of existing or planned storm water drainage systems or provide additional sources of polluted runoff.

11. PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to parks and open space:

Effect: Within the Baseline Developed and Redevelopment Areas, the Urban Area General Plan does not propose any elimination of existing park and/or open space land. *Impacts on parks and open space will be less-than-significant.*

Effect: The projected population of the Planned Urbanizing Area is 148,600, requiring 149 acres of neighborhood parks and 298 acres of community parks. The required minimum acreages can be met through the application of existing policies and regulations, including Government Code Section 66474, which require developers to pay Parks Capital Facilities Fees to fund the acquisition of appropriate parkland acreage. *This impact is less-than-significant.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Parks and Open Space Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-11-4 through V-11-19 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project, are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project. It is not near any of the riparian area identified by Figures V-7-1a through V-7-1e of the MEIR.

c. Project-Specific Effects

Section V-11.B of the MEIR provides analysis of Parks and Recreation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

- | | YES | NO |
|---|--------------------------|-------------------------------------|
| (1) The project is inconsistent with the Modesto Urban Area General Plan. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

DISCUSSION:

- (1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity. The Mixed-Use General Plan designation allows a "recommended intensity of 14 dwelling units per acre," for the subject mixed use area. The Mixed-use area which surrounds the subject property is currently developed at density of 7.8 units per acre. The Mixed-use area could reach a density of 10.4 units per acre, assuming the build out of all undeveloped properties in the Mixed-use area at the maximum density. The proposed project will not result in a density greater than what is permitted in the General Plan for a Mixed-use area. The project is consistent with the General Plan.

12. SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to schools:

Effect: The estimated increase in population over 1994/1995 would generate an additional 29,200 elementary school students, 7,330 middle school students, and 14,640 high school students above those enrollments. Assuming that existing facilities cannot sufficiently accommodate this increase and that all of the new students would require new school facilities, build out of the General Plan would result in the need for approximately 37 elementary schools, 8 middle schools, and 7 high schools beyond 1994/1995 levels. This would result in a significant impact on schools in that it would exceed current capacity. By statute, this impact is considered to be mitigated below a level of significance by payment of school impact fees and exercise of any or all of the financing options set out in Government Code Section 65997.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan.). As long as all anticipated subsequent projects apply these policies, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995). The proposed additional school policy will address the situation that would arise should AB 50 be repealed. It will authorize impact fees or other methods to finance additional school facilities.

The following schools mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See pages V-12-4 through V-12-7 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-12.B of the MEIR provides analysis of Schools impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

- | | YES | NO |
|---|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan. | <input type="checkbox"/> | X |
| (2) The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which provide that compliance results in less-than-significant impacts on schools. | <input type="checkbox"/> | X |

DISCUSSION:

- (1) The project is consistent with the General Plan in both land use and intensity.
- (2) The project was referred to Modesto City Schools who indicated no opposition to the project.

13. POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to police services:

Effect: The 1995 Master EIR identified two impacts on the demand for police services; however, it concluded that no significant impact, based on the mitigation measures identified in the 1995 Master EIR, would occur. Those mitigation measures are now policies of the Urban Area General Plan. *The impact is less-than-significant.*

Effect: Within the Planned Urbanizing Area, complying with the Urban Area General Plan policies, particularly the policy that requires a long-range financing strategy for each Comprehensive Plan Area, will allow the City to provide the resources necessary to extend service to the newly growing Planned Urbanizing areas. *These policies reduce the impact to a less-than-significant level.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Police Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-13-3 and V-13-4 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-13.B of the MEIR provides analysis of police services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

- | | YES | NO |
|--|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan. | <input type="checkbox"/> | X |
| (2) The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. | <input type="checkbox"/> | X |

DISCUSSION:

- (1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity. The Mixed-Use General Plan designation allows a "recommended intensity of 14 dwelling units per acre," for the subject mixed use area. The Mixed-use area which surrounds the subject property is currently developed at density of 7.8 units per acre. The Mixed-use area could reach a density of 10.4 units per acre, assuming the build out of all undeveloped properties in the Mixed-use area at the maximum density. The proposed project will not result in a density greater than what is permitted in the General Plan for a Mixed-use area. The project is consistent with the General Plan.
- (2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

14. FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to fire services:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. *Impacts on fire services of development in these areas will be less-than-significant.*

Effect: In the Planned Urbanizing Area, the Urban Area General Plan would result in the need for additional fire protection services due to increases in the number of employees, permanent population, and associated improvements. City policy requires that fire protection be in place concurrent with construction in the Planned Urbanizing Area. This policy will be implemented with the adoption of future Comprehensive Plans in the Planned Urbanizing Area. *This impact would be less-than-significant.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-3 through V-14-5 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project. are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-14.B of the MEIR provides analysis of fire services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

- | | YES | NO |
|--|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan. | <input type="checkbox"/> | X |
| (2) The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. | <input type="checkbox"/> | X |

DISCUSSION:

- (1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity. The Mixed-Use General Plan designation allows a "recommended intensity of 14 dwelling units per acre," for the subject mixed use area. The Mixed-use area which surrounds the subject property is currently developed at density of 7.8 units per acre. The Mixed-use area could reach a density of 10.4 units per acre, assuming the build out of all undeveloped properties in the Mixed-use area at the maximum density. The proposed project will not result in a density greater than what is permitted in the General Plan for a Mixed-use area. The project is consistent with the General Plan.
- (2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

15. SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to solid waste:

Effect: New development projects would exceed available landfill capacity, it is identified as a significant impact. The Fink Road Landfill may be closed by the time the City reaches build out, unless an expansion is approved by the County and the Integrated Waste Management Board. As the waste stream generated increases with population, additional landfills and methods for diversion would have to be utilized. New projects will also generate the need for additional collection and transfer facilities. This impact is significant and unavoidable. *The impact would be less-than-significant at such time as the Fink Road Landfill expansion is approved.*

Effect: New development projects can make a considerable contribution to the cumulative impact on landfill capacity of development in Stanislaus County. *This impact is significant and unavoidable.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Solid Waste Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-15-5 and V-15-6 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-15.B of the MEIR provides analysis of solid waste impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

- | | YES | NO |
|---|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan. | <input type="checkbox"/> | X |
| (2) The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity. | <input type="checkbox"/> | X |

DISCUSSION:

- (1) The project is consistent with the Modesto Urban Area General Plan "MU" (Mixed Use) designations in both land use and intensity.
- (2) This project was referred to the County and Solid Waste Division of the Engineering and Transportation Division for review, and no indication was given that there would be a problem serving this project.

16. HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to hazardous materials:

Effect: The impacts of the project relative to hazardous materials are less-than-significant, based on the existing regulatory framework. New development will be required to comply with regulations monitoring and controlling the handling and use of hazardous and toxic materials.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under federal, state and county policies and regulations, and the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Hazardous Materials Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-16-9 through V-16-12 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-16.B of the MEIR provides analysis of hazardous materials impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

- | | YES | NO |
|--|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan. | <input type="checkbox"/> | X |
| (2) The project does not comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes. | <input type="checkbox"/> | X |
| (3) The project contains a contaminated site not identified as of March 2003. | <input type="checkbox"/> | X |
| (4) The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. | <input type="checkbox"/> | X |
| (5) The project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code | <input type="checkbox"/> | X |

Section 65962.5 and as a result, would create a significant hazard to the public or the environment.

DISCUSSION:

- (1) The project is consistent with the Modesto Urban Area General "MU" (Mixed Use) designations in both land use and intensity.
- (2) This is an infill project, which involves the an existing residential project to be converted to residential condominiums. No hazardous materials will be involved with this project.
- (3) The project site is not known to contain any contaminants.
- (4) The project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste.
- (5) The project would not be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would not create a significant hazard to the public or the environment.

17. LANDSLIDES AND SEISMIC ACTIVITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to landslides and seismic activity:

Effect: There are areas of known sand and gravel resources within the Baseline Developed Area and Redevelopment Area. Future development will be subject to SMARA requirements, therefore, *the project impact will be less-than-significant.*

Effect: There are areas of known sand and gravel resources within the Planned Urbanizing Area. Future development will be subject to SMARA requirements, therefore, *the project impact will be less-than-significant.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Landslide and Seismic Activity Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-17-6 and V-17-7 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-17.B of the MEIR provides analysis of landslides and seismic impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

- | | YES | NO |
|---|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan. | <input type="checkbox"/> | X |
| (2) The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse. | <input type="checkbox"/> | X |

DISCUSSION:

- (1) The project is consistent with the General Plan in both land use and intensity.
- (2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to energy:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. *Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less-than-significant.*

Effect: Build out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kilowatt hours (kwh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation, which ensures that the project will not exceed local, state, and federal energy standards. *The impact is less-than-significant.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project.

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-18.B of the MEIR provides analysis of energy impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

- | | | | |
|-----|---|--------------------------|----|
| | | YES | NO |
| (1) | The project is inconsistent with the Modesto Urban Area General Plan. | <input type="checkbox"/> | X |

DISCUSSION:

- (1) The project is consistent with the Modesto Urban Area General Plan "MU" (Mixed Use) designations in both land use and intensity.

19. PLANNING AND LAND USE

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR are based on the planning policies and diagrams adopted as part of the General Plan. Planning and land use were not among the 18 subject areas analyzed in the Master EIR because they essentially defined the project being evaluated in the EIR.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less-than-significant unless:

- | | | | |
|-----|--|--------------------------|----|
| | | YES | NO |
| (1) | The project is inconsistent with the Modesto Urban Area General Plan. | <input type="checkbox"/> | X |
| (2) | The project includes a substantive amendment to the Modesto Urban Area General Plan. | <input type="checkbox"/> | X |
| (3) | The project would physically divide an established community | <input type="checkbox"/> | X |

Discussion:

- (1) The project is consistent with the Modesto Urban Area General Plan "MU" (Mixed Use) designations in both land use and intensity.
- (2) No amendment to the General Plan is required by this project.
- (3) The project is an infill project that will not result in division of a community.

20. AESTHETICS

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR, are based on the planning

policies and diagrams adopted as part of the General Plan. At that level of detail, no significant effects on aesthetics were identified.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less-than-significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2) The project would have a substantial adverse effect on a scenic vista.	<input type="checkbox"/>	X
(3) The project would substantially degrade the existing visual character or quality of the project site and its surroundings.	<input type="checkbox"/>	X
(4) The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area.	<input type="checkbox"/>	X

DISCUSSION:

- (1) The project is consistent with the General Plan in both land use and intensity.
- (2) There are no Scenic Vistas from the location of the proposed development. It is completely surrounded by urbanization. Views to the Diablo and Sierra Mountain Ranges are already precluded from this site and its surroundings.
- (3) The project would not substantially degrade the existing visual character or quality of the project site and its surroundings.
- (4) The project would not create a substantial source of light or glare that would adversely affect daytime or nighttime views in the area. The development is already existing.

V. MITIGATION MEASURES APPLIED TO THE PROJECT

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to CEQA Section 21157.1 (c), in order for a Finding of Conformance to be made, all feasible measures from the Master EIR appropriate to the project shall be incorporated into the project. The following adopted General Plan Policies and Master EIR Mitigation Measures (also contained in Section III, "Global List") shall be made part of the project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan:

All applicable and appropriate mitigation measures have been applied to the project.

Traffic and Circulation Measures:

N/A

Air Quality Measures:

1. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

Noise Measures:

1. The City's noise ordinance (Modesto Municipal Code Section 4-9.101) prohibits the "loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine."

The noise ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State or federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):

- A. A hammer, or any other device or implement used to pound or strike an object.
- B. An impact wrench, or other tool or equipment powered by compressed air.
- C. A hand-powered saw.
- D. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.
- E. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.
- F. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.
- G. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.
- H. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

Agricultural Land Measures:

N/A

Water Supply Measures:

N/A

Sanitary Sewer Service Measures:

N/A

Sensitive Wildlife and Plant Habitat Measures:

N/A

Archaeological or Historic Sites Measures:

N/A

Storm Drainage Measures:

1. The developer shall implement pre- and post- construction best management practices (BMPs) to minimize pollutants entering the storm system.

Flooding and Water Quality Measures:

1. The developer shall implement pre- and post- construction best management practices (BMPs) to minimize pollutants entering the storm system.

Parks and Open Space Measures:

N/A

Schools Measures:

N/A

Police Services:

N/A

Fire Services:

N/A

Generation of Solid Waste

N/A

Generation of Hazardous Materials

N/A

Potential for Landslides and Seismic Activity

N/A

Energy

N/A

Planning and Land Use

N/A

Aesthetics

N/A

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study. The following project-specific mitigation measures are necessary to reduce the identified new significant effect: **None**.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-430**

**RESOLUTION APPROVING AN AMENDMENT TO THE MODESTO URBAN
AREA GENERAL PLAN, PROPERTY LOCATED ON THE SOUTH SIDE OF
STANDIFORD AVENUE, WEST OF MCHENRY AVENUE (WINDWARD
PACIFIC BUILDERS)**

WHEREAS, on October 14, 2008, the City Council of the City of Modesto certified the Final Master Environmental Impact Report (“Master EIR”) (SCH No. 2007072023) for the Modesto Urban Area General Plan, and

WHEREAS, a new General Plan for the City of Modesto entitled “City of Modesto Urban Area General Plan”, as recommended by the Modesto City Planning Commission, was adopted by the Council of the City of Modesto by Resolution No. 95-409 on August 15, 1995, and

WHEREAS, said General Plan has been amended by Modesto City Council Resolution Nos. 95-584, 96-20, 96-338, 96-639, 97-3, 97-137, 97-158, 98-293, 99-162, 99-564, 2000-303, 2000-633, 2001-47, 2001-476, 2002-154, 2002-526, 2003-101, 2003-122, 2004-233, 2005-70, 2007-066, 2007-599, 2008-142, 2008-583, 2009-419, 2011-253 and 2011-254, copies of which are on file in the office of the City Clerk, and

WHEREAS, Government Code Section 65358 permits the amendment of General Plans by the legislative body, and

WHEREAS, Windward Pacific Builders (“Applicant”) submitted the Standiford Dental Office (“Project”) application (File No.GPA-12-001, RNZ-12-002 DPR-12-007) for a General Plan Amendment to redesignate approximately two acres from Residential (R) to Mixed-Use (MU) and to rezone the same property from Low Density Residential

(R-1), to Professional Office (P-O) to allow the conversion a single-family home into a dental office at 500 Standiford Avenue, (“Property”), and

WHEREAS, City staff determined that the project would require an amendment to the General Plan, and

WHEREAS, the Applicant has filed a General Plan Amendment (File No. GPA-12-001) to re-designate approximately two acres from Residential (R) to Mixed Use (MU), property located on the south side of Standiford Avenue, west of McHenry Avenue, and

WHEREAS, a Final Master Environmental Impact Report was prepared for the Urban Area General Plan Update (SCH No. 2007072023) which analyzed the potential environmental effects of the proposed Project, and

WHEREAS, the Planning Commission certifies it has received and reviewed the Initial Study, Environmental Assessment No. EA/C&ED 2012-21, which concluded that the project is within the scope of the General Plan Master EIR (SCH No. 2007072023) and that pursuant to Section 21157.1 of the Public Resources Code, no new environmental review is required, and

WHEREAS, on September 17, 2012, the Planning Commission held a duly noticed public hearing in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, relating to this proposed amendment to the Modesto Urban Area General Plan, and

WHEREAS, after said public hearing, the Planning Commission adopted Resolution No. 2012-12, recommending to the City Council an amendment to the Modesto Urban Area General Plan, and

WHEREAS, said matter was set for a public hearing of the City Council to be held on October 23, 2012 in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which date and time said duly noticed public hearing of the Council was held for the purpose of receiving public comment on the proposed amendment to the Modesto Urban Area General Plan.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines that the proposed amendment to the Modesto Urban General Plan to as described in **Exhibit "A"**, **attached** hereto and incorporated herein by reference, is required for the public health, safety, and welfare of the citizens of Modesto.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the proposed amendment to the Modesto Urban Area General Plan is consistent with the Final Master Environmental Impact Report for the Urban Area General Plan (SCH No. 2007072023) and has been adequately analyzed by the Master Environmental Impact Report.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the proposed amendment to the Modesto Urban Area General Plan is consistent with the General Plan Housing Element. The change in General Plan land use designation could result in the possible conversion of three single-family homes to professional office uses; however this will not significantly impact the City's ability to meet its Regional Housing Needs Allocation (RHNA). The remaining sites identified in the Housing Element are adequate to accommodate the City's share of the regional housing need.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby adopts the proposed amendment to the Urban Area General Plan as described in **Exhibit "A", attached** hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that the project applicant shall indemnify, defend, and hold harmless the City of Modesto, its agents, officers, and employees from any and all claims, actions, or proceedings against the City of Modesto, its agents, officers, and employees to attack, set aside, void, or annul, any approval by the City of Modesto and its advisory agency, appeal board, or a legislative body concerning a general plan amendment for the Project (File No.GPA-12-001, RNZ-12-002 DPR-12-007), and related files. The City of Modesto shall promptly notify the applicant of any claim, action, or proceeding and shall cooperate fully in the defense. If the City fails to do so, the applicant shall not thereafter be responsible to defend, indemnify, or hold City harmless.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community and Economic Development Department Director is hereby authorized and directed to forward certified copies of this resolution and said amendment to the Urban Area General Plan to the Board of Supervisors, and file a Notice of Determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Geer, Lopez, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Burnside, Gunderson, Muratore

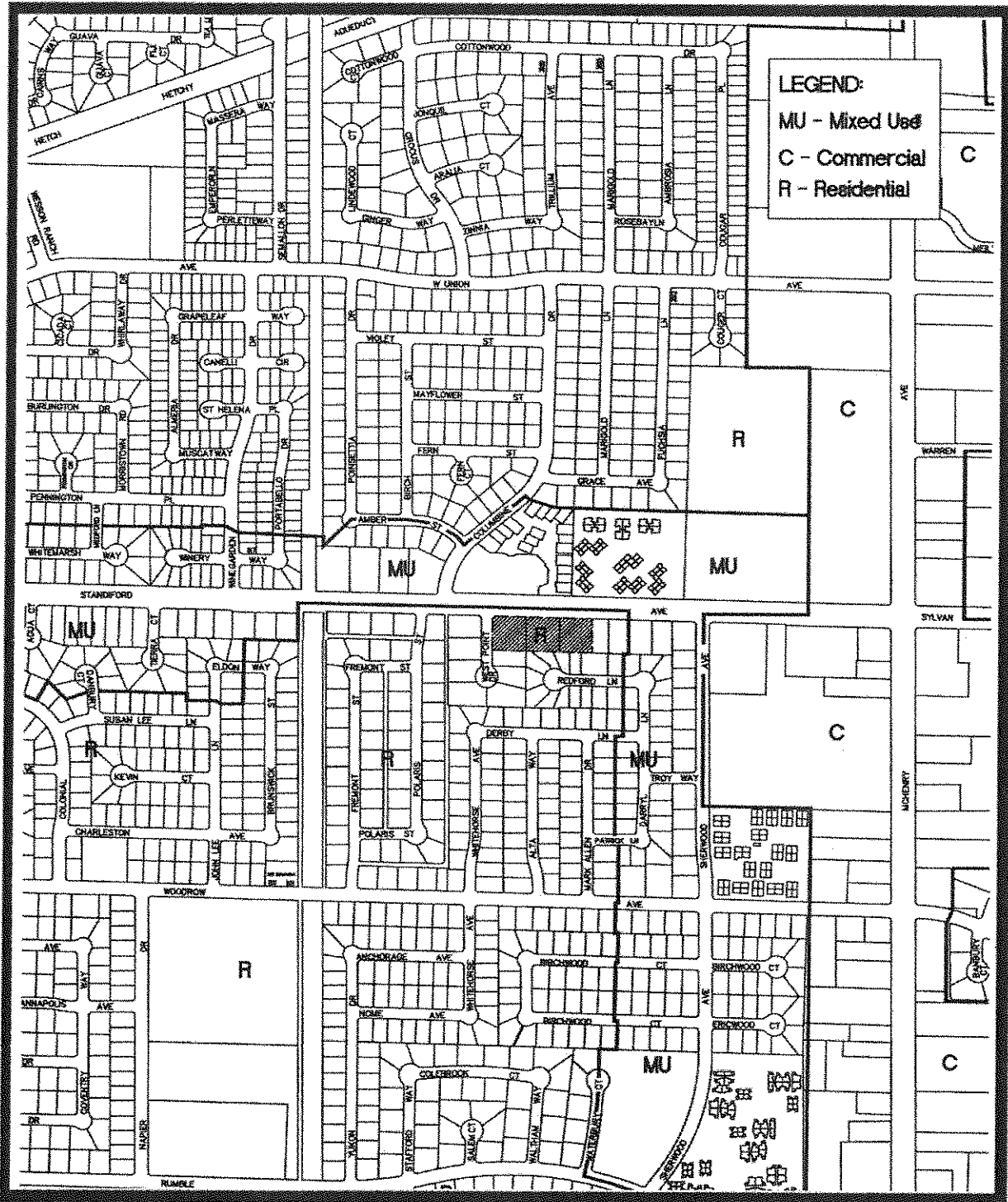
ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

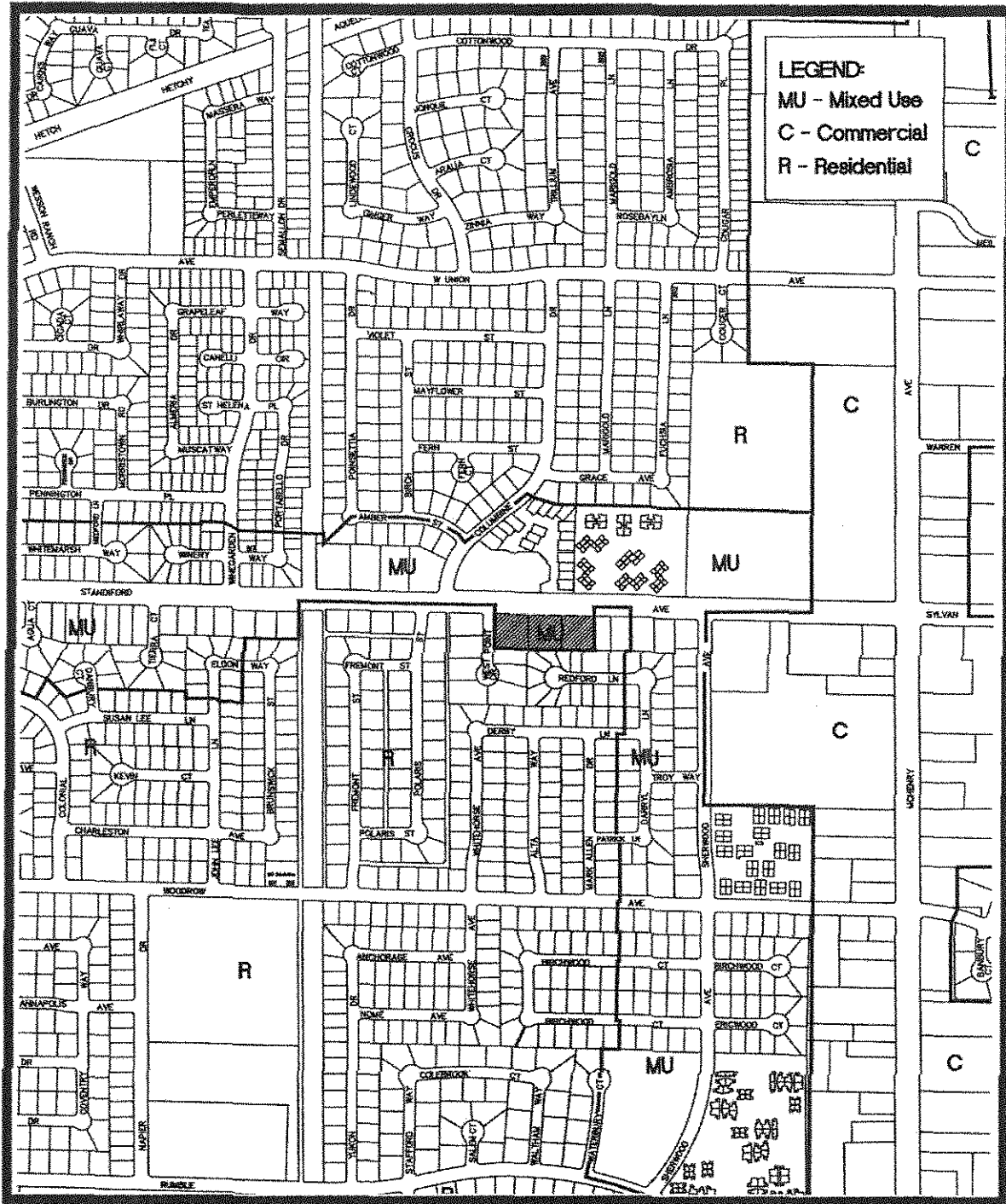
APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A



EXISTING GENERAL PLAN LAND USE BOUNDARIES
GPA-12-001



LEGEND:
 MU - Mixed Use
 C - Commercial
 R - Residential



PROPOSED GENERAL PLAN LAND USE BOUNDARIES
 GPA-12-001

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-431**

RESOLUTION FINDING THAT THE FOLLOWING SUBSEQUENT PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 2007072023): GENERAL PLAN AMENDMENT TO REDESIGNATE APPROXIMATELY 2 ACRES FROM RESIDENTIAL (R) TO MIXED-USE (MU) AND TO REZONE THE SAME PROPERTY FROM LOW DENSITY RESIDENTIAL (R-1), TO PROFESSIONAL OFFICE (P-O), PROPERTY LOCATED ON THE SOUTH SIDE OF STANDIFORD AVENUE, WEST OF MCHENRY AVENUE (WINDWARD PACIFIC BUILDERS)

WHEREAS, on October 14, 2008, the City Council of the City of Modesto certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 2007072023) for the Modesto Urban Area General Plan, and

WHEREAS, Windward Pacific Builders has proposed a General Plan Amendment to redesignate approximately two acres from Residential (R) to Mixed-Use (MU) and to rezone the same property from Low Density Residential (R-1), to Professional Office (P-O), property located on the south side of Standiford Avenue, west of McHenry Avenue; submitted by Windward Pacific Builders, and

WHEREAS, pursuant to Section 21157.1 of the Public Resources Code, the City of Modesto's Community & Economic Development Department prepared an Environmental Assessment Initial Study EA/C&ED 2012-21 ("Initial Study") which analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report, and

WHEREAS, in accordance with CEQA guidelines beginning on October 1, 2012, the City caused to be published a 20-day notice of the City's intent to make a finding that the subsequent project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on October 23, 2012, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed General Plan Amendment and rezone to Professional Office, a copy of which is **attached** hereto as **Exhibit "A"**, and incorporated herein by reference, and based on substantial evidence in the Initial Study makes the following findings:

1. An Initial Study was prepared by the City of Modesto that analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report.
2. The subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158 of the Public Resources Code, that was not identified in the Master EIR.
3. No new or additional mitigation measures or alternatives are required.
4. The subsequent project is within the scope of the project covered by the Master EIR.
5. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Geer, Lopez, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Burnside, Gunderson, Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

Initial Study

EA/C&ED 2012-21

City of Modesto

**Finding of Conformance to
General Plan Master EIR:**

**Initial Study Environmental Checklist
C&ED No. 2012-21**

For the proposed:

**Standiford Avenue General Plan Amendment, Rezone to
Professional Office and Dental Office Conversion**

**Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division**

August 13, 2012

(Intentional Blank Page)

City of Modesto

Master EIR Initial Study Environmental Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master Environmental Impact Report ("Master EIR" or "MEIR"). This Initial Study Environmental Checklist ("Initial Study") is used in determining whether Standiford Dental Office Conversion is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 2007072023) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformance.

A subsequent project is "within the scope" of the Master EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and
2. no new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. [Public Resources Code Section 21158(d)]

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (CEQA Guidelines Section 15384)

II. PROJECT DESCRIPTION

- A. Title: Standiford General Plan Amendment, Rezone to Professional Office and Dental Office Conversion
- B. Address or Location: South side of Standiford Avenue, west of McHenry Avenue (APN 055-029-008, 029 and 030)
- C. Applicant: Windward Pacific Builders 2813 Coffee Road Modesto, CA 95355
- D. City Contact Person: David Wage, Associate Planner

Project Manager: David Wage
Department: Community and Economic Development
Phone Number: (209) 577-5267
E-mail address: dwage@modestogov.com

- E. Current General Plan Designation(s): Residential (R)
- F. Current Zoning Classification(s): Low Density Residential (R-1)

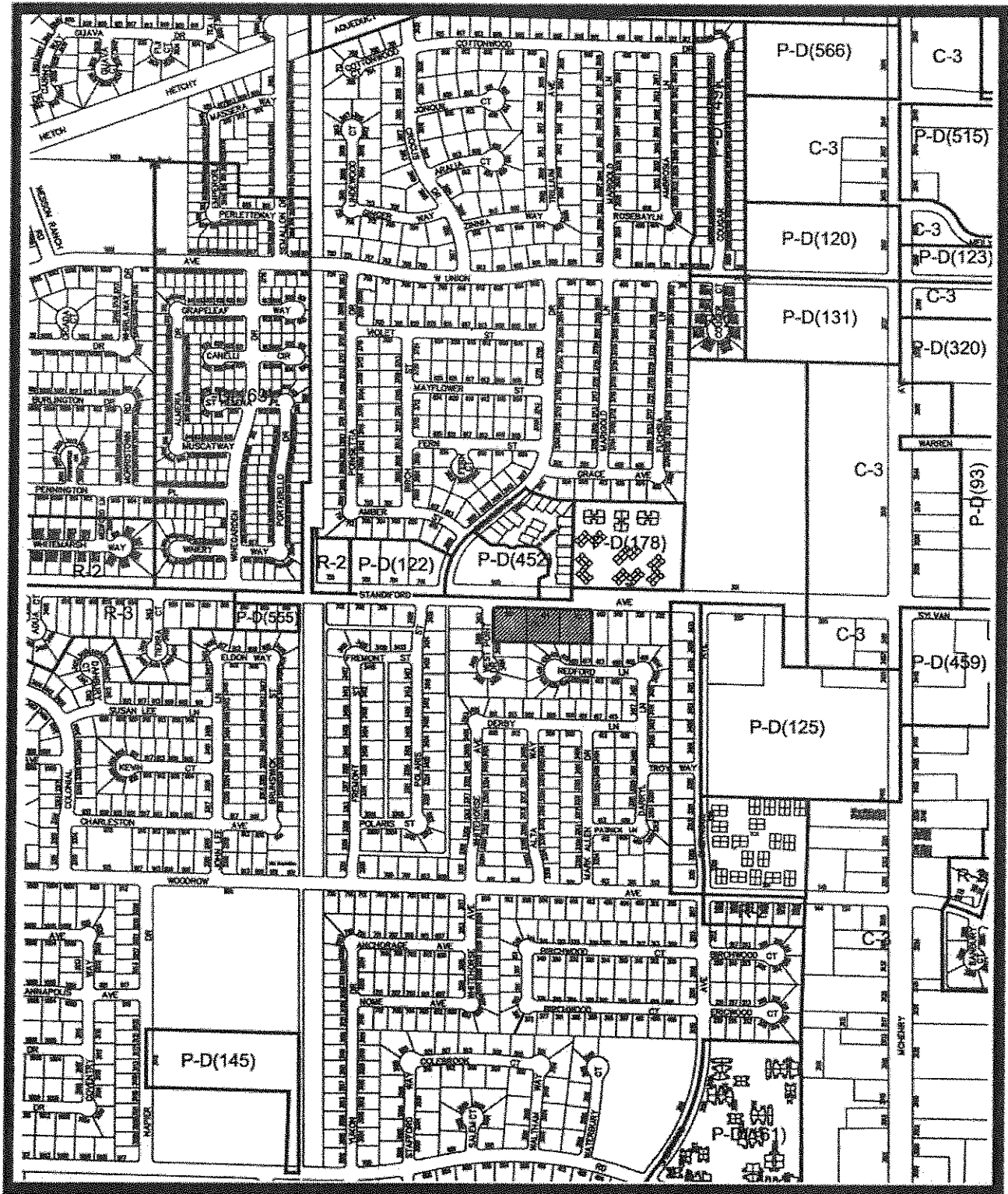
G. Surrounding Land Uses:

- North: Professional Office and Single Family Residential
- South: Single Family Residential
- East: Single Family Residential (Proposed Single-Family Residential)
- West: Single Family Residential

H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR:

The project includes rezoning three parcels (approximately two acres) from Low Density Residential (R-1) to Professional Office (P-O) and amending the General Plan land use designation for the same property from Residential (R) to Mixed-Use (MU). The general plan amendment and rezoning is proposed to allow for the conversion of an approximately 3,200 square-foot single family home located at 500 Standiford Avenue into a dental office. The applicant has submitted a separate application for Development Plan Review to allow the conversion to a dental office. Consideration of the development plan (by the Community and Economic Development Director) is contingent upon approval of the proposed rezone and general plan amendment by the City Council. Staff referred the development plan to various City departments and outside agencies and no significant issues were identified. No new development is proposed for the other two parcels included in the project area at this time.

I. Other Public Agencies Whose Approval is Required: None.



AREA MAP OF PROPOSED GENERAL PLAN AMENDMENT
 & REZONING OF EXISTING R-1 TO P-O
 GPA-12-001 & RZN-12-002



III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. **Within the Scope** - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. All of the following statements are found to be true:

- A. The subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158 of the Public Resources Code, that was not identified in the Master EIR.
- B. No new or additional mitigation measures or alternatives are required.
- C. The subsequent project is within the scope of the project covered by the Master EIR.
- D. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

2. **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following statements are all found to be true:

- A. The subsequent project is within the scope of the project covered by the Master EIR.
- B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.
- C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

3. **Focused EIR Required**- On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. All of the following statements are found to be true:

- A. The subsequent project is within the scope of the project covered by the Master EIR.
- B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.
- C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

Original signed copy on file with CEDD

Project Manager

Title

Date

4. Within the Scope Analysis of this Document:

The Master EIR allows projects to be found within the scope of the MEIR if certain criteria are met. If the following statements are found to be true for all 21 impact categories included in this Initial Study, then the proposed project is addressed by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

		YES	NO
(1)	The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(2)	City policies which reduce, avoid, or mitigate environmental effects will continue to be in effect and, therefore, would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template. Project impacts would be mitigated to a less-than-significant level using MEIR mitigations only.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(3)	Federal, State, regional, and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(4)	No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(5)	The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(6)	Development within the project will comply with all appropriate mitigation measures contained and enumerated in the 2008 General Plan Master EIR.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed Sections 1 through 21 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any "no" response must be explained.

		YES	NO
(1)	Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(2)	This project is described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(a)	No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(b)	No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(c)	Policies remain in effect which require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, discloses whether the proposed project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is "within the scope" of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR. Adoption of the findings specified in Section III.1, above after completion of the Initial Study fulfills the City's obligation in that situation.

All environmental effects cited reflect 2025 conditions resulting from the Urban Area General Plan, as identified in the Master EIR.

The environmental impact analysis in the Master EIR for the Urban Area General Plan is organized in twenty-one subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of reference, the sections are numbered in the same order as the analyses in Chapter V.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable traffic and circulation impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Increased automobile traffic will result in roadway segments (see MEIR on Table 1-7, pages V-1-32 to V-1-34) operating at LOS D, Modesto's significance threshold for automobile traffic, or lower (LOS E or F).

Effect: The substantial increase in traffic relative to the existing load and capacity of the street system will cause, either individually or cumulatively, the violation of automobile service standards established by StanCOG's Congestion Management Plan for designated roads and highways.

Effect: A substantial increase in automobile vehicle miles traveled and automobile vehicle hours of travel and a decrease in average automobile vehicle speed (see MEIR Table 1-6, page V-1-31).

Cumulative Impacts

Effect: Potential for growth inducement or acceleration of development resulting from highway and local road projects.

Effect: Substantial increase in traffic in relation to the existing traffic load and capacity of the street system, including a violation, either individually or cumulatively, of an automobile LOS standard established by the Congestion Management Plan for designated roads and highways.

Effect: Increased demand for capacity-enhancing alterations to existing roads or automobile traffic reduction.

Other impact categories affected by Traffic and Circulation are addressed throughout this Initial Study (see also Section 2, Degradation of Air Quality; Section 3, Generation of Noise; Section 7 Loss of Sensitive Wildlife and Plant Habitat; Section 8, Disturbance of Archaeological/Historic Sites; Section 14 Increased Demand for Fire Services; Section 18, Energy; Section 19, Visual Resources; Section 20, Land Use and Planning, and Section 21, Climate Change).

b. Master EIR and/or New Mitigation Measures Applied to the Project

Traffic and Circulation mitigation measures pertinent to this project are found on MEIR pages V-1-9 through V-1-28. All mitigation measures appropriate to the project, including any new measures, will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-1.B of the Master EIR provides analysis of Traffic and Circulation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
1. TRAFFIC AND CIRCULATION				
1) The proposed project exceeds traffic generation assumptions in the Master EIR for the site by 100 trips or more and City Engineering and Transportation staff has determined that the project would have additional potentially significant project-specific effects that are not avoided or reduced by the Master EIR's mitigation measures.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would cause additional roadway segments in the General Plan area to exceed LOS D and/or cause additional violations of standards in the Congestion Management Plan, and/or cause an increase in automobile vehicle miles or vehicle hours of travel or a decrease in automobile travel speed, as compared to the impacts disclosed in the Master EIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project would cause emergency response times to exceed acceptable standards established by the Fire Department, as compared to impacts disclosed in the Master EIR (see Section 14, Increased Demand for Fire Services).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5) The proposed project would result in less parking than required by the Municipal Code or as determined by staff.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6) The proposed project would conflict with adopted policies, plans, or programs that support alternative transportation, including, but not limited to the Regional Transportation Plan, the Sustainable Communities Strategy, the Bicycle Action Plan, and so on.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
7) The proposed project would result in an increase in automobile vehicle miles traveled on a per capita basis, in excess of that considered in the Urban Area General Plan MEIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1 & 3) **No Impact:** The proposed project is generally consistent with the traffic volumes assumed in the MIER. The project will not result in an increase 100 additional trips than what was assumed in the MIER or degradation below LOS D and therefore no new mitigation measures are necessary.
- (2) **No Impact:** The project will not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment). The City Engineering and Traffic Department has evaluated the project and has determined that the existing design layout of the project conforms to City standards.
- (4) **No Impact:** Police and Fire Staff have reviewed this proposal and have indicated that there is no emergency access problem.
- (5) **No Impact:** City staff has reviewed the project and determined the project has provided sufficient parking for the proposed medical office building.
- (6) **No Impact:** The proposed project has been reviewed by Traffic, Planning and Transit staff and would not conflict with any adopted plans for alternative transportation.
- (7) **No Impact:** The proposed project is would not result in an increase in automobile miles traveled in excess of what was considered in the Urban Area General Plan.

2. DEGRADATION OF AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable air quality impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Expected automobile traffic will result in increased operational emissions of reactive organic gases (ROG) and oxides of nitrogen (NO_x) (see MEIR Table 2-8, page V-2-27).

Effect: Expected automobile traffic will result in increased emissions of particulate matter 10 microns or less (PM₁₀) and 2.5 microns or less in diameter (PM_{2.5}) (see MEIR Table 2-8, page V-2-27).

Effect: Expected automobile traffic will result in increased carbon monoxide (CO) levels in the project area (see MEIR Table 2-7, page V-2-26, and Table 2-8, page V-2-27).

Cumulative Impacts

The Master EIR indicates the same impacts identified as direct impacts above will contribute to regional impacts on air quality for the criteria pollutants ROG, NO_x, PM₁₀, and PM_{2.5}.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Air quality mitigation measure(s) pertinent to the proposed project are found on pages V-2-13 through V-2-24 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes AQ-40 and AQ-42 through AQ-56 from the MEIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-2.B of the Master EIR is the analysis of air quality impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
2. DEGRADATION OF AIR QUALITY				
1) The proposed project exceeds the project-level emissions thresholds established for CO, ROG, NO _x , PM ₁₀ , and PM _{2.5} by the San Joaquin Valley Air Pollution Control District (SJVAPCD) and is not consistent with the development assumptions for the project site, as established in the Urban Area General Plan and Master EIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2) The proposed project does not incorporate the best management practices established by the SJVAPCD for CO, ROG, NO _x , PM ₁₀ , and PM _{2.5} .	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project does not comply with the air quality policies in the Modesto Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project would expose sensitive receptors to pollutant concentrations in excess of those expected to occur as a result of implementation of the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5) The proposed project would create objectionable odors affecting a substantial number of people.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) **Less Than Significant Impact:** The project was referred to the San Joaquin Valley Unified Air Pollution Control District who determined that the project would not have a significant effect on the ambient air quality with the incorporation of the mitigation measures listed above.
- (2) **No Impact:** This project incorporates the best management practices for PM10 reduction established by the SJVUAPD (see mitigation measures above).
- (3) **No Impact:** Applicable General Plan Policies will be applied to the project; therefore, project-specific effects will be less than significant for this impact (see mitigation measures above).
- (4) **Less Than Significant Impact:** The land uses proposed are not in themselves significant contributors to air pollution levels and therefore the primary source of air pollution associated with the development would be traffic related. Since the traffic impacts are within the scope of the MEIR, so are the traffic-related air quality impacts. The PM10 emissions created through construction activities will be mitigated as called for by the MEIR with the mitigation measure listed above.
- (5) **No Impact:** The proposed project will not produce objectionable odors.

3. GENERATION OF NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable noise impacts expected after application of mitigations/policies:

Direct Impacts

Effect: Future automobile traffic noise levels and roadway construction and maintenance activities resulting from development of the Urban Area General Plan will exceed the City's noise thresholds at various locations, but particularly in areas adjacent to heavily traveled roadways (see MEIR Table 3-3, page V-3-10, and Figure VII-2 and Table 3-6, pages V-3-18 and V-3-19).

Effect: Expected noise from airport operations and airport construction projects may expose up to 468 dwellings and three churches to noise levels of 65 dB CNEL and up to eight dwellings to noise levels of 70 dB CNEL.

Effect: Expose noise-sensitive land uses to noise from the construction of bicycle and transit projects.

Effect: Expose noise-sensitive land uses to noise from freight and passenger rail operations.

Cumulative Impacts

Effect: Traffic from development in the City of Modesto would, when combined with traffic from new development in the County and other cities, contribute to a cumulative increase in roadside noise levels on major roads and highways throughout Stanislaus County.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-11 through V-3-15 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section V, Mitigation Applied to Project.

Discussion:

There mitigation to be applied to this project includes N-3 and N-7 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-3.B of the MEIR discloses noise impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of the proposed project’s effects are based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3. GENERATION OF NOISE				
1) The proposed project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project will not comply with the noise policies of, or otherwise be inconsistent with, the Modesto Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project will result in an increase in ambient noise levels in the project vicinity above those disclosed in the Master EIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels disclosed in the Master EIR implementation of the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1,2,3) **No Impact:** The project is consistent with the noise policies of the General Plan. General Plan MEIR Mitigation Measure N-7 requires non-residential development to demonstrate that the project will incorporate measures to reduce noise impacts to a less than significant level. Consideration must be given to the Low Density (single-family) Residential threshold of significance, since the property to the east, west and south are developed with single-family residential uses. The MEIR maintains the "normally acceptable" level of noise for Commercial uses is 65dBA. The proposed professional office uses are not anticipated to generate noise levels that exceed the noise thresholds described above. Business activities for professional office uses are generally conducted indoors with the exception of traffic coming and going from the site. As each of the three parcels redevelop with professional office uses, they will be required to install a seven-foot-tall wall where adjacent to residentially zoned properties, which will provide further noise attenuation.
- (4) **No Impact:** The project will not result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity. There will be some construction related noise, but the noise mitigation measure N-3 called for by the General Plan for projects within the baseline developed area, has been incorporated.

4. EFFECTS ON AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on agricultural lands expected after application of mitigations/policies:

Direct Impacts

Effect: Between 1995 and 2025, development of the Urban Area General Plan may convert up to approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area to urban uses.

Effect: Approximately 1,200 acres of urban development along a 28.5-mile boundary 350 feet wide between urban and agricultural uses could be affected by continued agricultural operations, including noise, dust, and chemical overspray or drift.

Cumulative Impacts

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County, accounting for the conversion of as much as approximately 26,000 acres of farmland in various categories in the Planned Urbanizing Area from 1995 to 2025.

b. Master EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural land mitigation measures pertinent to the proposed project are found on pages V-4-6 to and V-4-8 of the Master EIR. All mitigation measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-4.B of the Master EIR discloses the impacts resulting from the implementation of the Urban Area General Plan on agricultural lands. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
4. EFFECTS ON AGRICULTURAL LANDS				
1) The proposed project is inconsistent with the Urban Area General Plan's policies relating to agricultural land.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project will either directly or indirectly result in the development of land outside the 2008 Urban Area General Plan's planning area boundary.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project will conflict with existing zoning for agricultural use, or there is an existing Williamson Act contract on the project site.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project will involve other changes in the existing environment not anticipated in the Master EIR which, due to their location or nature, could result in conversion of farmland to non-agricultural use.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) **No Impact:** The project is consistent with the General Plan policies relating to agricultural land. It is an infill project proposed within the urbanized area of the City. The parcels are developed with single-family homes and no agricultural land will be converted for the development of the proposed projects.
- (2) **No Impact:** The project is within the Baseline-Developed area of the City and therefore will not result in the development of land outside the 2008 planning area boundaries.
- (3) **No Impact:** The project site is not zoned for agriculture nor is it under Williamson Act contract.

- (4) **No Impact:** The project will not involve changes to the existing environment that could result in the conversion of farmland to non-agricultural uses. The General Plan designates the property as Residential and is currently development with residential uses. The adjacent property is also designated Mixed Use and is already developed with urban uses.

5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on long-term water supplies expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts have been disclosed in the Master EIR.

Cumulative Impacts

Effect: Operational yields of the Modesto and Turlock subbasins, both of which underlie the City of Modesto, are unknown, although the City is participating in a study with the United States Geological Survey in order to quantify the operational yields of both subbasins. Groundwater withdrawals from both basins by the City, when combined with other users' withdrawals, may result in overdrafting both subbasins.

Effect: Despite available options, during drought years, significant water shortages are forecast for the San Joaquin River basin, which includes both the Modesto and Turlock subbasins, by 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Water supply mitigation measures pertinent to the proposed project are found on pages V-5-6 through V-5-12 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-5.B of the Master EIR discloses impacts on long-term water supplies resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES				
1) The proposed project is inconsistent with water supply policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) Water demand for the proposed project will exceed estimates for similar projects or for development on the project site anticipated in the Urban Area General Plan or sufficient water supplies are not otherwise available to serve the project from existing entitlements and resources.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would deplete groundwater supplies to a greater degree than anticipated in the Urban Area General Plan or would interfere with groundwater recharge.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) **No Impact:** The project is consistent with the water supply policies in the General Plan.
- (2) **No Impact:** The project was referred to Land Development Engineering Staff who determined the water proposed development will not exceed estimates or water supplies for needed to serve other entitlements and resources.
- (3) **No Impact:** The proposed project is consistent with the land uses and water demands assumed in the General Plan. The project would not have a significant effect on ground water recharge or depletion of long-term water supplies.

6. INCREASED DEMAND FOR SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on sanitary sewer services after application of mitigations/policies:

Direct Impacts

Effect: Development resulting from implementation of the Urban Area General Plan will require substantial new sewage treatment and disposal capacity, treatment plant improvements, sewer mains and collection lines, and pump stations. The Wastewater Master Plan anticipates the need for these facilities and its EIR evaluates the impact of developing those facilities. Potential impacts include degradation of water quality through erosion and chemical releases; localized flooding; construction noise; exposure of construction workers and the public to hazardous materials; and on the habitat of the elderberry longhorn beetle, burrowing owl, and Swainson's hawk, as well as certain other regulated habitats. All of these impacts are mitigated to a less-than-significant level.

Additional impacts that are not mitigated to a less-than-significant level include loss of farmland cause by construction of the Phase IA tertiary treatment facility at the Jennings Road Secondary Treatment Facility, an increase in pollutant loads from increased wastewater flows to the San Joaquin River, and an increase in noise and criteria air pollutants due to construction activities, including traffic.

Cumulative Impacts

Effect: No additional cumulative impacts were identified in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Sewer service mitigation measures pertinent to the proposed project are found on pages V-6-3 through V-6-8 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-6.B of the Master EIR discloses impacts on the Increased Demand for Sanitary Sewer Service resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
6. INCREASED DEMAND FOR SANITARY SEWER SERVICES				
1) The proposed project is inconsistent with wastewater policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project will generate sewage flows greater than those anticipated in the Urban Area General Plan for the project site.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) **No Impact:** The project is consistent with the wastewater policies in the Modesto Urban Area General Plan.
- (2) **No Impact:** The project is consistent with the assumptions in the Urban Area General Plan and will generate sewer flows that are consistent with what was anticipated for the project site.
- (3) **No Impact:** The project was referred to Land Development Engineering Staff who determined there is adequate capacity to accommodate the proposed development in addition to existing commitments.

7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on sensitive wildlife and plant habitat expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant impacts on sensitive wildlife and plant habitat are expected to occur with the application of the policies contained in the Urban Area General Plan.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will contribute to the cumulative impact of habitat loss in the San Joaquin Valley. Requiring density development than has occurred in the past or that is expected in the future would minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Wildlife and plant habitat mitigation measures pertinent to the proposed project are found on pages V-7-17 through V-7-24 of the Master EIR.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-7.B of the Master EIR discloses impacts on the Loss of Sensitive Wildlife and Plant Habitat resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT				
1) The project is inconsistent with the policies pertaining to the loss of sensitive wildlife and plant habitat contained in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on a candidate, sensitive, or special status species in excess of the impact disclosed in the Master EIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption, or other means, in excess of the impact disclosed in the Master EIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project would substantially interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6) The proposed project would conflict with provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) **No Impact:** The project is consistent with the General Plan policies related to the loss of sensitive wildlife and plant habitat.
- (2) **No Impact:** The project site is not a biologically sensitive site as defined by Figures V-7-1a through V 7-1e of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.

- (3) **No Impact:** The site does not qualify as a federally protected wetland per Section 404 of the Clean Water Act.
- (4) **No Impact:** The project site is not a biologically sensitive site as defined by Figures V-7-1a through V 7-1e of the MEIR. The movement of fish or birds or other wildlife would not be significantly effected by the project.
- (5) **No Impact:** There is no conflict with any local policies or ordinances protecting biological resources.
- (6) **No Impact:** There is no conflict with any adopted habitat conservation plan, natural community conservation plan, or other approved local, regional or state habitat conservation plan.

8. DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on archaeological/historical sites expected after application of mitigations/policies:

Direct Impacts

Effect: Modification resulting in a substantial adverse change in the significance of a historic resource or the demolition of a listed or eligible historic resource.

Effect: The modification or demolition of a structure more than 50 years in age may be significant.

Effect: Discovery of archaeological resources in areas outside of the riparian corridors, as a result of construction activities.

Effect: Construction in an area of high archaeological sensitivity.

Cumulative Impacts

Effect: No additional cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Archaeological or historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-16 through V-8-20 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes the measures listed in MEIR Table V-8-1 (b-f) from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-8.B of the MEIR discloses impacts on archaeological/historical resources resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
8. DISTURBANCE OF ARCHAEOLOGICAL/ HISTORICAL SITES				
1) The proposed project is inconsistent with the archaeological/historical resource policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would demolish a building eligible for listing as a historic resource or remove a landmark from the Modesto inventory.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would modify or demolish a structure more than 50 years in age.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5) Conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) **No Impact:** The project is consistent with the archeological and historical resource policies in the General Plan.
- (2) **No Impact:** There are no buildings that are proposed to be demolished as part of the project. None of the buildings on the project site are eligible for listing as a historic resource.
- (3) **No Impact:** The proposed project does not include demolition of building that are greater than 50 years of age.
- (4) **No Impact:** The project would not affect a resource that is listed or eligible for listing in the California Register of Historic Resources.
- (5) **No Impact:** The project does not conflict with local policies affecting biological resources.

9. INCREASED DEMAND FOR STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on storm drainage expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious surface area and associated increases in storm water runoff. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. This cumulative impact is considered significant and unavoidable.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Storm Drainage mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-9. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-9.B of the MEIR discloses impacts on the demand for storm drainage resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
9. INCREASED DEMAND FOR STORM DRAINAGE				
1) The proposed project is inconsistent with the storm drainage policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite, as compared to impacts anticipated to result from the Urban Area General Plan or create substantial unanticipated sources of polluted runoff.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project does not utilize Low Impact Development strategies to reduce runoff from the site and increase infiltration, resulting in no net increase in runoff before and after development.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) **No Impact:** The project is consistent with the storm drain policies in the Urban Area General Plan.
- (2) **No Impact:** The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system.
- (3) **No Impact:** The project will utilize low impact strategies and meet the standards contained in the "Guidance Manual for New Development-Storm Water Quality Control Measures."

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on flooding and water quality expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Flooding and Water Quality mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-10-6 through V-10-9 of the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-10.B of the Master EIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
10. FLOODING AND WATER QUALITY				
1) The proposed project is inconsistent with the flooding and water quality policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would place more housing within a 100-year flood hazard zone than assumed in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project would place structure within a 100-year flood hazard area so that they would impede or redirect floodwater or would substantially alter the existing on-site drainage pattern or a watercourse, in such a way as to cause flooding on- or offsite.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5) The proposed project does not comply with Modesto’s Guidance Manual for New Development Storm Water Quality Control Measures.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6) The proposed project would violate water quality standards or waste discharge requirements.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
7) The proposed project would substantially alter the existing drainage pattern of the site or area or a watercourse in a manner that would result in substantial erosion or siltation on- or offsite in excess of the assumptions of the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
8) The proposed project would create or contribute runoff, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff, not expected as part of Urban Area General Plan implementation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) **No Impact:** The project is consistent with the flooding and water quality policies in the General Plan.
- (2) **No Impact:** The project would comply with the Federal Clean Water Act and the Porter Cologne Act requirements.
- (3) **No Impact:** The project is not located within a 100-year flood plain and does not include the construction of new houses.
- (4) **No Impact:** The project is not located within a 100-year flood plain.
- (5) **No Impact:** The project will comply with the Guidance Manual for New Development Storm Water Quality Control Measures.
- (6) **No Impact:** The project will not violate water quality standards or waste discharge requirements.
- (7) **No Impact:** The project would not substantially alter the existing drainage pattern of the site, area or a watercourse in a manner that would result in erosion or siltation.
- (8) **No Impact:** The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system or provide substantial additional sources of polluted runoff.

11. INCREASED DEMAND FOR PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on parks and open space expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Parks and open space mitigation measures pertinent to the proposed project are found on pages V-11-3 through V-11-9 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-11.B of the MEIR discloses impacts of the Urban Area General Plan on parks and open space. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
11. INCREASED DEMAND FOR PARKS AND OPEN SPACE				
1) The proposed project is inconsistent with the parks and open space policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would eliminate parks or open space.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would cause an increase in the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility in question would occur or be accelerated or the proposed project would include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) **No Impact:** The project is consistent with the parks and open space policies in the General Plan.
- (2) **No Impact:** The project would not eliminate an existing park or designated open space.
- (3) **No Impact:** The project would include redesignating three parcels from Residential to Mixed Use in the General plan and rezoning the property to allow for professional office uses. The future use of the parcels for professional office uses would not cause a increase in the use of existing neighborhood and regional parks.

12. INCREASED DEMAND FOR SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on school facilities expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR. By statute, the impact of new students is considered to be mitigated below a level of significance by payment of school impact fees and the exercise of any or all of the financing options set out in Government Code Section 65997.

Cumulative Impacts

Effect: Similar to direct impacts of implementation of the Urban Area General Plan, no residual significant direct impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. As long these policies are applied to all subsequent projects, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995).

The following schools mitigation measures on pages V-12-5 through V-12-7 of the Master EIR are pertinent to the proposed project. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-12.B of the Master EIR discloses impacts resulting from implementation of the Urban Area General Plan associated with increased demand for schools. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
12. INCREASED DEMAND FOR SCHOOLS				
1) The proposed project is inconsistent with the policies relating to schools in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which state that compliance results in less-than-significant impacts on schools.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) **No Impact:** The project is consistent with the policies relating to schools in the General Plan.
- (2) **No Impact:** The project was referred to Modesto City Schools who indicated no opposition to the project.

13. INCREASED DEMAND FOR POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on police services expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Police services mitigation measures pertinent to the proposed project are found on pages V-13-2 through V-13-5 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-13.B of the Master EIR discloses impacts on police services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
13. INCREASED DEMAND FOR POLICE SERVICES				
1) The proposed project is inconsistent with policies relating to police services in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) **No Impact:** The project is consistent with the policies relating to police services in the General Plan.
- (2) **No Impact:** The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

14. INCREASED DEMAND FOR FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on fire services expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-4 through V-14-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-14.B of the Master EIR discloses impacts on fire services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
14. INCREASED DEMAND FOR FIRE SERVICES				
1) The proposed project is inconsistent with the fire service policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would result in the need for new or significantly altered facilities not considered as part of the Urban Area General Plan or Master EIR which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3) The proposed project, based upon substantial evidence, would cause the erosion or elimination of fire protection services in adjoining fire protection districts.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) **No Impact:** The project is consistent with the fire service policies in the General Plan.
- (2) **No Impact:** The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.
- (3) **No Impact:** The project would not significantly impact adjacent fire districts or result in the elimination of fire projection services.

15. GENERATION OF SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on solid waste expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Solid waste mitigation measures pertinent to the proposed project are found on pages V-15-4 through V-15-7 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-15.B of the Master EIR discloses solid waste impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
15. GENERATION OF SOLID WASTE				
1) The project is inconsistent with the solid waste policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The County is unable to expand its solid waste disposal capacity, as expected, causing all new development to result in cumulative impacts on the County's disposal capacity.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) **No Impact:** The project is consistent with the solid waste policies in the General Plan.
- (2) **No Impact:** This project is not anticipated to generate significant amounts of solid waste. The project was referred to the Solid Waste Division for review and there would not be a problem serving this project.

16. GENERATION OF HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts regarding hazardous materials expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Hazardous materials mitigation measures pertinent to the proposed project are found on pages V-16-8 through V-16-13 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-16.B of the Master EIR discloses impacts on hazardous materials resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
16. GENERATION OF HAZARDOUS MATERIALS				
1) The project is inconsistent with the hazardous materials policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project would be constructed on a contaminated site not known to the State of California as of March 2008.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) **No Impact:** The project is consistent with the hazardous materials policies in the General Plan.
- (2) **No Impact:** The project does comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes. (No hazardous materials will be involved with this project).
- (3) **No Impact:** The project would not be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would not create a significant hazard to the public or the environment.
- (4) **No Impact:** The project site is not known to contain any contaminants.

17. GEOLOGY, SOILS, AND MINERAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts related to geology, soils, and mineral resources expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Geology, soils, and mineral resource mitigation measures pertinent to the proposed project are found on pages V-17-9 and V-17-10 of the Master EIR. All mitigation measures appropriate to the project to be incorporated into or made conditions of approval of the proposed project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-17.B of the Master EIR discloses geology, soils, and mineral resource impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
17. GEOLOGY, SOILS, AND MINERAL RESOURCES				
1) The project is inconsistent with policies relating to geology, soils, and mineral resources contained in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would expose people or structures to potential substantial adverse effects including the risk off loss, injury, or death involving fault rupture, strong seismic activity; location on an expansive soil; result in the loss of topsoil; location on soils incapable of adequately supporting the use	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater; result in the loss of known mineral resources that would be of value to the region and the state; or result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan.				

Discussion:

- (1) **No Impact:** The project is consistent with policies relating to geology, soils, and mineral resources in the General Plan.
- (2) **No Impact:** The project would not be located on soil that is unstable, or that would become unstable as a result of the project. There are no known mineral resources of value to the region and the state on the property.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to energy expected after application of mitigations/policies:

Direct Impacts

Effect: Continued development in the Planned Urbanizing Area would have an impact on available energy supplies. Energy consumption likely would increase substantially by 2025 as a result of implementation of the Urban Area General Plan.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on energy consumption.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following energy mitigation measures pertinent to the proposed project are found on pages V-18-2 through V-18-8 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
18. ENERGY				
1) The proposed project is inconsistent with policies relating to energy in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would result in energy consumption during construction, operation, maintenance, or removal that is more wasteful, inefficient, and unnecessary than assumed in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) **No Impact:** The project is consistent with the energy policies in the General Plan.
- (2) **No Impact:** The project would not result in energy consumption during construction, operation, maintenance or removal that is more wasteful, inefficient and unnecessary than assumed in the General Plan.

19. EFFECTS ON VISUAL RESOURCES

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on visual resources expected after application of mitigations/policies:

Direct Impacts

Effect: New development in the Planned Urbanizing Area will occur in areas that are in agricultural production or are otherwise lightly developed, which could lead to the introduction of light and glare in areas that have little nighttime illumination.

Cumulative Impacts

Effect: No additional cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following visual resources mitigation measures pertinent to the proposed project are found on pages V-19-3 and V-19-4 in the Master EIR. All mitigation measures appropriate to the proposed project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
19. EFFECTS ON VISUAL RESOURCES				
1) The proposed project is inconsistent with policies relating to visual resources in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would degrade views from riverside areas and parks to a greater degree than assumed in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would degrade views of riverside areas from public roadways and nearby properties to a greater degree than assumed in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) **No Impact:** The project is consistent with the policies relating the visual resources in the General Plan.
- (2) **No Impact:** The project would not impact views from riverside areas and parks.
- (3) **No Impact:** The project would not impact views of riverside areas from roadways or nearby properties.

20. LAND USE AND PLANNING

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to land use and planning expected after application of mitigations/policies:

Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following land use and planning mitigation measures pertinent to the proposed project are found on pages V-20-6 through V-20-17 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-20.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on land use and planning. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
20. LAND USE AND PLANNING				
1) The proposed project is inconsistent with land use and planning policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project contains elements that would physically divide an established community in a way not assumed in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3) The proposed project conflicts with a land use plan, policy or regulation established for the purpose of avoiding or mitigating an environmental impact by an agency that has jurisdiction over the proposed project.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project conflicts with an applicable habitat conservation plan or natural community conservation plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed project includes redesignating approximately two acres (three parcels) from Residential to Mixed Use in the General plan. The General Plan states that the Mixed Use designation was created to "characterize areas of the Modesto Urban Area that are already developed (as of January 1, 1995) and contain a mixture of all or some of the following uses in close proximity to each other: single-family residential, multi-family residential, commercial, office and institutional. In addition, it is to provide for additional development opportunities for mixed uses throughout the Urban Area General Plan".

Redesignating the property to Mixed Use is consistent with the land use policies in the General Plan, described above which allow for professional office uses. The surrounding area is occupied with a variety of commercial and residential uses. The proposed redesignation to Mixed use will allow for additional development opportunities for mixed uses in the baseline developed area. In addition the project meets the location criteria in the General Plan for the Mixed Use area, which states that the designation should be applied to those areas of the Modesto Urban Area that are already developed and contain a mixture of uses.

- (2) **Less Than Significant Impact:** The project would not divide an established community. The three parcels that are proposed to be redesignated from Residential to Mixed Use front on Standiford Avenue, an arterial street. The parcels are developed with single family homes. One of the homes is proposed to be converted to a dental office. The building will maintain its residential character. The area to the north (on the north side of Standiford Avenue) is designated mixed use and developed with residential and professional office uses. The portions of the area to the east and west are designated Mixed-Use and developed with residential and commercial uses. The proposed change in land use designation is consistent with the pattern of mixed land uses along Standiford Avenue and will not divide the adjacent residential area to the south.
- (3) **No Impact:** The project is consistent with the land use plan, policies and regulations of the City of Modesto designed to mitigate project impacts.
- (4) **No Impact:** The project does not conflict with applicable habitat conservation plans or natural community conservation plans.

21. CLIMATE CHANGE

a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to climate change expected after application of mitigations/policies:

Direct Impacts

Effect: Impacts resulting from implementation of the Urban Area General Plan are not substantial enough to result in a significant direct impact on climate change, as disclosed in the Master EIR.

Cumulative Impacts

Effect: Implementation of the Urban Area General Plan will have a cumulatively considerable impact on climate change.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following climate change mitigation measures pertinent to the proposed project are found on pages V-21-7 through V-21-10 in the Master EIR. All mitigation measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the Master EIR are required. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on climate change. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
21. CLIMATE CHANGE				
1) The proposed project is inconsistent with policies relating to climate change in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2) The proposed project would result in average automobile trip lengths or CO ₂ emissions higher than those assumed in the Master EIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
3) The proposed project would conflict with the Sustainable Communities Strategy or Alternative Planning Strategy that the Air Resources Board has agreed will achieve the goals of AB 32.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Discussion:

- (1) The City of Modesto General Plan Master EIR addressed potential climate change impacts due to development and other activities associated with the Urban Area General Plan (UAGP). The Urban Area General Plan Master EIR (MEIR) determined that buildout of the UAGP would make a cumulatively considerable contribution to global climate change. The UAGP nonetheless authorizes development that will contribute to global climate change by virtue of the production of greenhouse gases. The MEIR states the projected rate of growth of vehicle miles traveled (VMT) will increase the City's contribution to global climate change as the City develops. Development under the UAGP is expected to generate approximately 1,096,226.4 metric tons per year above 2005 emissions. The City Council adopted a Statement of Overriding Considerations in 2008, finding that the benefits of the UAGP outweighed the City's increased contribution to global climate change.

The MEIR identifies policies CL-3 through CL-26 as policies in effect that have been determined to reduce, avoid or mitigate air quality environmental impacts within the existing City limits and within the Planned Urbanizing Areas as they annex and develop. These policies include but are not limited to, the use of shade trees to reduce the heat island effect, current energy efficient building standards to reduce energy consumption, and the inclusion of facilities for alternative transportation. The proposed project will develop in accordance with climate change policies included in the UAGP and the MIER.

The General Plan designation for the site is Mixed Use. The proposed development is consistent with these designations in terms of land-use and intensity.

- (2) Climate change is an inherently cumulative impact because no single project can produce enough greenhouse gases to substantially alter the global climate. No thresholds have been set for individual or cumulative greenhouse gases. Nonetheless, the proposed project would result in greenhouse gas emissions due primarily to automobile travel and energy use for lighting, heating, cooling and other activities. The primary source of CO₂ emissions generated from the project would be related to automobile trips. As identified under the traffic and circulation discussion, traffic engineering staff has determined that the project will be in substantial conformance with the GP MEIR assumptions for traffic generation, the CO₂ emissions generated from the project would also be in substantial conformance with that which was assumed under the GP MEIR analysis.

The General Plan designation for the site is Residential. The project includes redesignating approximately two acres from Residential to Mixed Use. The subject property will be zoned to allow professional office uses. The proposed change in land use from residential to professional office is not anticipated to result in a significant difference from the impacts assumed in the MIER analysis.

- (3) A Sustainable Communities Strategy has not yet been implemented by the ARB. Future development will be required to comply with the provisions of the Sustainable Communities Strategy once it is established.

V. MITIGATION MEASURES APPLIED TO THE PROPOSED PROJECT

If the Initial Study results in the determination that a Finding of Conformance can be adopted for the proposed project Section A below applies. If the Initial Study results in the determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration/EIR must be prepared for the project then Section B, below applies.

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to Public Resources Code Section 21157.1(c), in order for a Finding of Conformance to be made, all appropriate mitigation measures from the Master EIR shall be incorporated into the proposed project. Urban Area General Plan Policies/Master EIR mitigation measures shall be made part of the proposed project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan.

All applicable and appropriate mitigation measures have been applied to the project (see mitigation measures listed below).

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the significance criteria for each environmental impact category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against the significance criteria thresholds established in the Master EIR for all impact categories in this Initial Study.

A Mitigated Negative Declaration or Focused EIR shall be prepared for the project. The following additional project-specific mitigation measures listed below are necessary to reduce the identified new significant effect:

Degradation of Air Quality:

AQ-40: The City of Modesto shall require all access roads, driveways, and parking areas serving new commercial and industrial development are to be constructed with materials that minimize particulate emissions in accordance with the requirements of SJVAPCD Regulation VIII and are appropriate to the scale and intensity of the use.

AQ-42: All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

AQ-43: All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.

AQ-44: All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

AQ-45: With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition.

AQ-46: When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

AQ-47: All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. (the use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.)

AQ-48: Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.

AQ-49: Within urban areas, track out shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

AQ-50: Any site with 150 or more vehicle trips per day shall prevent carryout and track out.

The following measures should be implemented at construction sites when required to mitigate significant PM10 impacts(note, these measures are to be implemented in addition to Regulation VIII requirements):

AQ-51: Limit traffic speeds on unpaved roads to 15 mph; and

AQ-52: Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent (1%).

AQ-53: Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.

AQ-54: Install wind breaks at windward side(s) of construction areas.

AQ-55: Suspend excavation and grading activity when winds exceed 20 mph. Regardless of wind speed, an owner/operator must comply with Regulation VIII's 20 percent (20%) opacity limitation.

AQ-56: Limit the area subject to excavation, grading and other construction activity at any one time.

Generation of Noise:

N-3: Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields. Equipment that is quieter than standard equipment should be utilized. Haul routes that affect the fewest number of people should be selected.

Disturbance of Archaeological/Historic Sites:

MEIR Table V-8-1 (b-f)

- b. Prior to excavation and construction, the prime construction contractor and any subcontractors shall be cautioned on the legal and/or regulatory implications of knowingly destroying cultural resources or removing artifacts, human remains, bottles, or other cultural materials from the project area.
- c. The project sponsor shall identify a qualified archeologist prior to any demolition, excavation, or construction. The City will approve the project sponsor's selection of a qualified archeologist. The archeologist would have the authority to temporarily halt excavation and construction activities in the immediate vicinity (ten-meter radius) of a find if significant or potentially significant cultural resources are exposed and/or adversely affected by construction operations.
- d. Reasonable time shall be allowed for the qualified archeologist to notify the proper authorities for a more detailed inspection and examination of the exposed cultural resources. During this time, excavation and construction would not be allowed in the immediate vicinity of the find; however, those activities could continue in other areas of the project site.
- e. If any find is determined to be significant by the qualified archeologist, representatives from the construction contractor and the City, the qualified archeologist, and a representative of the Native American community (if the discovery is an aboriginal burial) would meet to determine the appropriate course of action.

All cultural materials recovered as part of a monitoring program would be subject to scientific analysis, professional

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-432

RESOLUTION APPROVING A PROPOSED AGREEMENT INCLUDING LANGUAGE CHANGES FOR A SUCCESSOR MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY OF MODESTO AND MODESTO CITY EMPLOYEES' ASSOCIATION (MCEA) FOR A TERM OF JUNE 19, 2012 TO SEPTEMBER 23, 2013; AND AUTHORIZING THE DIRECTOR OF HUMAN RESOURCES AND CITY MANAGER TO TAKE THE NECESSARY ADMINISTRATIVE ACTION TO IMPLEMENT THE AGREEMENT

WHEREAS, the current Memorandum of Understanding (MOU) between the City of Modesto (CITY) and the Modesto City Employees' Association (MCEA) expired on June 18, 2012, and

WHEREAS, representatives of the CITY and the MCEA have met and conferred in good faith concerning wages, hours, terms and conditions of employment for employees in said bargaining unit, and

WHEREAS, the CITY and MCEA have reached agreement on language changes for a successor MOU which, upon execution, shall be **attached** hereto and made a part hereof, and

WHEREAS, the MOU provides as follows:

SECTION 1. TERM. The term of the MOU shall be from June 19, 2012 to September 23, 2013.

SECTION 2. SALARY RATES AND RANGES. On February 12, 2013, employees will receive a 1.5% salary increase.

SECTION 3. SICK LEAVE. Employees hired on or before December 31, 2010 who retire from the City on or after October 23, 2012 will have the option to have ninety percent (90%) of their unused sick leave accrued up to October 22, 2012 applied upon

retirement toward health insurance premiums. All sick leave hours accrued on or after October 23, 2012 shall not be converted toward retiree medical. When taking sick leave employees shall utilize hours accrued on or before October 22, 2012 prior to using hours accrued on or after October 23, 2012.

SECTION 4. LEAVE FOR EXPEDITED SICK LEAVE CONVERSION

CHANGE. For fiscal year 2012-2013, MCEA members shall receive thirty-two hours of paid special leave and will be required to take these hours on December 24, 26-28, 2012.

SECTION 5. CATASTROPHIC LEAVE. MCEA desires to initiate participation in State Disability Insurance (SDI) program for all employees in the unit. The City agrees to the coordination of benefits so long as there is no financial or administrative cost to the City. Two full quarters after implementation of SDI, the parties agree to eliminate the catastrophic leave program.

SECTION 6. RETIREE HEALTH INSURANCE. Employees hired on or before December 31, 2010 who retire from the City on or after October 23, 2012, the monthly contribution towards medical for retirees who converted sick leave hours accrued on or before October 22, 2012, shall be frozen and not exceed the following amounts: Up to \$1,100 for retirees with dependent coverage; up to \$621 for retirees without dependent coverage.

Employees hired on or before December 31, 2010 shall receive a contribution of \$50.00 per month into a Health Reimbursement Arrangement (HRA) account effective July 2, 2013.

Employees hired on or after January 1, 2011, shall receive a decreased contribution into a Health Reimbursement Arrangement (HRA) account from \$100 per month to \$50 per month effective July 2, 2013.

SECTION 7. RETIREMENT. Effective October 23, 2012 employees hired prior to January 17, 2012 (Tier 1) shall increase their portion of the employee contribution from four-tenths (0.4%) percent by six and six tenths (6.6%) percent for a total of seven (7%) percent contribution.

SECTION 8. LABOR MANAGEMENT COMMITTEE. The City and MCEA agree to meet and confer to resolve the following:

1. Discrepancies in administration and current practice of provisions in Article 19 Licenses and Certificates.
2. Discrepancies in administration and current practice of provisions in Article 20 Pay Differential.

SECTION 9. CONTINUATION OF REMAINING PROVISIONS. Except as provided above, the remaining provisions of the June 22, 2010, through June 18, 2012, MOU between the CITY and MCEA shall continue in the new MOU. The exact language of all provisions shall be set forth in the MOU between the CITY and MCEA.

WHEREAS, the Council considered this matter at its meeting of October 23, 2012,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the language changes for a successor Memorandum of Understanding between the City of Modesto and the Modesto City Employees' Association, which covers a term from June 19, 2012 through September 23, 2013, and upon execution of same, a copy of the MOU will be on file in the office of the City Clerk.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Gunderson

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-433**

RESOLUTION AMENDING A LABOR POLICY FOR PAYING AND REPORTING THE VALUE OF EMPLOYER PAID MEMBER CONTRIBUTIONS TO THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (CALPERS) ON BEHALF OF EMPLOYEES REPRESENTED BY THE MODESTO CITY EMPLOYEES' ASSOCIATION (MCEA)

WHEREAS, by Resolution No 2012-15 adopted by the Council, the City adopted a labor policy providing for Public Employees' Retirement System (PERS) employee contributions to be paid by the City on behalf of employees and for reporting of employer-paid normal member contributions to PERS as compensation, and

WHEREAS, the governing body of the City of Modesto has the authority to implement Government Code Section 20636(c)(4) pursuant to Section 20691, and

WHEREAS, the governing body of the City of Modesto has a written labor policy or agreement which specifically provides for the normal member contributions to be paid by the employer, and reported as additional compensation, and

WHEREAS, one of the steps in the procedures to implement Section 20691 is the adoption by the governing body of the City of Modesto of a Resolution to commence paying and reporting the value of said Employer Paid Member Contributions, and

WHEREAS, the governing body has the authority to amend all members in a group or class of employment pursuant to Government Code Section 20691.

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

For all Miscellaneous employees represented by the Modesto City Employees' Association the City of Modesto elects to pay zero percent (0%) of the normal member

contributions of seven percent (7%). No payment shall be implemented pursuant to the provisions of Section 20636 (c)(4) of the California Government Code.

BE IT FURTHER RESOLVED that this Resolution shall become effective on October 23, 2012.

BE IT FURTHER RESOLVED that effective October 23, 2012 Resolution No. 2012-15 is hereby repealed in its entirety.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Lopez, Muratore, Mayor Marsh

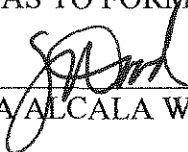
NOES: Councilmembers: None

ABSENT: Councilmembers: Gunderson

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-434

RESOLUTION APPROVING A CITY OF MODESTO EMPLOYEE WELLNESS
POLICY THAT SUPPORTS A PROGRAM FOR HEALTHY LIFESTYLES AND
OFFERS OPPORTUNITES FOR EMPLOYEES TO OPTIMIZE THEIR
HEALTH AND WELL-BEING

WHEREAS, the City of Modesto wishes to promote and encourage their employees to be healthy and safe, and

WHEREAS, more than half of California's adults are overweight or obese and therefore at risk for many chronic conditions including diabetes, heart disease, cancer, arthritis, stroke and hypertension, and,

WHEREAS, the annual cost to California in medical bills, workers compensation and lost productivity from overweight individuals, obesity and physical inactivity exceeds \$41 billion, and,

WHEREAS, by supporting the health of employees would decrease chronic disease and health care costs and increase productivity,

NOW, THEREFORE, BE IT RESOLVED that the City Council of City of Modesto supports the initiative to raise awareness and empower employees to make positive health enhancing lifestyle choices and engage in practices that will benefit their quality of life.

BE IT FURTHER RESOLVED, by the Council of City of Modesto that the City Council hereby approves the wellness policy **attached** hereto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2012, by Councilmember Burnside, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Gunderson

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

City of Modesto Wellness Policy

"Just for the Health of It"

Purpose

The purpose of this policy is to create an environment that offers opportunities for employees to optimize their health and well-being; to describe the program's key initiatives; and to provide guidance on employee participation in wellness program activities.

Vision

Educate, encourage, and empower employees and their families to live a healthier lifestyle.

Mission

Raise awareness and empower employees to make positive health enhancing lifestyle choices and engage in practices that will benefit their quality of life for themselves and their families.

City Goals

The City of Modesto wellness program is a voluntary and confidential program open to all City of Modesto employees. The City of Modesto recognizes the importance of promoting and encouraging their employees to be healthy and safe. Healthier employees are more productive and effective workers, require less expensive medical care, and are more satisfied with their jobs and their employer. Employees typically spend more than one-third of their day at work and consume at least one meal during that time. Effective worksite wellness programs can reduce health risks and improve the quality of life for employees by creating a supportive environment.

Through program planning, services, and partnership with health insurance carriers, City of Modesto wellness program seeks to:

- Improve employee health and well-being
- Empower employees with health education and lifestyle skills that enable them to achieve positive lifestyle modifications
- Improve employee morale and employment satisfaction
- Encourage employees to take advantage of opportunities for physical activity before, during, or after the workday

- Encourage employees to take good care of their health and to use the medical care system wisely
- Provide a valued employee benefit
- Decrease employee absenteeism and increase productivity

Key Initiatives:

The City of Modesto's wellness program will focus on the following areas:

- Organization Commitment
- Food and Nutrition
- Physical Activity
- Mental Well-Being (Stress Management – Financial, Home & Work)
- Employee Education and Training

Organizational Commitment

The Human Resources Department will manage the City's Employee Wellness Program consisting of a wellness committee made up of six to eight members representing various departments. Membership on this committee is voluntary and is upon approval of Department Director. Committee members will meet at least 1 to 2 hours per month to attend meetings and organize wellness programs. The duties of the committee members are to provide enthusiastic support, promote health and wellness within their department, provide peer support and advocacy to boost wellness program participation, assist in wellness events, and find new avenues to maximize wellness resources and relationships.

Wellness efforts are supported by supervisors, executive management, directors, and City Council.

Food & Nutrition

The City will promote healthier food options in the workplace by changing to the following work environment:

- A minimum of at least one healthy food option will be offered at department sponsored events where food is provided. Healthier food options would include fruits, vegetables, whole grain products, baked rather than fried foods, and water.
- City will work with vending service contractor to offer healthier vending snack options and to develop and make available at point of purchase nutritional information for posting at the vending machine(s).
- Human Resources Department will provide employees practical nutrition information to assist employees in making healthier food choices. This may include nutrition lunch and learn classes and on-site lunchtime weight management classes.

Physical Activity

Employees are encouraged to seek opportunities to be more physically active during the course of their workday. Some ways this can be accomplished is by:

- Parking further from the building
- Walking meetings
- Taking stairs instead of the elevator
- Encourage walking during employees daily breaks and meal periods

Mental Well-Being

The City will promote education and awareness that helps employees identify causes of stress and assist in strategies for reducing and better managing stress. Stress management programs may address the following:

- Time management, organizational and planning skills
- Information on City of Modesto's Employee Assistance Program as a resource for individual assistance with stress-related problems
- Educational classes on financial well-being
- Promote work/life balance

Employee Education and Training

During an employee's normal working hours, the City will allow a total of four hours per fiscal year of City time to participate in City sponsored wellness classroom and/or online trainings. Participation in trainings must be authorized in advance by your supervisor prior to attendance. Employees may voluntarily attend as many trainings as they wish, but trainings in excess of four hours per fiscal year are on employee's own time. This time will be tracked by your department supervisor.

Employees are encouraged to take advantage of City sponsored health trainings, workshops, and webinars that will include, by not limited to:

- Nutrition and weight management
- Behavior health and substance use education and programs
- Financial planning
- Understanding your medical plan

Participation

All City of Modesto employees are eligible to participate in the Wellness Program. Employee participation in the activities of the Wellness Program is on a voluntary basis.

Wellness Rewards/Incentives

The City of Modesto will recognize employees that have made strides toward enhancing health and well-being in themselves through the initiation of Employee Health and Wellness quarterly drawing. Employees will be eligible for entry into drawing for each activity, program, or education class he/she participates in. Quarterly drawings will be held March 31st, June 30th, September 30th, and December 31st.

Strategic Plan Element

The Wellness Program supports the City of Modesto's strategic plan commitments #1, #5, and #6: build and promote partnerships that engage neighborhoods and create a sense of community, champion education partnerships, and promote Modesto.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-435**

RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE CLAIRIFIER COATING REHABILITATION PROJECT FOR THE PUBLIC WORKS DEPARTMENT, WASTEWATER DIVISION, TO CERTIFIED COATINGS, COMPANY, FAIRFIELD, CA, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE A CONTRACT FOR AN ESTIMATED TOTAL COST OF \$317,362

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Requests for Bids (RFB) for the Clarifier Coating Rehabilitation Project, and

WHEREAS, the Purchasing Division issued RFB No. 1213-06 Clarifier Coating Rehabilitation Project to thirty-six (36) prospective bidders, none of which were local vendors, posted the RFB on the City's website and formally advertised as required by law. There are no local companies capable of providing this work, and

WHEREAS, bids were opened in the City Clerk's office. Three (3) companies chose to respond. All three (3) companies provided responsive and responsible bids, and

WHEREAS, Based on providing the lowest responsive and responsible bid, City staff recommends the award of bid and contract for the Clarifier Coating Rehabilitation Project to Certified Coatings Company, Fairfield, CA, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. The award of bid and contract for the Clarifier Coating Rehabilitation Project to Certified Coatings Company, Fairfield, CA, conforms to the Modesto Municipal Code, and

WHEREAS, Sufficient funds are budgeted in the following appropriation unit: 4210-59999-55010-100659, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the Clarifier Coating Rehabilitation Project for the Public Works Department, Wastewater Division to Certified Coatings Company, Fairfield, CA.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to issue an agreement for an estimated total cost of \$317,362.

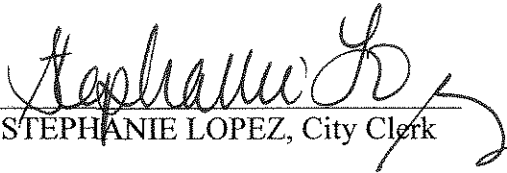
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-436**

A RESOLUTION AMENDING THE POSITION ALLOCATION IN THE MODESTO REGIONAL FIRE AUTHORITY ADOPTED BY THE CITY COUNCIL AS PART OF THE FY 12/13 BUDGET TO: (I) ADD TWO (2) FIRE ENGINEER ALLOCATIONS IN COST CENTER 80133; (II) ADD ONE (1) ADMINISTRATIVE OFFICE ASSISTANT III ALLOCATION IN COST CENTER 80121

WHEREAS, a Position Allocation for the Modesto Regional Fire Authority was adopted by Modesto City Council on June 21, 2012, as part of the Annual Budget of the City of Modesto for Fiscal Year 2012-2013, and

WHEREAS, the Modesto Regional Fire Authority has revised their organizational structure and identified the need for two (2) Fire Engineer allocations to staff the Modesto City/County Airport and maintain a sufficient relief pool to minimize the impact of overtime due to shift vacancies, and

WHEREAS, as a result of the formation of the Modesto Regional Fire Authority JPA and agreement with a limited number of employees to remain with their respective parent agency until attrition occurred, one (1) Account Clerk allocation assigned to the Office of Emergency Services remained with Stanislaus County, and will be vacated following the incumbents retirement, and

WHEREAS, following the incumbents retirement date, MRFA will add one (1) Administrative Office Assistant III allocation in Cost Center 80121 concurrent with the deletion of the current position allocation from Stanislaus County,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Position Allocation for Fiscal Year 2012-2013 as follows:

1. Add two (2) Fire Engineer allocations in Cost Center 80133 (\$3,431-\$4180 monthly).
2. Add one (1) Administrative Office Assistant III allocation in Cost Center 80121 (\$2,796-\$3,399 monthly).

This resolution shall become effective on and after November 6, 2012.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 6th day of November, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-437**

A RESOLUTION ACCEPTING A GRANT IN THE AMOUNT OF \$26,531, FROM THE CALIFORNIA OFFICE OF TRAFFIC SAFETY (OTS), THROUGH THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, TO PARTICIPATE IN AN EXPANDED DISTRACTED DRIVING HIGH-VISIBILITY ENFORCEMENT DEMONSTRATION PROGRAM; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY DOCUMENTS

WHEREAS, the City of Modesto Police Department desires to undertake a certain project designated as the Distracted Driving High-Visibility Enforcement Demonstration Program from the Office of Traffic Safety (OTS), through the National Highway Traffic Safety Administration, and

WHEREAS, the Police Department was awarded a grant in the sum of \$26,531 from OTS, and

WHEREAS, acceptance of said \$26,531 grant will increase enforcement for distracted driving violations and large media campaign using “Phone in One Hand, Ticket in the Other”, and

WHEREAS, the grant will pay overtime for officers to conduct special enforcement operations, and

WHEREAS, the term of this grant will be from November 1, 2012, through September 30, 2013,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Distracted Driving High-Visibility Enforcement Demonstration Program in the amount of \$25,531, from the California Office of Traffic Safety, for distracted driving enforcement.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of November, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-438

**A RESOLUTION AMENDING THE FISCAL YEAR 2012/2013 OPERATING
AND MULTI-YEAR GRANT BUDGET TO APPROPRIATE REVENUE AND
EXPENSES IN THE AMOUNT OF \$26,531 TO PARTICIPATE IN THE
DISTRACTED DRIVING HIGH-VISIBILITY ENFORCEMENT
DEMONSTRATION PROGRAM**

WHEREAS, the Police Department acquired a grant award in the amount of \$26,531 from the California Office of Traffic Safety (OTS), through the National Highway Traffic Safety Administration, to increase enforcement for distracted driving, and

WHEREAS, the grant will pay overtime for officers to conduct special enforcement operations, and

WHEREAS, there is no local match required for this grant, and

WHEREAS, the term of this grant will be from November 1, 2012 through September 30, 2013,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2012/2013 Operating and Multi-Year Budget is hereby adjusted as indicated on **Exhibit A**.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of November, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Exhibit A

The Multi-Year 2012/2013 Operating Budget will be amended as follows:

	<u>Revenue</u>	<u>Increase/(Decrease)</u>	<u>Description</u>
To:	1341-19999-42199-100726	\$26,531	2012/13 OTS Distracted Driving Grant
	<u>Expense</u>		
To:	100726 - Appr. A	\$26,531	Overtime

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-439**

RESOLUTION AUTHORIZING THE ALLOCATION OF \$172,052.50 IN NSP2 FUNDS FOR THE REHABILITATION OF A DUPLEX LOCATED AT 505 AND 507 E. COOLIDGE AVENUE AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE LOAN AGREEMENTS

WHEREAS, \$6 million in NSP2 funds received in 2010 from the Housing and Urban Development (HUD) was designated to fund an innovative program to be implemented by HACS to serve emancipated foster and homeless youth, and

WHEREAS, the HACS acquired 505 and 507 E. Coolidge Avenue on January 2012 for \$59,813.01 of NSP2 funds, and

WHEREAS, the City of Modesto, in partnership with HACS, proposed to acquire 40 foreclosed, abandoned or vacant units to house emancipated foster and homeless youth between the ages of 18 to 28, and

WHEREAS, funds used for the Emancipated Foster and Homeless Youth Activity have specific usage requirements.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the loan of \$172,052.50 in Neighborhood Stabilization Program 2 funds for the rehabilitation of a duplex located at 505 and 507 E. Coolidge Avenue Modesto.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to sign loan documents and all related documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of November, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-440**

RESOLUTION (i) AUTHORIZING THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT TO ENTER INTO AN AGREEMENT WITH THE SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT (DISTRICT) FOR THE CORDLESS ZERO-EMISSION COMMERCIAL LAWN AND GARDEN EQUIPMENT DEMONSTRATION PROGRAM; (ii) ACCEPT FUNDING NOT TO EXCEED \$9,869.01 FROM THE DISTRICT TO FUND THE EQUIPMENT FOR THE PROGRAM; AND AUTHORIZE THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY PROGRAM DOCUMENTS

WHEREAS, the Parks, Recreation and Neighborhoods Department was notified of a request for applications to receive funding from the San Joaquin Valley Air Pollution Control District, and

WHEREAS, funding is to be used for the purchase of zero-emission commercial lawn and garden equipment, and

WHEREAS, equipment cost is not to exceed \$9,869.01 with the City of Modesto contributing a refundable deposit of \$986.90, and

WHEREAS, equipment will be tested and its use reported to the District through June 1, 2015, and

WHEREAS, on October 12, 2012, the Parks, Recreation and Neighborhoods Department received notification that it was awarded \$9,869.01 for the purchase of zero-emission commercial lawn and garden equipment,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby (i) authorizes the Parks, Recreation and Neighborhoods Department to enter into an agreement with the San Joaquin Valley Air Pollution Control District (District) for the Cordless Zero-Emission Commercial Lawn and Garden Equipment

Demonstration Program; (ii) accept funding not to exceed \$9,869.01 from the District to fund the equipment for the program; and authorizing the City Manager, or his designee, to execute the necessary program documents.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute any necessary program documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of November, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-441**

RESOLUTION AUTHORIZING THE AWARD OF A SOLE SOURCE PROCUREMENT OF NITRATE ANALYZER EQUIPMENT AND MAINTENANCE SERVICES FOR THE DEPARTMENT OF PUBLIC WORKS, WATER OPERATIONS DIVISION, WITH HACH COMPANY, LOVELAND, CO, FOR A ONE YEAR AGREEMENT WITH TWO (2) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE A PURCHASE AGREEMENT FOR AN ESTIMATED TOTAL ANNUAL COST OF \$46,570, WITH A THREE (3) YEAR TOTAL OF \$141,348

WHEREAS, in 2006, the California Department of Public Health (CDPH) operating permit states that the nitrate concentrations shall be monitored continuously by an online nitrate analyzer at certain drinking water facilities, and

WHEREAS, over the last six (6) years, ten (10) nitrate analyzers have been purchased and installed at the affected drinking water facilities in compliance with the CDPH permit, and

WHEREAS, the City's current agreement with HACH Company for all service and maintenance of the existing nitrate analyzers expired in September 2012, and

WHEREAS, Staff is recommending renewal of this agreement with the added option for replacement of nitrate units as needed, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. However, there are exceptions to the rule set forth in the Modesto Municipal Code. One exception, MMC Section 8-3.204(b), states whereas the purchasing agencies' requirements can be met solely by a single article or process; the sole source procurement for the purchase of HACH services and equipment 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 a sole source procurement of nitrate analyzer equipment and services for the Department of Public Works, Water Operations Division with HACH Company, Loveland, CO, for a one year agreement with two (2) one-year extension options at the sole discretion of the City.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase agreement for an estimated annual cost of \$46,570.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of November, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh


NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-442**

RESOLUTION APPROVING SUBMITTAL OF APPLICATION(S) FOR ALL CALRECYCLE STREET-RELATED GRANTS FOR WHICH THE CITY OF MODESTO IS ELIGIBLE AND AUTHORIZING THE PUBLIC WORKS DIRECTOR, OR HIS DESIGNEE, TO EXECUTE ALL GRANT APPLICATIONS AND GRANT AGREEMENT DOCUMENTS AND ENTER INTO AN AGREEMENT TO RECEIVE THE GRANT FUNDS (IF AWARDED)

WHEREAS, Public Resources code sections 40000 et seq. authorize the Department of Resources Recycling and Recovery (CalRecycle) to administer various Grant Programs (grants) in furtherance of the State of California's (state) efforts to reduce, recycle and reuse solid waste generated in the State thereby preserving landfill capacity and protecting public health and safety and the environment, and

WHEREAS, in furtherance of this authority, CalRecycle is required to establish procedures governing the application, awarding, and management of the grants, and

WHEREAS, CalRecycle grant application procedures require, among other things, an Applicant's governing body to declare by Resolution certain authorizations related to the administration of CalRecycle grants.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes submittal of application(s) to CalRecycle for all street-related grants for which the City of Modesto is eligible; and

BE IT FURTHER RESOLVED that the Public Works Director, or his designee is hereby authorized and empowered to execute in the name of the City of Modesto all grant-related documents, and enter into an agreement to receive the grant funds (if awarded); and

BE IT FURTHER RESOLVED that these authorizations are effective for five (5) years from the date of adoption of this Resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of November, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-443**

RESOLUTION APPROVING AN ON-CALL AGREEMENT WITH ENVIRONMENTAL SCIENCE ASSOCIATES (ESA) TO PROVIDE THE CITY WITH ENVIRONMENTAL STUDIES IN SUPPORT OF A TREE TRIMMING AND REMOVAL PROJECT ON LANDS OWNED BY THE MODESTO CITY-COUNTY AIRPORT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Federal Aviation Administration (FAA) and California Department of Transportation – Aeronautics have asked Modesto City-County Airport to pursue obstruction removal for significant tree penetrations into the protected airspace surrounding the Airport, and

WHEREAS, federal grant money will be used for this project, the FAA desires a permanent solution to this problem, and

WHEREAS, before tree trimming and removal can be done, a complete environmental analysis is required by the FAA, including studies under the National Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA), and

WHEREAS, Airport staff is seeking a consultant who can perform the environmental studies required prior to tree trimming and removal on lands adjacent to the Airport, and

WHEREAS, ESA is qualified, willing and able to provide the services to prepare and provide these required studies,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an On-Call Agreement with Environmental Science Associates to provide the City with Environmental Studies in support of removal tree trimming and

removal project on lands owned by the Modesto City-County Airport, for a sum not to exceed \$188,612 as full remuneration, through January 1, 2014.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to sign the Agreement and any related documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of November, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmember: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-444**

RESOLUTION APPROVING AN AGREEMENT WITH BROWN AND CALDWELL TO PROVIDE ANNUAL WASTEWATER RATE REVIEW SERVICES FOR CURRENT AND FUTURE YEARS THROUGH FISCAL YEAR 2015-16 AT A TOTAL COST NOT TO EXCEED \$120,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto original hired Brown and Caldwell to prepare the Wastewater Rate Study that was adopted in July 2007, and

WHEREAS, on July 24, 2007, City Council, by Resolution 2007-463, established maximum wastewater rates beginning August 1, 2007, and

WHEREAS, on May 25, 2010, by Resolution 2010-222, City Council adopted a five-year rate plan in anticipation of debt financing the Phase 2 BNR/Tertiary Treatment Project, and

WHEREAS, This 2010 Resolution also required City Council to conduct an annual review of the proposed rate increases prior to implementation, and that this review will be completed 60 days in advance of the new rates becoming effective, and

WHEREAS, this new agreement will allow Brown and Caldwell to continue to prepare the annual review for the upcoming fiscal year and for each fiscal year through June 30, 2016, and

WHEREAS, the analysis provided will include any new rate tables that would be required when applying an approved rate change to the various customer categories, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Brown and Caldwell to provide annual wastewater rate review services for current and future years through Fiscal Year 2015-16. Total cost for four years is not to exceed \$120,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Agreement with Brown and Caldwell.


The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of November, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None


ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:


SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-445**

**RESOLUTION REJECTING ALL BIDS FOR THE PRIMARY OUTFALL
REHABILITATION PROJECT - PHASE III AND AUTHORIZING CITY STAFF
TO RE-ADVERTISE THE PROJECT WITH A REDUCED SCOPE OF WORK**

WHEREAS, the bids received for the Primary Outfall Rehabilitation Project - Phase III were opened at 11:00 a.m. on October 16, 2012, and later tabulated by the Director of Utility Planning & Projects for the consideration of the Council, and

WHEREAS, City staff and the consultant determined that it would be in the best interest of the City to reject the sole bid, and

WHEREAS, the consultant will revise the plans and specifications to a reduced scope, segregating the proposed segments under the Tuolumne River and Primary Treatment Plant into a separate project to be constructed later, and

WHEREAS, City staff recommends re-advertising the project with a reduced scope of work,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby rejects all bids received for the Primary Outfall Rehabilitation Project - Phase III, opened in the office of the City Clerk on October 16, 2012.

BE IT FURTHER RESOLVED that staff is hereby authorized to re-advertise the project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of November, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-446

RESOLUTION AMENDING THE FISCAL YEAR 2012-2013 ANNUAL
OPERATING BUDGET

WHEREAS, a financial analysis has been completed and it has been determined that a budget adjustment is required to the Annual Budgets of the City of Modesto for Fiscal Year 2012-2013,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2012-2013 annual operating budget as shown in **Exhibit A**, which is **attached** hereto and incorporated by reference herein.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez,
Muratore

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Marsh

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

HUMAN RESOURCES

An adjustment is necessary to establish a transfer in the amount of \$300,000 from the General Liability Fund 5330 to the Property Insurance Fund 5340, as a result of a refund from the Retrospective rating account of the City's excess liability pool. Once transferred to the Property Insurance Fund, these funds will be available to pay any future Property Insurance claims.

PARKS, RECREATION AND NEIGHBORHOODS

The following budget adjustment has multiple components; 1) In FY2011-12 a multi-year transfer was adopted in the amount of \$66,000 from Solid Waste Fund, 4890, to Project #100588 – Centre Plaza. An adjustment is necessary to re-appropriate \$50,000 of this transfer to Project #100688 – Energy Efficiency in Modesto Facilities; 2) an adjustment is necessary to reduce budgeted revenues in Project #100203, Install Foam Roof, by \$4,614, Project #100204, Install Solar Panels, by \$37,240 and Project #100206, Transportation Center Energy Upgrades, by \$85 as these projects are being closed and the funding is being re-appropriated to Project #100688 – Energy Efficiency in Modesto Facilities; 3) recognize revenue in the amount of \$457 in Project #100588 – Centre Plaza Lighting and \$41,482 in Project #100688 – Energy Efficiency in Modesto Facilities; 4) appropriate \$91,482 in Construction expense for Project #100688 – Energy Efficiency in Modesto Facilities.

POLICE

An adjustment is necessary to recognize additional State Law Enforcement Supplemental Fund (SLESF) revenue in the amount of \$217,675 and appropriate said revenues to Salary and Discretionary expense in the 2011-12 SLESF Operating Grant.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-447**

RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE AIRPORT NEIGHBORHOOD COMMUNITY CENTER PROJECT, ACCEPTING THE BID, APPROVING AN AGREEMENT WITH HARRIS BUILDERS, INC. OF HILMAR, CA IN THE AMOUNT OF \$327,450; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on May 24, 2011, the City Council, by Resolution No. 2011-177, approved the purchase of property located at 805/807 Empire Avenue as the site for the Airport Neighborhood Community Center (ANCC), and

WHEREAS, the Project renovation of an existing residential duplex into a community center includes: rough-in for a small commercial kitchen for future use, three offices, ADA compliant restrooms, meeting rooms, landscaping and site utilities, and

WHEREAS, the Project was advertised for bid on August 18, 2012, and bids were opened on October 23, 2012, with six (6) contractors submitting sealed bids, and

WHEREAS, upon review of the submitted bids, it was determined that Harris Builders, Inc. of Hilmar was the apparent low bidder, and

WHEREAS, the lowest responsible bid by Harris Builders, Inc. is 12.91% above the engineer's estimate; while the lowest responsible bid is greater than 10% above of the engineer's estimate, and

WHEREAS, staff and consulting Architect agree that the bid is a reasonable and competitive bid for the Project and bidder competition was clearly evident with six (6) contractors submitting responsible and competitive bids, and

WHEREAS, City staff recommends awarding the contract to Harris Builders, Inc. of Hilmar, CA in the amount of \$327,450,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Airport Neighborhood Community Center Project, accepts the bid, and approves and agreement with Harris Builders, Inc. of Hilmar, CA in the amount of \$327,450.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2012, by Councilmember Lopez, who moved its adoption, with motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez
NOES: Councilmembers: None
ABSENT: Councilmembers: Cogdill, Muratore, Mayor Marsh

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-448**

RESOLUTION AMENDING THE FY 2012-13 ANNUAL OPERATING AND CAPITAL IMPROVEMENT BUDGETS TO ADJUST THE EXPENSE CATEGORIES WITHIN THE PROJECT ACCOUNT, AND AUTHORIZING THE FINANCE DIRECTOR, OR HER DESIGNEE, TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION

WHEREAS, on May 24, 2011, the City Council, by Resolution No. 2011-177, approved the purchase of property located at 805/807 Empire Avenue as the site for the Airport Neighborhood Community Center (ANCC), and

WHEREAS, the Project renovation of an existing residential duplex into a community center includes: rough – in for a small commercial kitchen for future use, three offices, ADA compliant restrooms, meeting rooms, landscaping and site utilities, and

WHEREAS, the Project was advertised for bid on August 18, 2012, and bids were opened on October 23, 2012, with six (6) contractors submitting sealed bids, and

WHEREAS, City staff recommends awarding the contract to Harris Builders, Inc. of Hilmar, CA in the amount of \$327,450, and

WHEREAS, a budget adjustment is necessary in order to reallocate the expense budgets in the Parks CIP Account 100698 PRN.CDBG Housing Rehabilitation (Airport Neighborhood Community Center-ANCC) based on the bid results, and

WHEREAS, this budget adjustment will adjust the allocation of Neighborhood Stabilization and entitlement Community Development Block Grant funds,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the FY 2012-13 Annual Operating and Capital Improvement Budgets to reflect the approved adjusted allocation of Neighborhood

Stabilization and entitlement Community Development Block Grant funds as set forth in Exhibit "A", attached hereto and incorporated herein by reference.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2012, by Councilmember Lopez, who moved its adoption, with motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill, Muratore, Mayor Marsh

ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:


SUSANA ALCALA WOOD, City Attorney

**Airport Neighborhood Community Center
Budget Adjustment**

EXHIBIT A

Exhibit A

Airport Neighborhood Center Expense Budget

	Current	NEW	Diff
Construction Contract	285,041.00	327,450.00	42,409.00
Construction Administration	38,000.00	17,705.00	(20,295.00)
Construction Contingency (7.3%)	30,100.00	23,986.00	(6,114.00)
Administration	70,000.00	69,000.00	(1,000.00)
	423,141.00	438,141.00	15,000.00

Airport Neighborhood Center Revenue Budget

	Current	NEW	Diff
Transfer from Fund 1130 (Grants - CDBG Direct Program) to Airport Neighborhood Center Project 100698	185,000.00	200,000.00	15,000.00

Expense Budget in Fund 1130 (Grants - CDBG Direct Program)

	Current	NEW	Diff
Transfer from Fund 1130 (Grants - CDBG Direct Program) to Airport Neighborhood Center Project 100698	185,000.00	200,000.00	15,000.00

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-449**

**RESOLUTION APPROVING A LEASE AND MANAGEMENT AGREEMENT
WITH MODESTO CITY SCHOOLS FOR THE AIRPORT NEIGHBORHOOD
COMMUNITY CENTER; AND AUTHORIZING THE CITY MANAGER, OR HIS
DESIGNEE, TO SIGN THE AGREEMENT**

WHEREAS, on May 24, 2011, by Resolution No. 2011-177, the City Council approved the purchase of 805/807 Empire Avenue to serve as the site of a community center for the Airport Neighborhood, and

WHEREAS, on May 7, 2012, the Modesto City Schools Board of Trustees approved a lease and management agreement with City of Modesto to provide a variety of community and youth development activities, including, but not limited to: baseball, soccer, leadership development, Boy and Girl Scouts, neighborhood watch, and neighborhood collaborative activities, and

WHEREAS, the term of this lease and management agreement between Modesto City Schools and City of Modesto is for a period commencing upon the grand opening of the Community Center, and expiring June 30, 2014, with the option to extend for an additional two-year term, and

WHEREAS, on April 18, 2012, the Citizens' Housing & Community Development Committee recommended the City Council approve entering into a lease and management agreement with Modesto City Schools for the Airport Neighborhood Community Center,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a lease and management agreement with Modesto City Schools for the Airport Neighborhood Community Center for a period commencing upon the

grand opening of the Community Center, and expiring June 30, 2014 with the option to extend for an additional two-year term.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2012, by Councilmember Lopez, who moved its adoption, with motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill, Mayor Marsh

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-450**

RESOLUTION APPROVING A LEASE AGREEMENT WITH TUOLUMNE RIVER TRUST FOR THE AIRPORT NEIGHBORHOOD COMMUNITY CENTER; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE LEASE AGREEMENT

WHEREAS, on May 24, 2011, by Resolution No. 2011-177, the City Council approved the purchase of 805/807 Empire Avenue to serve as the site of a community center for the Airport Neighborhood, and

WHEREAS, Tuolumne River Trust has approved a lease agreement with the City of Modesto to provide nature exploration and youth development activities, and

WHEREAS, the term of the agreement between Tuolumne River Trust and City of Modesto is for a period commencing upon the grand opening of the Community Center and expiring November 15, 2013, with the option to extend the term of the lease.

WHEREAS, on April 18, 2012, the Citizens' Housing & Community Development Committee recommended the City Council approve entering into a lease agreement with Tuolumne River Trust for the Airport Neighborhood Community Center,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a lease agreement with Tuolumne River Trust for the Airport Neighborhood Community Center for a period commencing upon the grand opening of the Community Center, and expiring November 15, 2013, with the option to extend the term of the lease.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2012, by Councilmember Lopez, who moved its adoption, with motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill, Mayor Marsh

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-451**

**RESOLUTION APPROVING AN AGREEMENT TO CONVEY REAL
PROPERTY AND MUTUAL RELEASE (AGREEMENT) BETWEEN THE CITY
OF MODESTO AND MISSION HOUSING DEVELOPMENT CORPORATION
AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO
EXECUTE THE AGREEMENT AND RELATED DOCUMENTS REQUIRED TO
CLOSE THE TRANSACTION**

WHEREAS, on August 24, 2010 the City of Modesto entered into a NSP2 loan agreement with MHDC in the amount of \$159,142 for the purpose of acquiring and rehabilitating the property at 625 Benson located in the Airport Neighborhood in order to create home ownership and generate program income, and

WHEREAS, two separate fires at the property resulted in unsafe conditions requiring the complete demolition of the remaining structures as well as a back-fill of the substructure beneath the house, and

WHEREAS, to ensure the City of Modesto meets the NSP2 National Objectives it is recommended that MHDC transfer ownership of the property to the City of Modesto and issue a check to in the amount of \$20,200 which is the amount received by MHDC for the insurance settlement for both fires, and

WHEREAS, the City of Modesto will then release MHDC of all NSP2 legally binding restrictions and obligations as they relate to the property located at 625 Benson, and

WHEREAS, the property will then be transferred to a suitable non-profit agency to be identified at a later date for the purpose of creating affordable housing on the now vacant lot, and

WHEREAS, this transaction is dependent upon approval from MHDC Board of Directors through a resolution, and

WHEREAS, should MHDC Board of Directors choose not to transfer the property to the City of Modesto, MHDC will then be responsible for producing a comparable affordable housing unit on the vacant lot by February 11, 2013 or risk being in default of current agreements, and

WHEREAS, this action was reviewed by the Citizens' Housing and Community Development Committee on November 7, 2012 and was recommended for Council approval, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the transfer of the NSP2 property located at 625 Benson from Mission Housing Development Corporation to the City of Modesto in order to meet the NSP2 National Objective of creating affordable housing for moderate to very low income households.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to execute the Agreement to Convey Real Property and Mutual Release and related documents required to close the transaction.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2012, by Councilmember Lopez, who moved its adoption, with motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill, Muratore, Mayor Marsh

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-452**

**RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE,
TO EXECUTE A CERTIFICATE OF ACCEPTANCE ACCEPTING THE
GRANT DEED TRANSFERRING THE REAL PROPERTY AT 625 BENSON
AVENUE FROM MISSION HOUSING DEVELOPMENT CORPORATION TO
THE CITY OF MODESTO**

WHEREAS, on August 24, 2010 the City of Modesto entered into a NSP2 loan agreement with Mission Housing Development Corporation (MHDC) in the amount of \$159,142 for the purpose of acquiring and rehabilitating the property at 625 Benson located in the Airport Neighborhood in order to create home ownership and generate program income, and

WHEREAS, two separate fires at the property resulted in unsafe conditions requiring the complete demolition of the remaining structures as well as a back-fill of the substructure beneath the house, and

WHEREAS, to ensure the City of Modesto meets the NSP2 National Objectives it is recommended that MHDC transfer ownership of the property to the City of Modesto and issue a check to in the amount of \$20,200 which is the amount received by MHDC for the insurance settlement for both fires, and

WHEREAS, the City of Modesto will then release MHDC of all NSP2 legally binding restrictions and obligations as they relate to the property located at 625 Benson, and

WHEREAS, the property will then be transferred to a suitable non-profit agency to be identified at a later date for the purpose of creating affordable housing on the now vacant lot, and

WHEREAS, this transaction is dependent upon approval from MHDC Board of Directors through a resolution, and

WHEREAS, should MHDC Board of Directors choose not to transfer the property to the City of Modesto, MHDC will then be responsible for producing a comparable affordable housing unit on the vacant lot by February 11, 2013 or risk being in default of current agreements, and

WHEREAS, this action was reviewed by the Citizens' Housing and Community Development Committee on November 7, 2012 and was recommended for Council approval, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager, or his designee, to execute a Certificate of Acceptance (**attached**) accepting the Grant Deed transferring the real property at 625 Benson Avenue from MHDC to the City of Modesto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2012, by Councilmember Lopez, who moved its adoption, with motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill, Muratore, Mayor Marsh

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest paid in real property conveyed to the CITY OF MODESTO, a municipal corporation, by the Grant Deed dated _____, 2012 from Mission Housing Development Corporation, a California Nonprofit Benefit Corporation, is hereby accepted on behalf of the CITY OF MODESTO as Grantee by its City Manager pursuant to authority confirmed by Modesto City Council Resolution No. 2012-_____, adopted on _____, 2012, and that Grantee consents to the recordation of the Grant Deed by its duly authorized officer.

Date: _____

By: _____

GREG NYHOFF, City Manager

ATTEST: _____

STEPHANIE LOPEZ

City Clerk

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-453**

A RESOLUTION APPROVING CITY STAFF TO WORK ON THE TRANSFER OF THE 416 DOWNEY AVENUE PARCEL FROM THE SUCCESSOR AGENCY, ACTING ON BEHALF OF THE RDA TO THE CITY OF MODESTO AS THE SUCCESSOR HOUSING ENTITY

WHEREAS, on December 10, 2008, the Redevelopment Agency (Agency) purchased 416 Downey Avenue for \$520,000 based on an appraisal prepared by Pacific Valley Appraisal Inc., on May 18, 2008, and

WHEREAS, the property consists of one rectangular shaped parcel containing approximately 11,250 square feet improved at the time, with one commercial office building containing a total of approximately 2,252 square feet that was once utilized as a fire station, and

WHEREAS, since then purchase of the property the commercial office building has been demolished and cleared, and

WHEREAS, this property along with 412 Downey Avenue, which was purchased on February 28, 2008 with Community Development Block Grant (CDBG) funds, were purchased with the purpose of developing 11 senior housing units, and

WHEREAS, on February 9, 2010, staff released an RFP soliciting affordable housing developers to submit a proposal on or before March 26, 2010, and

WHEREAS, staff received four applications and only one application met the threshold of the unit count and funding constraints.

WHEREAS, on June 22, 2010 the RDA and the City Council approved the Housing Authority of the County of Stanislaus as the selected developer, and

WHEREAS, at the time the RFP was released, additional RDA funding was

anticipated from the RDA's Housing Set-Aside fund, however due to the Court decision regarding RDA payments to the State of California and then later the dissolution of the RDA, there were no additional RDA funds available for this project, and

WHEREAS, on June 28, 2011, as part of the 2011-2012 State of California budget bill, companion bills Assembly Bill 1X 26 ("AB 26") and Assembly Bill 1X 27 ("AB 27") were enacted, dissolving the Agency unless the City elected to participate in an "Alternative Voluntary Redevelopment Program" established by AB 27 and paid an annual "community remittance" payment to the County of Stanislaus, and

WHEREAS, on August 1st, 2012, the City of Modesto in its capacity as the housing successor agency to the former Redevelopment Agency of the City of Modesto and as required by AB 1484, submitted to the Department of Finance (DOF) a list of all housing assets transferred to it by the dissolved RDA, with explanation of how assets met criteria set forth in law, and

WHEREAS, on September 5, 2012, the City of Modesto received a letter from DOF indicating that DOF was not objecting to any assets or transfers of assets identified in the form submitted by the City of Modesto, and

WHEREAS, the 416 Downey property was included in the list, and

WHEREAS, the City of Modesto has identified other sources of funding to move forward the senior housing project that will be located at 416 and 412 Downey,

WHEREAS, the sales price will be determined based on an appraisal submitted on October 2, 2012 by the Housing Authority which values the property at \$66,000, and

WHEREAS, the value of the property is based on bare land, and

WHEREAS, at the time of purchase there was a 2,252 square foot commercial office building that was once utilized as a fire station, and

WHEREAS, this building was demolished and cleared to proceed with the development of senior housing.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as the Successor Housing Entity to the former RDA that it hereby approves staff to work on the transfer of the 416 Downey Avenue parcel from the Successor Agency, acting on behalf of the RDA to the City of Modesto as the Successor Housing Entity is hereby adopted.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore, Mayor Marsh


ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:


SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-454**

A RESOLUTION APPROVING CITY STAFF AND THE SUCCESSOR AGENCY ATTORNEYS TO WORK ON DRAFTING THE AGREEMENTS FOR THE SALE OF THE 416 DOWNEY AVENUE PARCEL TO THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS FOR THE DEVELOPMENT OF SENIOR HOUSING AND BRINGING THE AGREEMENT FOR APPROVAL AT A LATER DATE

WHEREAS, on December 10, 2008, the Redevelopment Agency (Agency) purchased 416 Downey Avenue for \$520,000 based on an appraisal prepared by Pacific Valley Appraisal Inc., on May 18, 2008, and

WHEREAS, at the time of purchase, the approximately 11,250 square feet rectangular shaped parcel contained one (1) 2,525 square feet commercial office building that was once utilized as a fire station, and

WHEREAS, since the purchase of the property the commercial office building has been demolished and cleared, and

WHEREAS, this property along with 412 Downey Avenue, which was purchased on February 28, 2008 with Community Development Block Grant (CDBG) funds, was purchased with the intent of developing eleven (11) senior housing units, and

WHEREAS, on February 9, 2010, staff released an RFP soliciting affordable housing developers to submit a proposal on or before March 26, 2010, and

WHEREAS, staff received four applications and only one application met the threshold of the unit count and funding constraints.

WHEREAS, on June 22, 2010 the RDA and the City Council approved the Housing Authority of the County of Stanislaus as the selected developer, and

WHEREAS, at the time the RFP was released, additional RDA funding was

anticipated from the RDA's Housing Set-Aside fund, however due to the Court decision regarding RDA payments to the State of California and then later the dissolution of the RDA, there were no additional RDA funds available for this project, and

WHEREAS, on June 28, 2011, as part of the 2011-2012 State of California budget bill, companion bills Assembly Bill 1X 26 ("AB 26") and Assembly Bill 1X 27 ("AB 27") were enacted, dissolving the Agency unless the City elected to participate in an "Alternative Voluntary Redevelopment Program" established by AB 27 and paid an annual "community remittance" payment to the County of Stanislaus, and

WHEREAS, on August 1st, 2012, the City of Modesto in its capacity as the housing successor agency to the former Redevelopment Agency of the City of Modesto and as required by AB 1484, submitted to the Department of Finance (DOF) a list of all housing assets transferred to it by the dissolved RDA, with explanation of how assets met criteria set forth in law, and

WHEREAS, on September 5, 2012, the City of Modesto received a letter from DOF indicating that DOF was not objecting to any assets or transfers of assets identified in the form submitted by the City of Modesto which included the 416 Downey Avenue property, and

WHEREAS, the City of Modesto has identified other sources of funding to move forward the senior housing project that will be located at 416 and 412 Downey Avenue, and

WHEREAS, the sales price will be determined based on an appraisal submitted on October 2, 2012 by the Housing Authority which values the property at \$66,000, and

WHEREAS, the value of the property is based on bare land, and

WHEREAS, at time of purchase there was a 2,252 square foot commercial office building that was once utilized as a fire station, and

WHEREAS, this building was demolished and cleared to proceed with the development of senior housing.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as the Successor Housing Entity to the former RDA hereby approves City staff and the Successor Agency attorney's to work on drafting agreements for the sale of the 416 Downey parcel to the Housing Authority of the County of Stanislaus for the development of senior housing and bringing the agreements for approval at a later date.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore, Mayor Marsh


ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:


SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-455**

RESOLUTION APPROVING THE RELEASE OF FUNDS IN THE AMOUNT OF \$146,794 TO PURCHASE AND REHABILITATE REAL PROPERTY WHICH IS LOCATED AT 1614 TEAKWOOD DRIVE TO BE CARRIED OUT BY THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS (HACS) AND AUTHORIZE THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN LOAN DOCUMENTS AND ALL RELATED CLOSING DOCUMENTS

WHEREAS, on January 26, 2012 a Special Council Study/Workshop session was held to outline a plan to move forward with expending the remaining NSP2 funds in the NSP2 General Acquisition and Rehabilitation activity, and

WHEREAS, on March 13, 2012, by Resolution 2012-104, Council approved the updated NSP2 Guidelines which included approving the HACS as the sub-recipient to expend the remaining NSP2 funds, and

WHEREAS, on September 4, 2012, City Council, by Resolution No. 2012-361, approved a NSP2 Memorandum of Understanding (MOU) with the HACS to expend the remaining funds budgeted in the NSP2 "General Acquisition and Rehabilitation" activity to not exceed \$2 million, and

WHEREAS, on September 4, 2012, by Resolution No. 2012-362, City Council approved all "boilerplate" loan agreements for the purchase and rehabilitation of 1614 Teakwood Drive, and

WHEREAS, the CH&CDC sub-committee recommended the property acquisition and rehabilitation loan for real property located at 1614 Teakwood Drive at its meeting.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the release of funds in the amount of \$146,794 to purchase and

rehabilitate real property which is located at 1614 Teakwood Drive to be carried out by the Housing Authority of the County of Stanislaus that City.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute the required documents for the release of funds.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore, Mayor Marsh

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-456**

RESOLUTION APPROVING THE RELEASE OF FUNDS IN THE AMOUNT OF \$165,000 TO PURCHASE AND REHABILITATE REAL PROPERTY WHICH IS LOCATED AT 1509 ENTRADA WAY TO BE CARRIED OUT BY THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS (HACS) AND AUTHORIZE THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN LOAN DOCUMENTS AND ALL RELATED CLOSING DOCUMENTS

WHEREAS, on January 26, 2012 a Special Council Study/Workshop session was held to outline a plan to move forward with expending the remaining NSP2 funds in the NSP2 General Acquisition and Rehabilitation activity, and

WHEREAS, on March 13, 2012, by Resolution 2012-104, Council approved the updated NSP2 Guidelines which included approving the HACS as the sub-recipient to expend the remaining NSP2 funds, and

WHEREAS, on September 4, 2012, City Council, by Resolution No. 2012-361, approved a NSP2 Memorandum of Understanding (MOU) with the HACS to expend the remaining funds budgeted in the NSP2 "General Acquisition and Rehabilitation" activity to not exceed \$2 million, and

WHEREAS, on September 4, 2012, by Resolution No. 2012-362, City Council approved all "boilerplate" loan agreements for the purchase and rehabilitation of 1509 Entrada Way, and

WHEREAS, the CH&CDC sub-committee recommended the property acquisition and rehabilitation loan for real property located at 1509 Entrada Way at its meeting.

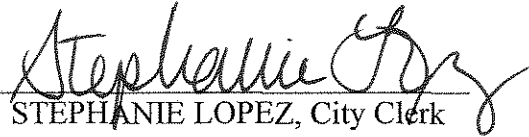
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the release of funds in the amount of \$165,000 to purchase and

rehabilitate real property which is located at 1509 Entrada Way to be carried out by the Housing Authority of the County of Stanislaus that City.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute the required documents for the release of funds.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

- AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez
- NOES: Councilmembers: None
- ABSENT: Councilmembers: Muratore, Mayor Marsh

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-457**

RESOLUTION APPROVING THE RELEASE OF FUNDS IN THE AMOUNT OF \$148,515 TO PURCHASE AND REHABILITATE REAL PROPERTY WHICH IS LOCATED AT 1120 KAHALA LANE TO BE CARRIED OUT BY THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS (HACS) AND AUTHORIZE THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN LOAN DOCUMENTS AND ALL RELATED CLOSING DOCUMENTS

WHEREAS, on January 26, 2012 a Special Council Study/Workshop session was held to outline a plan to move forward with expending the remaining NSP2 funds in the NSP2 General Acquisition and Rehabilitation activity, and

WHEREAS, on March 13, 2012, by Resolution 2012-104, Council approved the updated NSP2 Guidelines which included approving the HACS as the sub-recipient to expend the remaining NSP2 funds, and

WHEREAS, on September 4, 2012, City Council, by Resolution No. 2012-361, approved a NSP2 Memorandum of Understanding (MOU) with the HACS to expend the remaining funds budgeted in the NSP2 "General Acquisition and Rehabilitation" activity to not exceed \$2 million, and

WHEREAS, on September 4, 2012, by Resolution No. 2012-362, City Council approved all "boilerplate" loan agreements for the purchase and rehabilitation of 1120 Kahala Lane, and

WHEREAS, the CH&CDC sub-committee recommended the property acquisition and rehabilitation loan for real property located at 1120 Kahala Lane at its meeting.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the release of funds in the amount of \$148,515 to purchase and

rehabilitate real property which is located at 1120 Kahala Lane to be carried out by the Housing Authority of the County of Stanislaus that City.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute the required documents for the release of funds.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore, Mayor Marsh

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-458**

RESOLUTION APPROVING THE RELEASE OF FUNDS IN THE AMOUNT OF \$155,546 TO PURCHASE AND REHABILITATE REAL PROPERTY WHICH IS LOCATED AT 2021 ROBBIE AVENUE TO BE CARRIED OUT BY THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS (HACS) AND AUTHORIZE THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN LOAN DOCUMENTS AND ALL RELATED CLOSING DOCUMENTS

WHEREAS, on January 26, 2012 a Special Council Study/Workshop session was held to outline a plan to move forward with expending the remaining NSP2 funds in the NSP2 General Acquisition and Rehabilitation activity, and

WHEREAS, on March 13, 2012, by Resolution 2012-104, Council approved the updated NSP2 Guidelines which included approving the HACS as the sub-recipient to expend the remaining NSP2 funds, and

WHEREAS, on September 4, 2012, City Council, by Resolution No. 2012-361, approved a NSP2 Memorandum of Understanding (MOU) with the HACS to expend the remaining funds budgeted in the NSP2 "General Acquisition and Rehabilitation" activity not to exceed \$2 million, and

WHEREAS, on September 4, 2012, by Resolution No. 2012-362, City Council approved all "boilerplate" loan agreements for the purchase and rehabilitation of 2021 Robbie Avenue, and

WHEREAS, the CH&CDC sub-committee recommended the property acquisition and rehabilitation loan for real property located at 2021 Robbie Avenue at its meeting.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the release of funds in the amount of \$155,546 to purchase and

rehabilitate real property which is located at 2021 Robbie Avenue to be carried out by the Housing Authority of the County of Stanislaus that City.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute the required documents for the release of funds.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore, Mayor Marsh

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-459**

A RESOLUTION AUTHORIZING THE AWARD OF A SOLE SOURCE PROPOSAL AND CONTRACT TO CELPLAN TECHNOLOGIES, INC. OF RESTON, VA, TO PROVIDE AND INSTALL A VIDEO SURVEILLANCE SYSTEM AT THE NEW BUS MAINTENANCE FACILITY, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE A CONTRACT FOR AN AMOUNT EQUAL TO \$76,288.20

WHEREAS, the City of Modesto has constructed a new bus maintenance facility,
and

WHEREAS, the City wishes to procure a fully functional video surveillance system for said facility, and

WHEREAS, said system must be integrated into the City's existing video surveillance system utilized at the Transportation Center and in downtown Modesto, and

WHEREAS, the new installation must reuse equipment previously installed at the old bus facility, and

WHEREAS CelPlan Technologies, Inc. provided and installed the systems at the Transportation Center, the old bus facility and downtown Modesto, and

WHEREAS, procuring the hardware from the same firm that previously provided the viewing software ensures that only one vendor is responsible for a fully integrated and functional system, and

WHEREAS, using the same company that did the initial installation at the old bus facility eliminates potential issues relative to the functionality and compatibility of the relocated hardware, and

WHEREAS, staff compared CelPlan's pricing for this project with its pricing for the aforementioned City projects and believes the pricing is reasonable.

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. However, there are exceptions to the rule set forth in the Modesto Municipal Code. One exception, MMC8-3.204(b), states where as the purchasing agencies' requirements can be met solely by a single article or process: the sole source procurement for the purchase and installation of a video surveillance system conforms to the Modesto Municipal Code.

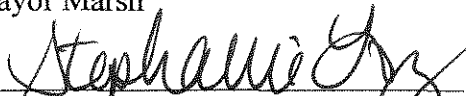
NOW THEREFORE, BE IT RESOLVED by the City of Modesto that it authorizes the award of a sole source proposal and contract to CelPlan Technologies, Inc. of Reston, VA, to provide and install a video surveillance system at the new Bus Maintenance Facility, and authorizing the City Manager, or his designee, to execute a contract for an amount equal to \$76,288.20

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Geer, Gunderson, Lopez, Muratore

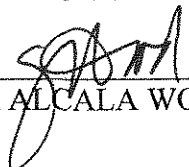
NOES: Councilmembers: None

ABSENT: Councilmembers: Burnside, Mayor Marsh

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-460**

RESOLUTION AUTHORIZING THE AWARD OF A SOLE SOURCE PROCUREMENT OF REMOTE TERMINAL UNITS (RTU'S) AND ALL ASSOCIATED CIRCUIT BOARDS AND PARTS FOR THE HSQ MISER SCADA SYSTEMS, TO HSQ TECHNOLOGY, HAYWARD CA, FOR A TWO YEAR AGREEMENT WITH THREE (3) ONE YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE A PURCHASE AGREEMENT FOR AN ESTIMATED ANNUAL COST OF \$75,000

WHEREAS, the Wastewater and Water Divisions utilize HSQ Technology (HSQ) to transmit and receive operational data from over 200 remotely located facilities such as wells, storage tanks, sewer lift stations, storm stations, and the Sutter and Jennings Treatment Plants for the HSQ Miser SCADA System, and

WHEREAS, HSQ utilizes Remote Terminal Units and the associated circuit boards and parts to ensure that there is no interruption of service in the transmission of this operational data, and

WHEREAS, HSQ has been providing service and technical support for approximately 17 years on approximately \$4 million worth of equipment that is used for our SCADA System, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. However, there are exceptions to the rule set forth in the Modesto Municipal Code. One exception, MMC8-3.204(b), states where as the purchasing agencies' requirements can be met solely by a single article or process: the sole source procurement for the sole source procurement of remote terminal units (RTU's) and all associated circuit boards 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 a sole source procurement of Remote Terminal Units (RTU's) and all associated circuit boards and parts for the HSQ Miser SCADA Systems 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.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase agreement for an estimated annual cost of \$75,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Marsh

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-461**

RESOLUTION AUTHORIZING THE PUBLIC WORKS DEPARTMENT, PARKING SERVICES DIVISION TO PROVIDE FREE PARKING IN CITY-OWNED LOTS AND GARAGES DURING THE FOLLOWING 2012/2013 HOLIDAYS: THANKSGIVING DAY (NOVEMBER 22 AND FRIDAY, NOVEMBER 23), CHRISTMAS DAY (DECEMBER 25), AND NEW YEAR'S DAY (JANUARY 1, 2013) AND AUTHORIZING THE CITY MANAGER TO MAKE THIS ADJUSTMENT AT HIS DISCRETION GOING FORWARD ON A YEARLY BASIS

WHEREAS, for a number of years, the City Council has authorized free parking on specified Holidays to encourage shopping in the downtown area, and

WHEREAS, this effort has been well received and has resulted in improved shopping traffic during these important shopping days,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Parking Services Division to provide free parking in City-owned lots and garages during the following 2012/2013 Holidays: Thanksgiving Day (November 22 and Friday, November 23), Christmas Day (December 25), and New Year's Day (January 1, 2013) and authorizing the City Manager to make this adjustment at his discretion going forward on a yearly basis.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2012 by Councilmember Lopez, who moved its adoption, which motion be duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmember: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore

NOES: Councilmember: None

ABSENT: Councilmember: Mayor Marsh

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-462**

RESOLUTION APPROVING A PURCHASE AGREEMENT WITH CHEVRON U.S.A., INC. FOR A 1,564 SQ. FT. TEMPORARY CONSTRUCTION EASEMENT OF A PARCEL LOCATED AT 2101 SYLVAN AVENUE (APN 052-063-025), IN THE AMOUNT OF \$2,550, FOR THE DOWNSTREAM WATER SYSTEM IMPROVEMENTS TIER 2 PRESSURE REGULATING VALVES PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND ALL RELATED DOCUMENTS REQUIRED

WHEREAS, the City of Modesto is continuing to make improvements to the City's water system to increase the overall dependability and efficiency of delivering quality drinking water to its users, and

WHEREAS, the improvements in this project include installing special pressure regulating valves throughout the City, and

WHEREAS, these valves are part of the City's Downstream Water System Improvements and will be used to control the flow of treated surface water to the City's distribution system, and

WHEREAS, due to safety and operational requirements, one of the valve stations will be located in an existing Public Utility Easement, and

WHEREAS, this valve station will require a Temporary Construction Easement for construction within the Public Utility Easement, and

WHEREAS, City staff has investigated the subject property to ensure it is suitable for this purpose, and recommends approving the Purchase Agreement for acquisition of the temporary property easement granted by Chevron,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Purchase Agreement with Chevron U.S.A., Inc. for a 1,564

square foot Temporary Construction Easement of a parcel located at 2101 Sylvan Avenue (APN 052-063-025), in the amount of \$2,550, for the Downstream Water System Improvements Tier 2 Pressure Regulating Valves Project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill, Mayor Marsh

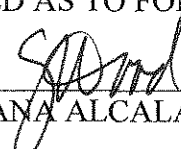
ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:


SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-463**

RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN A CERTIFICATE OF ACCEPTANCE FOR THE TEMPORARY CONSTRUCTION EASEMENT FOR THE ACQUISITION OF PROPERTY INTERESTS LOCATED AT 2101 SYLVAN AVENUE, OWNED BY CHEVRON U.S.A., INC., (APN 052-063-025) TO BE PURCHASED BY THE CITY OF MODESTO FOR THE DOWNSTREAM WATER SYSTEM IMPROVEMENTS TIER 2 PRESSURE REGULATING VALVES PROJECT

WHEREAS, Section 27281 of the Government Code requires a public agency to accept real property prior to the recordation of a deed or adopt a resolution accepting real property, and

WHEREAS, the City of Modesto desires to acquire a Temporary Construction Easement for the acquisition of property interests located at 2101 Sylvan Avenue (APN 052-063-025), owned by Chevron U.S.A., Inc., to be purchased by the City of Modesto for the Downstream Water Improvements Tier 2 Pressure Regulating Valves Project, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign a Certificate of Acceptance for the Temporary Construction Easement for the acquisition of property interests located at 2101 Sylvan Avenue, owned by Chevron U.S.A., Inc., (APN 052-063-025) to be purchased by the City of Modesto for the Downstream Water System Improvements Tier 2 Pressure Regulating Valves Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore

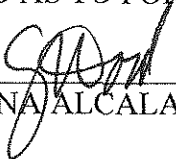
NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill, Mayor Marsh

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-464

**RESOLUTION ACCEPTING THE WORK BY HOWK SYSTEMS FOR THE
"IRRIGATION WELLS AT CITY PARKS PROJECT" AS COMPLETE,
AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION
WITH THE STANISLAUS COUNTY RECORDER UPON RECEIPT OF
APPROVED WARRANTY BOND, AND AUTHORIZING PAYMENT OF
AMOUNTS TOTALING \$482,174**

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the Irrigation Well for City Parks Project has been completed by Howk Systems in accordance with the contract agreement dated November 1, 2011,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Irrigation Well for City Parks Project is hereby accepted as complete from said contractor, Howk Systems, that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder upon receipt of approved Warranty Bond, and that payment of amounts totaling \$482,174 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore, Mayor Marsh

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-465**

RESOLUTION ACCEPTING THE WORK BY JW EBERT CORP OF SAN JOSE, CALIFORNIA, FOR THE "2010 SANITARY SEWER COLLECTION SYSTEM REPLACEMENT PROJECT" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER UPON RECEIPT OF APPROVED WARRANTY BOND, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING \$1,179,710

WHEREAS, a report has been filed by the Director of Utility Planning and Projects that the 2010 Sanitary Sewer Collection System Replacement Project has been completed by JW Ebert Corp of San Jose, California, in accordance with the contract agreement dated September 27, 2011,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that 2010 Sanitary Sewer Collection System Replacement Project is hereby accepted as complete from said contractor JW Ebert Corp of San Jose, California, that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder upon receipt of approved Warranty Bond, and that payment of amounts totaling \$1,179,710 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez


NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore, Mayor Marsh

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-466**

**RESOLUTION APPROVING AN APPLICATION BY MAGDY S. ELSAKR FOR
A STREET NAME CHANGE FROM BOB'S WAY TO ELSAKR WAY**

WHEREAS, Bob's Way is a street that runs north-south just east of Oakdale Road, from Sylvan Avenue to Post Office Drive in the northwest corner of Village One, and

WHEREAS, there are no existing businesses or residents that reside on Bob's Way nor are there existing addresses for this street in use at this time, and

WHEREAS, Magdy S. Elsagr has requested that the street be renamed Elsagr Way, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on November 13, 2012, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, and

WHEREAS, Government Code Section 34091.1 states, "Whenever the legislative body finds that a name should be adopted and applied to any city street, or that the existing name of any city street should be changed, the legislative body may adopt a resolution designating a name for, or change the name of, such street,"

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto hereby approves the application by Magdy S. Elsagr for a street name change from Bob's Way to Elsagr Way, subject to the following condition:

Within 10 days of approval, the applicant shall deposit funds with the Community & Economic Development Department sufficient to pay for the cost of replacing the three street name signs.

BE IT FURTHER RESOLVED that in accordance with Section 34092 of the Government Code, the City Clerk is directed to transmit a certified copy of this resolution to the Stanislaus County Board of Supervisors.

BE IT FURTHER RESOLVED that City staff shall immediately notify affected public agencies, utility companies, and city departments regarding the street name change.

BE IT FURTHER RESOLVED that the City shall replace the street name signs.

BE IT FURTHER RESOLVED that the street name change shall become effective 30 days after adoption of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Marsh

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-467**

RESOLUTION APPROVING AN AMENDMENT TO THE DEPARTMENT OF HOUSING & URBAN DEVELOPMENT ANNUAL ACTION PLAN FOR FISCAL YEAR 2012-13, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE RELATED DOCUMENTS

WHEREAS, the City of Modesto receives several Federal grants from the United States Department of Housing and Urban Development (HUD) and allocates those funds to various eligible activities, and

WHEREAS, the City Council, on May 8, 2012, by Resolution No. 2012-170, approved the Fiscal Year 2012-13 HUD Annual Action Plan (AAP), and

WHEREAS, any changes to the allocations adopted in the AAP are accomplished through an AAP amendment, and

WHEREAS, staff has proposed an amendment to the AAP as set forth in **Exhibit "A"**, **attached** hereto and incorporated herein by reference, and

WHEREAS, notice has been duly given to the community of the proposed amendment to the AAP, and to provide a 30-day comment period, which began October 12, 2012, and ends on November 13, 2012, and

WHEREAS, this first amendment will amend the Fiscal Year 2012-13 AAP to include the allocation of revolving loan and entitlement carryover funds, and

WHEREAS, the Citizens' Housing and Community Development Committee (CH&CDC) considered the proposed amendment to the HUD AAP at its November 7, 2012, meeting, and the Committee recommended that the City Council approve the amendment to the HUD AAP as proposed by staff, and

WHEREAS, a duly noticed public hearing was held by the City Council on

November 13, 2012, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010 Tenth Street, to consider approval of the proposed amendment to the Fiscal Year 2012-13 HUD AAP,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to the Fiscal Year 2012-13 HUD Annual Action Plan.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2012, by Councilmember Lopez, who moved its adoption, with motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez
NOES: Councilmembers: None
ABSENT: Councilmembers: Muratore, Mayor Marsh

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**FY 2012/13 Annual Action Plan Amendment
CARRYOVER**

EXHIBIT A

2012/2013 CDBG Budget	CARRYOVER Funds November 13, 2012		TOTAL Funds Committed 2012-13
	EN	RLF	
Economic Development - Small business Loans	(100,000)	100,000	250,000
Neighborhood Revitalization Strategy - Service Credits	(15,000)	-	114,976
Neighborhood Revitalization Strategy - Community Center	-	15,000	316,000
Public Facilities & Improvement - Accessibility Features - Helen White Pathway	10,102	-	50,000
Energy Efficiency Improvement Program Public Facilities	50,000	-	50,000
ADA Accessibility Project - Restroom / Playground Citywide	218,000	-	218,000
Public Facilities & Improvements (Water Tower)	10,000	-	10,000
Public Facilities & Improvements (Dryden Pathway)	(10,000)	-	48,184
Public Facilities & Improvements (Salvation Army)	170,000	-	170,000
ADA Accessibility Project - CentrePlaza ADA Door	2,000	-	4,000
Home Repair Program (HRP) / Rehabilitation Accessibility Program (RAP) - single-unit	-	200,000	390,000
Energy Efficiency Improvement Program (EEI)	134,000	-	194,000
	<u>469,102</u>	<u>315,000</u>	

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-468**

RESOLUTION AMENDING THE FY 2012-13 ANNUAL OPERATING AND CAPITAL IMPROVEMENT BUDGETS TO REFLECT THE APPROVED AMENDMENT TO THE ANNUAL ACTION PLAN FOR FISCAL YEAR 2012-13 AND THE REALLOCATION OF CARRYOVER FUNDS AS NOTED IN EXHIBIT A; AND AUTHORIZING THE DIRECTOR OF FINANCE, OR HER DESIGNEE, TO TAKE THE NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION

WHEREAS, the City of Modesto receives several Federal grants from the United States Department of Housing and Urban Development (HUD), and allocates those funds to various eligible activities, and

WHEREAS, on May 8, 2012, by Resolution No. 2012-170, the Modesto City Council approved the Fiscal Year 2012-13 HUD Annual Action Plan (AAP), and

WHEREAS, any changes to the allocations adopted in the AAP are accomplished through an AAP amendment, and

WHEREAS, this first amendment will amend the Fiscal Year 2012-13 HUD AAP to include the allocation of revolving loan and entitlement carryover funds as set forth in **Exhibit "A"**, **attached** hereto and incorporated herein by reference, and

WHEREAS, notice has been duly given to the community of the proposed amendment to the HUD AAP, and to provide a 30-day comment period, which began October 12, 2012 and ends on November 13, 2012, and

WHEREAS, the Citizens' Housing and Community Development Committee (CH&CDC) considered the proposed amendment to the HUD AAP at its November 7, 2012, meeting, and recommended that the Council approve, and

WHEREAS, a duly noticed public hearing was held by the City Council on November 13, 2012, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010

Tenth Street, to consider approval of the proposed amendment to the Fiscal Year 2012-13 HUD Annual Action Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the FY 2012-13 Annual Operating and Capital Improvement Budgets to reflect the approved amendment to the Annual Action Plan for Fiscal Year 2012-2013, and the reallocation of carryover funds as noted in **Exhibit A**.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2012, by Councilmember Lopez, who moved its adoption, with motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore, Mayor Marsh

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**FY 2012/13 Annual Action Plan Amendment
CARRYOVER**

EXHIBIT A

2012/2013 CDBG Budget	CARRYOVER Funds November 13, 2012		TOTAL Funds Committed 2012-13
	EN	RLF	
Economic Development - Small business Loans	(100,000)	100,000	250,000
Neighborhood Revitalization Strategy - Service Credits	(15,000)	-	114,976
Neighborhood Revitalization Strategy - Community Center	-	15,000	316,000
Public Facilities & Improvement - Accessibility Features - Helen White Pathway	10,102	-	50,000
Energy Efficiency Improvement Program Public Facilities	50,000	-	50,000
ADA Accessibility Project - Restroom / Playground Citywide	218,000	-	218,000
Public Facilities & Improvements (Water Tower)	10,000	-	10,000
Public Facilities & Improvements (Dryden Pathway)	(10,000)	-	48,184
Public Facilities & Improvements (Salvation Army)	170,000	-	170,000
ADA Accessibility Project - CentrePlaza ADA Door	2,000	-	4,000
Home Repair Program (HRP) / Rehabilitation Accessibility Program (RAP) - single-unit	-	200,000	390,000
Energy Efficiency Improvement Program (EEI)	134,000	-	194,000
	<u>469,102</u>	<u>315,000</u>	

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-469**

**RESOLUTION APPROVING THE REVISED FUNDING PLAN FOR THE
NEIGHBORHOOD STABILIZATION PROGRAM (NSP) 2 & 3 FOR THE
ADDITION OF 29 UNITS OF NEW SENIOR/SPECIAL NEEDS HOUSING, AND
A REDUCTION OF THE TOTAL FUNDING ALLOCATION TO THE
EMANCIPATED FOSTER AND HOMELESS YOUTH PROGRAM AND
AUTHORIZE STAFF TO PREPARE ALL NECESSARY AND SPECIFIC
DOCUMENTATION REQUIRED TO ENACT THIS PLAN**

WHEREAS, on January 26, 2012 a Special Council Study/Workshop session was held to outline a plan to move forward with expending the remaining NSP2 funds in the NSP2 General Acquisition and Rehabilitation activity, and

WHEREAS, in an effort to ensure that the NSP2 expenditure deadline is met Parks, Recreation and Neighborhood Department Staff were presented with an opportunity to revive two previously approved projects that have been placed on hold due to lack of funding, and

WHEREAS, together with Housing Urban Development (HUD) Technical Assistance (TA), staff proposed a revised NSP 2 & 3 Expenditure Plan which includes the funding of a new affordable senior housing project located on Downey Avenue consisting of 11 units and the funding of a new affordable senior/special needs housing project located at 421 Lincoln Avenue consisting of 18 units, and

WHEREAS, the Downey Avenue project will be developed by the Housing Authority of the County of Stanislaus (HACS) which will utilize \$450,000 of current NSP2 funding and a not to exceed amount of \$301,605 from future NSP2 Program Income, \$998,395 of current NSP3 funding and \$500,000 from FY 12-13 HOME Entitlement to complete the acquisition, pre-development and construction phases of this project, and

WHEREAS, the 421 Lincoln Avenue project will be developed by Stanislaus County Affordable Housing Corporation (STANCO) which will utilize \$646,100 of current NSP2 funding and a not to exceed amount of \$748,382 from future NSP2 Program Income and \$558,000 of current NSP3 funding combined with a previously allocated \$940,421 of HOME Entitlement to help complete the pre-development and construction phases of this project, and

WHEREAS, the revised Expenditure Plan requires the reduction to the NSP2 Emancipated Foster Youth and Homeless Youth program overall unit count goal of 33 to 26, and

WHEREAS, the proposed Revised Expenditure Plan will increase the overall NSP2 unit count from 175 to 190 while completing two previously approved projects that have been dormant due to lack of funding, and

WHEREAS, on November 7, 2012 this action was recommended for Council approval by the Citizens' Housing and Community Development Committee.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Revised Expenditure Plan for the Neighborhood Stabilization Program (NSP) 2 & 3 for the addition of 29 units of New Senior/Special Needs Housing, and a reduction of the total funding allocation to the Emancipated Foster and Homeless Youth Program and authorize Staff to prepare all necessary and specific documentation required to enact this Plan.


The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore, Mayor Marsh


ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:


SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-470**

**RESOLUTION APPROVING BOTH FIRST AMENDMENTS TO
MEMORANDUMS OF UNDERSTANDING (MOU) FOR THE HOUSING
AUTHORITY OF THE COUNTY OF STANISLAUS (HACS) FOR
NEIGHBORHOOD STABILIZATION PROGRAM (NSP) 2 & 3 AND
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE
BOTH MOU'S**

WHEREAS, on January 26, 2012 a Special Council Study/Workshop session was held to outline a plan to move forward with expending the remaining NSP2 funds in the NSP2 General Acquisition and Rehabilitation activity, and

WHEREAS, on March 13, 2012, by Resolution 2012-104, Council approved the updated NSP2 Guidelines which included approving the HACS as the sub-recipient to expend the remaining NSP2 funds, and

WHEREAS, on September 4, 2012, City Council, by Resolution No. 2012-361, approved a NSP2 Memorandum of Understanding (MOU) with the HACS to expend the remaining funds budgeted in the NSP2 "General Acquisition and Rehabilitation" activity to not exceed \$2 million, and

WHEREAS, in an effort to ensure that the NSP2 expenditure deadline is met Parks, Recreation and Neighborhood Department Staff were presented with an opportunity to revive two previously approved projects that have been placed on hold due to lack of funding, and

WHEREAS, together with Housing Urban Development (HUD) Technical Assistance (TA), staff proposed revisions to the NSP 2 & 3 Expenditure Plan which includes the first amendment of the HACS NSP2 and NSP3 MOU's to include NSP Eligible Use E – Redevelopment in order to create 11 units of new affordable senior

housing on Downey Avenue in addition to the existing Housing Authority Acquisition and Rehabilitation Activities, and

WHEREAS, the Downey Avenue project will be developed by HACS which will utilize \$450,000 of current NSP2 funding and a not to exceed amount of \$301,605 from future NSP2 Program Income, \$998,395 of current NSP3 funding and \$500,000 from FY 12-13 HOME Entitlement to complete the acquisition, pre-development and construction phases of this project, and

WHEREAS, the proposed Revised Expenditure Plan will increase the overall NSP2 unit count from 175 to 190 while completing two previously approved projects that have been dormant due to lack of funding, and

WHEREAS, on November 7, 2012 this action was recommended for Council approval by the Citizens' Housing and Community Development Committee.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves both First Amendments to Memorandums of Understanding (MOU) for the Housing Authority of the County of Stanislaus (HACS) for Neighborhood Stabilization Program (NSP) 2 & 3 and authorizing the City Manager, or his designee to execute both MOU's.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore, Mayor Marsh

ATTEST: Stephanie Lopez
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-471**

RESOLUTION APPROVING THE ESTABLISHMENT OF A MEMORANDUM OF UNDERSTANDING (MOU) WITH THE STANISLAUS COUNTY AFFORDABLE HOUSING CORPORATION (STANCO) FOR NEIGHBORHOOD STABILIZATION PROGRAM (NSP) 2 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE THE MOU

WHEREAS, on January 26, 2012 a Special Council Study/Workshop session was held to outline a plan to move forward with expending the remaining NSP 2 funds in the NSP2 General Acquisition and Rehabilitation activity, and

WHEREAS, in an effort to ensure that the NSP2 expenditure deadline is met Parks, Recreation and Neighborhood Department Staff were presented with an opportunity to revive two previously approved projects that have been placed on hold due to lack of funding, and

WHEREAS, together with Housing Urban Development (HUD) Technical Assistance (TA), staff proposed revisions to the NSP 2 & 3 Expenditure Plan to include a MOU with STANCO for NSP2 which includes NSP Eligible Use E – Redevelopment in order to create 18 units of new affordable senior/special needs housing located at 421 Lincoln Avenue, and

WHEREAS, the 421 Lincoln Avenue project will be developed by STANCO which will utilize \$646,100 of current NSP2 funding and a not to exceed amount of \$748,382 from future NSP2 Program Income and \$558,000 of current NSP3 funding combined with a previously allocated \$940,421 of HOME Entitlement to help complete the pre-development and construction phases of this project, and

WHEREAS, the proposed Revised Expenditure Plan will increase the overall NSP2 unit count from 175 to 190 while completing two previously approved projects that have been dormant due to lack of funding, and

WHEREAS, on November 7, 2012 this action was recommended for Council approval by the Citizens' Housing and Community Development Committee.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the establishment of a Memorandum of Understanding (MOU) with the Stanislaus County Affordable Housing Corporation (STANCO) for Neighborhood Stabilization Program (NSP) 2 and authorizing the City Manager, or his designee, to execute the MOU.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez


NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore, Mayor Marsh

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-472**

**RESOLUTION APPROVING THE SECOND AMENDMENT TO
MEMORANDUM OF UNDERSTANDING (MOU) FOR THE STANISLAUS
COUNTY AFFORDABLE HOUSING CORPORATION (STANCO) FOR
NEIGHBORHOOD STABILIZATION PROGRAM (NSP) 3 AND AUTHORIZING
THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE THE MOU**

WHEREAS, on January 26, 2012 a Special Council Study/Workshop session was held to outline a plan to move forward with expending the remaining NSP2 funds in the NSP2 General Acquisition and Rehabilitation activity, and

WHEREAS, in an effort to ensure that the NSP2 expenditure deadline is met Parks, Recreation and Neighborhood Department Staff were presented with an opportunity to revive two previously approved projects that have been placed on hold due to lack of funding, and

WHEREAS, together with Housing Urban Development (HUD) Technical Assistance (TA), staff proposed revisions to the NSP 2 & 3 Expenditure Plan which includes the second amendment of the STANCO NSP3 MOU which includes NSP Eligible Use E – Redevelopment in order to create 18 units of new affordable senior/special needs housing located at 421 Lincoln Avenue, and

WHEREAS, the 421 Lincoln Avenue project will be developed by STANCO which will utilize \$646,100 of current NSP2 funding and a not to exceed amount of \$748,382 from future NSP2 Program Income and \$558,000 of current NSP3 funding combined with a previously allocated \$940,421 of HOME Entitlement to help complete the pre-development and construction phases of this project, and

WHEREAS, the proposed Revised Expenditure Plan will increase the overall NSP2 unit count from 175 to 190 while completing two previously approved projects that have been dormant due to lack of funding, and

WHEREAS, on November 7, 2012 this action was recommended for Council approval by the Citizens' Housing and Community Development Committee.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Second Amendment to Memorandum of Understanding (MOU) for the Stanislaus County Affordable Housing Corporation (STANCO) for Neighborhood Stabilization Program (NSP) 3 and authorizing the City Manager, or his designee, to execute the MOU.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez

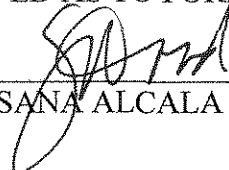
NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore, Mayor Marsh

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-473**

RESOLUTION APPROVING BOTH SETS OF LOAN DOCUMENTS FOR THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS (HACS) FOR NEIGHBORHOOD STABILIZATION PROGRAM (NSP) 2 & 3 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE ALL LOAN DOCUMENTS

WHEREAS, on January 26, 2012 a Special Council Study/Workshop session was held to outline a plan to move forward with expending the remaining NSP2 funds in the NSP2 General Acquisition and Rehabilitation activity, and

WHEREAS, on March 13, 2012, by Resolution 2012-104, Council approved the updated NSP2 Guidelines which included approving the HACS as the sub-recipient to expend the remaining NSP2 funds, and

WHEREAS, on September 4, 2012, City Council, by Resolution No. 2012-361, approved a NSP2 Memorandum of Understanding (MOU) with the HACS to expend the remaining funds budgeted in the NSP2 "General Acquisition and Rehabilitation" activity to not exceed \$2 million, and

WHEREAS, in an effort to ensure that the NSP2 expenditure deadline is met PRND staff were presented with an opportunity to revive two previously approved projects that have been placed on hold due to lack of funding, and

WHEREAS, together with Housing Urban Development (HUD) Technical Assistance (TA), staff proposed revisions to the NSP 2 & 3 Expenditure Plan which includes Loan Documents for HACS to expend \$450,000 in NSP2 funds and \$998,395 in NSP3 funds in order to create 11 units of new affordable senior housing on Downey Avenue in addition to the existing Housing Authority Acquisition and Rehabilitation Activities, and

WHEREAS, the Downey Avenue project will be developed by the Housing Authority of the County of Stanislaus which will utilize \$450,000 of current NSP2 funding and a not to exceed amount of \$301,605 from future NSP2 Program Income, \$998,395 of current NSP3 funding and \$500,000 from FY 12-13 HOME Entitlement to complete the acquisition, pre-development and construction phases of this project, and

WHEREAS, the proposed Revised Expenditure Plan will increase the overall NSP2 unit count from 175 to 190 while completing two previously approved projects that have been dormant due to lack of funding, and

WHEREAS, on November 7, 2012 this action was recommended for Council approval by the Citizens' Housing and Community Development Committee.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the following loan transactions with HACS for the Downey Avenue Project:

- ◆ \$450,000.00 in current NSP2 funding,
- ◆ not to exceed \$301,605 in NSP2 program income, and
- ◆ \$998,395 in current NSP3 funding,

and authorizing the City Manager, or his designee, to execute all loan documents.

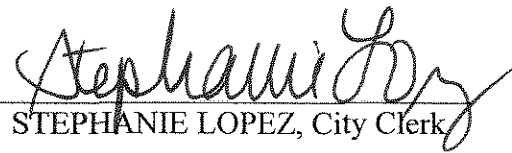
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore, Mayor Marsh


ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:


SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-474**

**RESOLUTION APPROVING THE LOAN DOCUMENTS FOR THE
STANISLAUS COUNTY AFFORDABLE HOUSING CORPORATION (STANCO)
FOR NEIGHBORHOOD STABILIZATION PROGRAM (NSP) 2 & 3 AND
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE
THE LOAN DOCUMENTS**

WHEREAS, on January 26, 2012 a Special Council Study/Workshop session was held to outline a plan to move forward with expending the remaining NSP2 funds in the NSP2 General Acquisition and Rehabilitation activity, and

WHEREAS, in an effort to ensure that the NSP2 expenditure deadline is met Parks, Recreation and Neighborhood Department Staff were presented with an opportunity to revive two previously approved projects that have been placed on hold due to lack of funding, and

WHEREAS, together with Housing Urban Development (HUD) Technical Assistance (TA), staff proposed revisions to the NSP 2 & 3 Expenditure Plan which includes Loan Documents for STANCO to expend \$646,100 in NSP2 funds and \$558,000 in NSP3 funds to create 18 units of new affordable senior/special needs housing located at 421 Lincoln Avenue, and

WHEREAS, the 421 Lincoln Avenue project will be developed by STANCO which will utilize \$646,100 of current NSP2 funding and a not to exceed amount of \$748,382 from future NSP2 Program Income and \$558,000 of current NSP3 funding combined with a previously allocated \$940,421 of HOME Entitlement to help complete the pre-development and construction phases of this project, and

WHEREAS, the proposed Revised Expenditure Plan will increase the overall NSP2 unit count from 175 to 190 while completing two previously approved projects that have been dormant due to lack of funding, and

WHEREAS, on November 7, 2012 this action was recommended for Council approval by the Citizens' Housing and Community Development Committee.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the following loan transactions with the Stanislaus County Affordable Housing Corporation (STANCO) for 421 Lincoln Avenue Project:

- \$646,100 in current NSP2 funding,
- not to exceed \$748,342 in NSP2 program income, and
- \$558,000 in current NSP3 funding;

and authorizing the City Manager, or his designee, to execute the loan documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore, Mayor Marsh

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-475**

RESOLUTION APPROVING THE COMMITMENT OF HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME) FUNDS IN THE AMOUNT OF \$500,000 FROM FY 2012-13 HOME ENTITLEMENT FOR THE COMPLETION OF CONSTRUCTION FOR THE DOWNEY AVENUE PROJECT

WHEREAS, on January 26, 2012 a Special Council Study/Workshop session was held to outline a plan to move forward with expending the remaining NSP2 funds in the NSP2 General Acquisition and Rehabilitation activity, and

WHEREAS, in an effort to ensure that the Neighborhood Stabilization Program (NSP) 2 expenditure deadline is met Parks, Recreation and Neighborhood Department Staff were presented with an opportunity to revive two previously approved projects that have been placed on hold due to lack of funding, and

WHEREAS, together with Housing Urban Development (HUD) Technical Assistance (TA), staff proposed a revised NSP 2 & 3 Expenditure Plan which includes the funding of a new affordable senior housing project located on Downey Avenue consisting of 11 units and the funding of a new affordable senior/special needs housing project located at 421 Lincoln Avenue consisting of 18 units, and

WHEREAS, the Downey Avenue project will be developed by the Housing Authority of the County of Stanislaus (HASC) which will utilize \$450,000 of current NSP2 funding and a not to exceed amount of \$301,605 from future NSP2 Program Income, \$998,395 of current NSP3 funding and \$500,000 from FY 12-13 HOME Entitlement to complete the acquisition, pre-development and construction phases of this project, and

WHEREAS, the proposed Revised Expenditure Plan will increase the overall NSP2 unit count from 175 to 190 while completing two previously approved projects that have been dormant due to lack of funding, and

WHEREAS, on November 7, 2012 this action was recommended for Council approval by the Citizens' Housing and Community Development Committee.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the commitment of HOME Investment Partnerships Program (HOME) funds in the Amount of \$500,000 from FY 2012-13 HOME Entitlement for the completion of construction for the Downey Avenue Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore, Mayor Marsh

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-476**

RESOLUTION APPROVING THE LAND TRANSFER OF 412 DOWNEY AVENUE TO THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS (HACS) FOR DEVELOPMENT OF 11 UNITS OF SENIOR AFFORDABLE HOUSING AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE ALL NECESSARY DOCUMENTS REQUIRED TO COMPLETE THE LAND TRANSFER

WHEREAS, on January 26, 2012 a Special Council Study/Workshop session was held to outline a plan to move forward with expending the remaining NSP2 funds in the NSP2 General Acquisition and Rehabilitation activity, and

WHEREAS, in an effort to ensure that the Neighborhood Stabilization Program (NSP) 2 expenditure deadline is met Parks, Recreation and Neighborhood Department Staff were presented with an opportunity to revive two previously approved projects that have been placed on hold due to lack of funding, and

WHEREAS, together with Housing Urban Development (HUD) Technical Assistance (TA), staff proposed a revised NSP 2 & 3 Expenditure Plan which includes the funding of a new affordable senior housing project located on Downey Avenue consisting of 11 units and the funding of a new affordable senior/special needs housing project located at 421 Lincoln Avenue consisting of 18 units, and

WHEREAS, the Downey Avenue project will be developed by the Housing Authority of the County of Stanislaus which will utilize \$450,000 of current NSP2 funding and a not to exceed amount of \$301,605 from future NSP2 Program Income, \$998,395 of current NSP3 funding and \$500,000 from FY 12-13 HOME Entitlement to complete the acquisition, pre-development and construction phases of this project, and

WHEREAS, the City of Modesto acquired 412 Downey Avenue through Community Development Block Grant funds, and

WHEREAS, 412 Downey Avenue shall be transferred to HACS from the City of Modesto at no cost to develop 11 units of new affordable senior housing, and

WHEREAS, the proposed Revised Expenditure Plan will increase the overall NSP2 unit count from 175 to 190 while completing two previously approved projects that have been dormant due to lack of funding, and

WHEREAS, on November 7, 2012 this action was recommended for Council approval by the Citizens' Housing and Community Development Committee.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the land transfer of 412 Downey Avenue to the Housing Authority of the County of Stanislaus (HACS) for development of 11 units of Senior Affordable Housing and authorizing the City Manager, or his designee to execute all necessary documents required to complete the land transfer.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore, Mayor Marsh

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-477**

RESOLUTION ACCEPTING THE NEIGHBORHOOD STABILIZATION PROGRAM (NSP)2 SUBSTANTIAL AMENDMENT FOR SUBMITTAL TO HOUSING URBAN DEVELOPMENT (HUD) AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE ALL NECESSARY DOCUMENTS REQUIRED TO COMPLETE THE AMENDMENT

WHEREAS, on January 26, 2012 a Special Council Study/Workshop session was held to outline a plan to move forward with expending the remaining NSP2 funds in the NSP2 General Acquisition and Rehabilitation activity, and

WHEREAS, in an effort to ensure that the NSP2 expenditure deadline is met Parks, Recreation and Neighborhood Department Staff were presented with an opportunity to revive two previously approved projects that have been placed on hold due to lack of funding, and

WHEREAS, together with Housing Urban Development (HUD) Technical Assistance (TA), staff proposed a revised NSP 2 & 3 Expenditure Plan which includes the funding of a new affordable senior housing project located on Downey Avenue consisting of 11 units and the funding of a new affordable senior/special needs housing project located at 421 Lincoln Avenue consisting of 18 units, and

WHEREAS, the Downey Avenue project will be developed by the Housing Authority of the County of Stanislaus (HACS) which will utilize \$450,000 of current NSP2 funding and a not to exceed amount of \$301,605 from future NSP2 Program Income, \$998,395 of current NSP3 funding and \$500,000 from FY 12-13 HOME Entitlement to complete the acquisition, pre-development and construction phases of this project, and

WHEREAS, the 421 Lincoln Avenue project will be developed by Stanislaus County Affordable Housing Corporation (STANCO) which will utilize \$646,100 of current NSP2 funding and a not to exceed amount of \$748,382 from future NSP2 Program Income and \$558,000 of current NSP3 funding combined with a previously allocated \$940,421 of HOME Entitlement to help complete the pre-development and construction phases of this project, and

WHEREAS, the revised Expenditure Plan requires the reduction to the NSP2 Emancipated Foster Youth and Homeless Youth program overall unit count goal of 33 to 26, and

WHEREAS, the proposed Revised Expenditure Plan will increase the overall NSP2 unit count from 175 to 190 while completing two previously approved projects that have been dormant due to lack of funding, and

WHEREAS, on November 7, 2012 this action was recommended for Council approval by the Citizens' Housing and Community Development Committee, and

WHEREAS, together the Substantial Amendment once approved by HUD will fully complete the required changes to carry out the Revised Expenditure Plan for NSP 2 & 3.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Neighborhood Stabilization Program (NSP) 2 Substantial Amendment for submittal to Housing Urban development (HUD) and authorizing the City Manager or his designee to execute all necessary documents required to complete the amendment.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore, Mayor Marsh

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-478**

RESOLUTION AMENDING THE FY 2012-13 MULTI-YEAR BUDGET FOR PROJECT 100243 TO INCLUDE THE REALLOCATIONS AS APPROVED IN THE NSP2 SUBSTANTIAL AMENDMENT FOR THE REVISED FUNDING PLAN AS SET FORTH IN EXHIBIT "E", AND AUTHORIZING THE DIRECTOR OF FINANCE, OR HER DESIGNEE, TO TAKE THE NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION

WHEREAS, the City received a \$25 Million grant award under the American Recovery and Reinvestment Act of 2009 (ARRA) for NSP2, and

WHEREAS, any changes to the allocations adopted are accomplished through a Substantial Amendment, and

WHEREAS, in an effort to ensure that the NSP2 expenditure deadline is met Parks, Recreation and Neighborhood Department Staff were presented with an opportunity to revive two previously approved projects that have been placed on hold due to lack of funding, and

WHEREAS, on November 7, 2012 this action was recommended for Council approval by the Citizens' Housing and Community Development Committee, and

WHEREAS, together the Substantial Amendment once approved by HUD will fully complete the required changes to carry out the Revised Expenditure Plan for NSP 2, and

WHEREAS, notice has been duly given to the community of the proposed amendment through a 15-day comment period, which began on October 28, 2012 and ended on November 13, 2012, and

WHEREAS, this amendment will amend the Multi-Year NSP2 Project 100243 Budget to include the allocations as set forth in **Exhibit "E"**, **attached** hereto and incorporated herein by reference, and

WHEREAS, the Citizens' Housing and Community Development Committee (CH&CDC) considered the proposed amendment to the NSP2 Expenditure Plan at its November 7, 2012, meeting, and recommended that the Council approve, and

WHEREAS, a duly noticed public hearing was held by the City Council on November 13, 2012, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010 Tenth Street, to consider approval of the proposed funding allocations as described in the NSP2 Substantial Amendment.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the FY 2012-13 Multi-year budgets for project 100243 to include the reallocations as set forth in Exhibit "E".

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2012, by Councilmember Cogdill, who moved its adoption, with motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore, Mayor Marsh

ATTEST: Stephanie Lopez
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood
SUSANA ALCALA WOOD, City Attorney

FROM

Project Number	Project Name	Expenditure Type	Task Number	Task Name	Current	Decrease/Increase	NEW
100243	CDBG NSP2	Direct Loans	230 Appr Unit C	LH 25% FosterHmless	6,000,000	-668,000	5,332,000
100243	CDBG NSP2	Direct Loans	240 Appr Unit C	Rsdent Special Needs	4,500,000	-165,000	4,335,000
100243	CDBG NSP2	Direct Loans	241 Appr Unit C	LH 25% Special Needs	1,500,000	0	1,500,000
100243	CDBG NSP2	Direct Loans	220 Appr Unit C	AcRh Developers	10,500,000	-263,100	10,236,900
					22,500,000	-1,096,100	21,403,900

TO

100243	CDBG NSP2	Direct Loans	250 Appr Unit C	TBD	0	450,000	450,000
100243	CDBG NSP2	Direct Loans	260 Appr Unit C	TBD	0	646,100	646,100
					0	1,096,100	1,096,100

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-479**

**RESOLUTION AMENDING THE FISCAL YEAR 2012-2013 PARKS,
RECREATION AND NEIGHBORHOODS DEPARTMENT OPERATING
BUDGET TO INCREASE FUNDING TO PROVIDE ONE ADDITIONAL
COMMUNITY FORESTRY TREE CREWS AND OVERTIME FUNDING FOR A
MISTLETOE ABATEMENT PROGRAM**

WHEREAS, the Parks, Recreation and Neighborhoods Department, Community Forestry Division, has seen significant budget reductions over the last ten years, and

WHEREAS, these budget reductions have resulted in a change in the pruning cycle from five years to over eight years, and

WHEREAS, the delayed pruning cycle has resulted in significant mistletoe infestation causing the loss of trees, and

WHEREAS, in order to combat this problem the Division will increase staffing by two Tree Trimmers, part-time staff, additional equipment, and overtime funding, and

WHEREAS, the on-going cost to increase staff and equipment is \$259,635, one-time startup cost is \$1,535, and one-time overtime funding is \$100,000, and

WHEREAS, the total Parks, Recreation and Neighborhoods Department Operating Budget increase in Fiscal Year 2012-2013 will be \$361,170 and will be funded through MCEA, MCMA, and Unrepresented group General Fund labor concessions,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2012-2013 Parks, Recreation and Neighborhoods Department Operating Budget.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore

NOES: Councilmembers: None

ABSENT: Councilmembers Mayor Marsh

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-480**

**RESOLUTION AMENDING THE POSITION ALLOCATION IN THE PARKS,
RECREATION AND NEIGHBORHOODS DEPARTMENT ADOPTED BY THE
CITY COUNCIL AS PART OF THE FY 2012-2013 BUDGET TO ADD TWO (2)
TREE TRIMMER ALLOCATIONS IN COST CENTER 35010**

WHEREAS, a Position Allocation for the Parks, Recreation and Neighborhoods Department was adopted by the Modesto City Council on June 21, 2012, as part of the Annual Budget of the City of Modesto for Fiscal Year 2012-2013, and

WHEREAS, the Parks, Recreation and Neighborhoods Department, Community Forestry Division, has identified the need to increase staffing to add two (2) Tree Trimmer position allocations in the Fiscal Year 2012-2013 budget, and

WHEREAS, the positions will be funded through MCEA, MCMA, and Unrepresented group labor concessions,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Position Allocation in the Parks, Recreation and Neighborhoods Department for Fiscal Year 2012-2013 to add two (2) Tree Trimmer allocations in Cost Center 35010.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of November, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Marsh

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-481**

**RESOLUTION APPOINTING JENNY KENOYER AND RHODA YARE TO THE
CITY OF MODESTO CITIZENS HOUSING AND COMMUNITY
DEVELOPMENT COMMITTEE**

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

WHEREAS, the Economic Development Committee met on November 13, 2012, and recommended appointment of Jenny Kenoyer and Rhoda Yare to the Citizens Housing and Community Development Committee.

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

SECTION 1. Jenny Kenoyer is hereby appointed to the Citizens Housing and Community Development Committee with a term expiration of January 1, 2015.

SECTION 2. Rhoda Yare is hereby appointed to the Citizens Housing and Community Development Committee with a term expiration of January 1, 2015.

SECTION 3. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Citizens Housing and Community Development Committee, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of December, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-482**

**RESOLUTION APPOINTING GILBERT STEVEN GONZALEZ TO THE
HUMAN RELATIONS COMMISSION**

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

WHEREAS, the Economic Development Committee met on November 14, 2012, and recommended appointment of Gilbert Steven Gonzalez to the Human Relations Commission.

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

SECTION 1. Gilbert Steven Gonzalez is hereby appointed to the Human Relations Commission with a term expiration of January 1, 2015.

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

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 4th day of December, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-483

RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO ADOPTING
AN AMENDED CONFLICT OF INTEREST CODE FOR CITY OF MODESTO;
AND RESCINDING RESOLUTION 2010-487

WHEREAS, pursuant to Government Code Section 87300, every local agency must adopt a Conflict of Interest Code, and

WHEREAS, the City Clerk is authorized to maintain a current list of the City agencies/departments which have adopted the Conflict of Interest Code, and

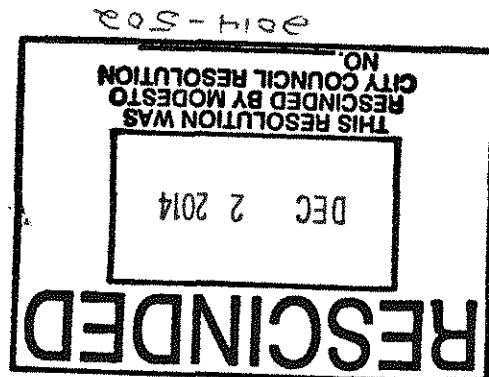
WHEREAS, The Political Reform Act requires every local government agency to review its Conflict of Interest Code on a biennial basis to determine if it is accurate or, alternatively, the need for amendment, and

WHEREAS, pursuant to Government Code Section 82011, this Council is the Code reviewing body for agencies of the City of Modesto, and

WHEREAS, the Council, at its meeting of December 4, 2012, considered the adoption of the Amended Conflict of Interest Code for the City of Modesto.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby adopts an amended Conflict of Interest Code for the City of Modesto **attached hereto.**

BE IT FURTHER RESOLVED that Resolution 2010-487, adopted by the City Council is hereby rescinded.



The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4nd day of December, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**CONFLICT OF INTEREST CODE
FOR THE CITY OF MODESTO**

The Political Reform Act (Government Code Section 8100, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. 18730) which contains the terms of a standard conflict of interest code. After public notice and hearing, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act.

Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of the City of Modesto.

Designated employees shall file their statements with the Office of the City Clerk which will make the statements available for public inspection and reproduction. (Gov. Code Section 81008.) Statements for all designated employees will be retained by the Office of the City Clerk.

OFFICE OF THE CITY ATTORNEY

CONFLICT OF INTEREST CODE

APPENDIX "A"

<u>Designated Positions</u>	<u>Disclosure Category</u>
Assistant City Attorney	1
City Attorney	Statutory Filer
Consultant	1
Deputy City Attorney I, II	1
Senior Deputy City Attorney I, II	1
Paralegal/EEO Investigator	1

OFFICE OF THE CITY AUDITOR

CONFLICT OF INTEREST CODE

APPENDIX "A"

<u>Designated Positions</u>	<u>Disclosure Category</u>
Auditor	1
Consultant*	1

OFFICE OF THE CITY CLERK
CONFLICT OF INTEREST CODE
APPENDIX "A"

<u>Designated Positions</u>	<u>Disclosure Category</u>
Assistant City Clerk	1
City Clerk	1
Consultant*	1

OFFICE OF THE CITY MANAGER

CONFLICT OF INTEREST CODE

APPENDIX "A"

<u>Designated Positions</u>	<u>Disclosure Category</u>
City Manager	Statutory Filer
Deputy City Manager (1)	1
Consultant(s)*	1

COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT **REVISED**

CONFLICT OF INTEREST CODE

APPENDIX "A"

<u>Designated Positions</u>	<u>Disclosure Category</u>
Administrative Analyst I, II	1
Administrative Services Officer	1
Administrative Services Technician I, II	1
Assistant Civil Engineer	1
Associate Civil Engineer	1
Assistant Engineer	1
Associate Engineer	1
Associate Planner	1
Building Inspection Program Coordinator	1
Building Inspector I, II	1
Business Analyst	1
Chief Building Official	1
City Engineer	1
Code Enforcement Officer, I, II	1
Development Services Technician I, II	1
Director of Community & Economic Development	1
Electrical Supervisor	1
Engineering Assistant II	1
Environmental Compliance Inspector I, II	1
Consultant	1
Assistant Chief Building Official	1
Environmental Compliance Inspector I, II	1
IFP Administrator	1
Plans Examiner	1
Planning Manager	1
Principal Planner	1
Senior Building Inspector	1

Senior Civil Engineer	1
Senior Planner	1
Senior Transportation Planner	1
Traffic Engineer	1
Traffic Operations Engineer	1

FIRE DEPARTMENT
CONFLICT OF INTEREST CODE
APPENDIX "A"

<u>Designated Positions</u>	<u>Disclosure Category</u>
Administrative Analyst	6
Apparatus Committee Members	6
Business Services Analyst	6
Deputy Fire Marshal	6
Fire Battalion Chief	6
Fire Chief	1
Fire Division Chief - Operations	6
Fire Division Chief - Fire Marshal	6
Senior Fire Mechanic	6

FINANCE DEPARTMENT
CONFLICT OF INTEREST CODE
APPENDIX "A"

<u>Designated Employee Positions</u>	<u>Disclosure Category</u>
Principal Accountant	1
Assistant Buyer (Purchasing Division)	1
Buyer/Senior Buyer	1
Customer Services Supervisor(2)	5
Customer Services Manager	1
Director of Finance	Statutory Filer
Budget and Financial Analysis Manager	1
Purchasing Manager	1
Stores Supervisor	5
Consultants*	1
Senior Financial Analyst	5

REVISED

HUMAN RESOURCES DEPARTMENT

CONFLICT OF INTEREST CODE

APPENDIX "A"

Designated Positions	Disclosure Category
Risk and Loss Control Coordinator	9
Consultant	1
Human Resources Director	1
Risk Manager	9
Workers' Compensation Claims Examiner I/II	9
Sr. Worker's Compensation Claims Examiner	9
<u>Employee Benefits Manager</u>	<u>9</u>
<u>Employee Relations Coordinator</u>	<u>9</u>

INFORMATION TECHNOLOGY DEPARTMENT

CONFLICT OF INTEREST CODE

APPENDIX "A"

<u>Designated Positions</u>	<u>Disclosure Category</u>
Consultant	1
Chief Information Officer	1
Information Technology Manager	7
Principal Software Analyst	7
Senior Software Analyst	7
Principal Systems Engineer	7
Senior Systems Engineer	7

PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT
CONFLICT OF INTEREST CODE
APPENDIX "A"

<u>Designated Positions</u>	<u>Disclosure Category</u>
Administrative Analyst II	8
Administrative Analyst I	8
Compost Facility Supervisor	8
Consultant	1
Cultural Services Manager	8
Deputy Director – Recreation and Neighborhood Services	1
Events Coordinator	8
Events Supervisor	8
Housing Financial Specialist	8
Housing Rehabilitation Specialist II	8
Housing & Urban Development Manager	2
Integrated Waste Specialist	8
Operations Supervisor	8
Parks Operations Manager	8
Parks Project Coordinator	8
Parks, Recreation and Neighborhoods Director	1
Recreation Program Manager	8
Recreation Supervisor II	8
Recycling Program Coordinator	8
Senior Community Development Program Specialist	8
Senior Housing Rehabilitation Specialist	8
Solid Waste Enforcement Officer	8
Solid Waste Program Manager	8

POLICE DEPARTMENT
CONFLICT OF INTEREST CODE
EXHIBIT "A"

<u>Designated Positions</u>	<u>Disclosure Category</u>
Public Safety Business Services Analyst	10
Chief of Police	1
Police Captain <u>(3)</u>	10
Police Lieutenant <u>-(8)</u>	10

**PUBLIC WORKS DEPARTMENT
CONFLICT OF INTEREST CODE
APPENDIX "A"**

REVISED

<u>Designated Positions</u>	<u>Disclosure Category</u>
Administrative Analyst II	8
Administrative Services Officer	8
Airport Maintenance Crewleader	8
Airport Manager	1
Deputy Director of Public Works	1
Electrical Supervisor	8
Environmental Compliance Inspector	8
Fleet Manager	8
Environmental Compliance Supervisor	8
Environmental & WQ Laboratory Supervisor	8
Environmental & Regulatory Comp Administrator	8
Director of Public Works	1
Operations & Maintenance Supervisor	8
Senior Environmental Compliance Inspector	8
Streets Manager	8
Transit Manager	1
Wastewater Collections Manager	8
Wastewater Collection Systems Supervisor	8
Water Quality Control Plant Maintenance Supervisor	8
Water Quality Control Operations Supervisor	8
Water Quality Control Plant Manager	8
Water Distribution and Production Supervisor	8
Water Systems Manager	8

UTILITY PLANNING AND PROJECTS DEPARTMENT
CONFLICT OF INTEREST CODE
EXHIBIT "A"

<u>Designated Positions</u>	<u>Disclosure Category</u>
Administrative Analyst II	8
Associate Civil Engineer	8
Construction Inspector	8
Consultant	1
Deputy Director of Utility Planning and Projects	1
Director of Utility Planning and Projects	1
Land Surveyor	8
Property Agent	1
Senior Civil Engineer	1
Senior Construction Inspector	8
Supervising Construction Inspector	8

City of Modesto
Disclosure Categories
Appendix "B"

Group 1: Designated employees in this group shall report all business positions, all investments, interests in real property, income, loans or gifts from individuals or businesses from all sources located in or doing business within the jurisdiction. (Real property shall be deemed to be "within the jurisdiction" if the property or any part of it is located within or not more than two miles outside the boundaries of the city or within two miles of any land owned or used by the City.) **FULL DISCLOSURE***

Group 2: Designated employees in this group shall report all business positions, all investments, income, loans or gifts from individuals or businesses from business entities located in or doing business within the jurisdiction. **FULL DISCLOSURE W/OUT PROPERTY**

Group 3: Designated employees in this group shall report interests in real property located within the jurisdiction or within two miles of the boundaries of the jurisdiction or within two miles of any land owned or used by the agency. **PROPERTY ONLY**

Group 4: Designated employees in this group shall report interest in real property, investments and business positions in business entities and income, including loans, gifts, and travel payments, from sources which engage in land development, construction, or the acquisition or sale of real property. (Real property shall be deemed to be "within the jurisdiction" if the property or any part of it is located within or not more than two miles outside the boundaries of the city or within two miles of any land owned or used by the City.) **COMMUNITY & ECONOMIC DEVELOPMENT**

Group 5: Designated employees in this group shall report investments and business positions in business entities and income, including loans, gifts, and travel payments, from sources which manufacture, sell or design data processing equipment or related services of the type used by the designated employees department or division. **FINANCE**

Group 6: Designated employees in this group shall report investments and business positions in business entities, and income, including loans, gifts, and travel payments, from sources which manufacture or sell fire-related equipment or parts of the type used by the designated employees department or division. **FIRE**

Group 7: Designated employees in this group shall report investments and business positions in business entities and income, including loans, gifts, and travel payments, from sources which manufacture, sell or design data processing equipment or related services of the type used by the designated employees department or division. **INFORMATION TECHNOLOGY**

Group 8: Designated employees in this group shall report investments and business positions in business entities, and income, including loans, gifts, and travel payments, from sources within the jurisdiction which manufacture, sell or supply equipment, including but not limited to horticulture, construction, craft, office and safety supplies and/or equipment of the type used by the designated employees department or division. **PARKS RECREATION & NEIGHBORHOODS/PUBLIC WORKS/UTILITY PLANNING AND PROJECTS DEPARTMENT**

Group 9: Designated employees in this group shall report investments and business positions in business entities, and income, including loans, gifts, and travel payments, from sources which are involved in healthcare or vocational rehabilitation of the type used by the designated employees department or division. **HUMAN RESOURCES**

Group 10: Designated employees in this group shall report investments and business positions in business entities, and income, including loans, gifts, and travel payments, from sources which sell, manufacture, or distribute equipment and supplies for office, personnel or vehicles of the type used by the designated employees department or division. **POLICE**

***Consultants** shall be included in the list of designated employees and shall disclose pursuant to the broadest category in the code (**Group 1**) subject to the following limitation:

*The City Manager, or his or her designee, may determine in writing that a particular consultant, although a "designated position" is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. Such written determination shall include a description of the consultant's duties and, based upon the description, a statement of the extent of disclosure requirements. The City Manager's, or his or her designee, determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

Statutory Required Filers:

The following positions are not covered by this conflict of interest code because those individuals holding these positions must file under Government Code Section 87200 and, therefore, are listed for informational purposes only:

- Mayor
- Council Members
- City Manager
- City Attorney
- Planning Commissioners
- Treasurer/Finance Director

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-484

RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO ADOPTING
A CONFLICT OF INTEREST CODE FOR THE REDEVELOPMENT AGENCY
OVERSIGHT BOARD

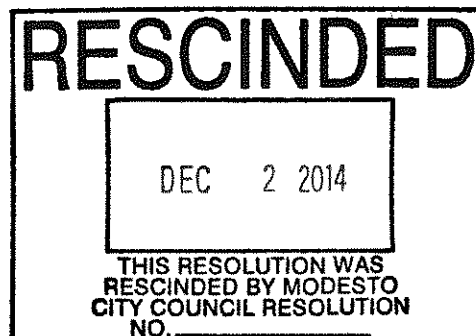
WHEREAS, pursuant to Government Code Section 87300, every local agency must adopt a Conflict of Interest Code, and

WHEREAS, the City Clerk is authorized to maintain a current list of the City agencies/departments which have adopted the Conflict of Interest Code, and

WHEREAS, pursuant to Government Code Section 82011, this Council is the Code reviewing body for agencies of the City of Modesto, and

WHEREAS, the Council, at its meeting of December 4, 2012, considered the adoption of the Conflict of Interest Code for of the Redevelopment Agency Oversight Board of the City of Modesto.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Conflict of Interest Code of the Redevelopment Agency Oversight Board of the City of Modesto as **attached** hereto, is hereby approved.



2014-510

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 4th day of December, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

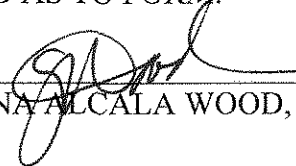
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**CONFLICT OF INTEREST CODE
OF THE
MODESTO REDEVELOPMENT SUCCESSOR AGENCY OVERSIGHT BOARD
OF THE CITY OF MODESTO**

The Political Reform Act (Government Code Section 8100, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. 18730) which contains the terms of a standard conflict of interest code. After public notice and hearing it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of the Modesto Redevelopment Successor Agency Oversight Board.

Designated employees/members shall file their statements with the Clerk of the Modesto Redevelopment Successor Agency Oversight Board which will make the statements available for public inspection and reproduction. (Gov. Code Section 81008). Statements for all designated employees/members will be retained by the Clerk of the Modesto Redevelopment Successor Agency Oversight Board.

MODESTO REDEVELOPMENT SUCCESSOR AGENCY OVERSIGHT BOARD

CONFLICT OF INTEREST CODE

APPENDIX "A"

<u>Designated Positions</u>	<u>Disclosure Category</u>
Chairperson, All Board Members	1
Consultant	2

MODESTO REDEVELOPMENT SUCCESSOR AGENCY OVERSIGHT BOARD

CONFLICT OF INTEREST CODE

EXHIBIT "B"

Disclosure Categories

An investment, interest in real property, or income is reportable if the business entity in which the investment is held, the interest in real property, or the income, or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of the employee's position.

Group 1: Designated employees in this group shall report all business positions, all investments, interests in real property, income, loans or gifts from individuals or businesses - Schedules A, B, C, D, E and F - from all sources located in or doing business within the jurisdiction. (Real property shall be deemed to be "within the jurisdiction" if the property or any part of it is located within or not more than two miles outside the boundaries of the city or within two miles of any land owned or used by the City.)

Group 2: A consultant is any person who under contract provides information, advice, recommendation or counsel to any agency. The head of the department which hires a consultant shall determine on a case-by-case basis the appropriate disclosure of economic interest which the consultant is required to file with the Clerk on beginning and ending the job.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-485**

**RESOLUTION GRANTING AN EXCEPTION TO THE VILLAGE ONE
SPECIFIC PLAN TO ALLOW FOR THE CONSTRUCTION OF SHADE
STRUCTURES LOCATED AT 1612 CLAUS ROAD, MODESTO, CA AND NOT
REQUIRE THE PARCEL TO FORM OR ANNEX TO A COMMUNITY
FACILITIES DISTRICT**

WHEREAS, Government Code Section 65450 et. seq. permits cities and counties to adopt specific plans for the systematic implementation of the General Plan and to provide for a greater level of detail in planning sites or areas of special interest or value, and

WHEREAS, on October 16, 1990, the City Council, by Resolution No. 90-828A, adopted the Village One Specific Plan, to guide the development of 1,780 acres located in northeast Modesto, and

WHEREAS, Westurf Nursery (“Applicant”) contacted the City to construct a 5,496 +/- square foot retail nursery building expansion located at 1612 Claus Road, Modesto, CA (“Parcel”), and

WHEREAS, said Parcel resides within the Village One Specific Plan Area, Precise Plan Area 35 (commonly known as the “Industrial Triangle”), and

WHEREAS, the Village One Specific Plan states that no precise plan, final map, final development plan, building permit or other development entitlement for currently unvested property shall be consistent with this Specific Plan until and unless the affected parcel is required to form or annex to the Village One CFD, and

WHEREAS, the Village One Specific Plan does allow City to defer the requirement to form or annex to the Village One CFD if it meets the following criteria:

- 1) Residential properties of less than ten acres, until there is a land

- division, addition of any dwelling unit or change of use, or
- 2) The existing commercial properties in Precise Plan Area No. 2....unless there is a change of use, physical expansion of the existing buildings, construction of new buildings, or division of property, and

WHEREAS, since Applicant did not meet above-referenced deferral criteria, staff recommended Council approve an exception to the Village One Specific Plan for the following reasons:

- 1) Applicant did not trigger the need for preparation of a Precise Plan,
- 2) The existing business was operating on the site before the Parcel was annexed into the City limits,
- 3) Circumstances had changed since the Village One CFD #2 was formed in 2004. Reprioritization of the projects occurred two years ago. The infrastructure in CFD #2 that availed the subject parcel was intended to be part of a separate and distinct financing mechanism to be developed and implemented in the future, and

WHEREAS, on October 25, 2011, the City Council, by Resolution No. 2011-406, approved a One-Time Exception to the Village One Specific Plan to construct a 5,496 +/- square foot retail nursery building expansion, and

WHEREAS, the Applicant contacted the City to construct a 3,200 square foot shade structure on the Parcel, and

WHEREAS, the applicant has also indicated it has plans to construct an additional shade structure in the future, and

WHEREAS, since the reasons stated above also apply to the construction shade structures, staff recommends the Council approve an exception to the Village One Specific Plan, and

WHEREAS, upon future development, the Parcel will be required to adhere to the Village One Specific Plan as amended,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that is hereby approves an exception to the Village One Specific Plan to allow for the construction of shade structures located at 1612 Claus Road, Modesto, CA and not require the Parcel to form or annex to a Community Facilities District.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of December, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

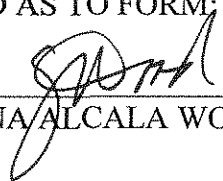
ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:


SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-486**

A RESOLUTION APPROVING THE AWARD OF PROPOSAL AND CONTRACTS FOR PROFESSIONAL ASSISTANCE WITH PLAN REVIEW AND INSPECTION SERVICES TO 4LEAF INC., BUREAU VERITAS, CSG CONSULTANTS INC., AND INTERWEST CONSULTING GROUP FOR A THREE (3) YEAR PROFESSIONAL SERVICES AGREEMENT WITH TWO (2) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF \$30,000, AND A TOTAL COST NOT TO EXCEED \$90,000

WHEREAS, on April 1, 2008, by Resolution No. 2008-171, the Council authorized the award of proposal and contracts for the furnishing of plan check services to Bureau Veritas, CSG Consultants, Scott Fazekas & Associates, and NAFFA International, and

WHEREAS, each of these contracts expired on April 1, 2012, and was based on the old valuation fee schedule, and

WHEREAS, in addition, recent state mandate requires the division to include services of Certified Access Specialists, which were not covered in the previous contracts, and

WHEREAS, the Building Safety Division's dependence on these consultants has increased due to reduction of a Plans Examiner position and the elimination of an Associate Civil Engineer position, and

WHEREAS, the plan review staff needs assistance in review of complex structural projects and a relief mechanism when the volume exceeds their ability to meet performance standards, and

WHEREAS, as commercial construction increases the Division will rely on these consultants on a regular basis, and

WHEREAS, in addition to plan review services, the Division has identified the need to contract for inspection services as well, and

WHEREAS, due to limited inspection staff resources the Division is concerned about its ability to continue to provide timely inspection services, and

WHEREAS, staffing reductions have severely limited back up capabilities, and

WHEREAS, the Division does not have an immediate need for these services on a consistent basis, any increase in permit volume would increase inspection turnaround times, and

WHEREAS, having inspection consultants available will not only allow the Division to maintain current performance levels but also account for any future increase in inspection volumes, and

WHEREAS, under the new business philosophy of including consultants as part of the Division's future to avoid "staffing up," the need to enter into new contracts is critical, and

WHEREAS, staff does not recommend this alternative, as in-house resources are limited and any increase in permit volume or unforeseen staff shortage will result in longer plan review and inspection turnaround times, and

WHEREAS, the City Manager authorized the Chief Building Official to issue formal Requests for Proposals (RFP) for professional assistance with plan review and inspection services, and

WHEREAS, the Building Safety Division issued an RFP for Plan Check and Inspection Services on May 7, 2012, posted the RFP on the City's website and formally advertised it as required by law, and

WHEREAS, seven (7) companies responded, including two (2) local vendors. All seven (7) companies provided responsive and responsible proposals, and

WHEREAS, an evaluation committee comprised of one (1) City staff member and three (3) technical experts outside the City evaluated and ranked the proposals, and

WHEREAS, based on being ranked highest in total evaluation criteria, the evaluation committee recommends the award of proposal and contracts for professional assistance with plan review and inspection services to 4LEAF Inc., Bureau Veritas, CSG Consultants Inc., and Interwest Consulting Group for an estimated annual cost of \$30,000, and a total cost not to exceed \$90,000, and

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

WHEREAS, the award of proposal and contracts for professional assistance with plan review and inspection services to 4LEAF Inc., Bureau Veritas, CSG Consultants Inc., and Interwest Consulting Group conforms to the Modesto Municipal Code,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the award of proposal and contracts for professional assistance with plan review and inspection services to 4LEAF Inc., Bureau Veritas, CSG Consultants Inc., and Interwest Consulting Group for a three (3) year professional services agreement with two (2) one-year extension options at the sole discretion of the City, for an estimated annual cost of \$30,000, and a total cost not to exceed \$90,000.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of December, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-487**

RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE PURCHASE OF TWO (2) JOHN DEERE 410K BACKHOE LOADERS FOR THE PUBLIC WORKS DIVISION, WATER DIVISION, THROUGH THE FLEET SERVICES DIVISION, BY "PIGGYBACKING OFF A COMPETITIVE BID PROCESS" WITH THE STATE OF CALIFORNIA, DEPARTMENT OF GENERAL SERVICES, CALIFORNIA MULTIPLE AWARD SCHEDULES (CMAS) TO PAPE MACHINERY, FRENCH CAMP, CA, FOR AN ESTIMATED TOTAL COST OF \$220,770

WHEREAS, the Public Works Department, Fleet Services Division has requested the purchase of two (2) John Deere Backhoe Loaders for use by the Water Division. Backhoe Loaders are used by the Water Division to construct, maintain, and repair the water infrastructure.

WHEREAS, the Backhoe Loaders are replacements for 2000 and 2001 model year that are at the end of their useful life. The Backhoe Loaders have been subjected to a thorough evaluation and have met or exceeded the replacement criteria before being placed on the replacement list, and

WHEREAS, The City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, throughout FY 12/13 through various competitive processes, with the Purchasing Division coming back to Council for award authorization. The two (2) John Deere Backhoe Loaders are included in the FY 12/13 new vehicles and heavy equipment list authorized by the City Manager, and

WHEREAS, the State of California, Department of General Services, went through a competitive bid process for the purchase of John Deere construction products and issued contract #4-08-23-022A. The most responsive and responsible bidder that met

the bid specifications was Pape Machinery, French Camp, CA. Pape Machinery was awarded the California Multiple Award Schedules (CMAS) contract #4-08-23-0022A for John Deere construction products and is extending the CMAS discount to the City of Modesto, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 12/13, in Fleet Replacement account: 5410-53241-57003, and

WHEREAS, there are no local vendors for this type of equipment. Taking advantage of this process and awarding a contract by “piggybacking off a competitive bid process” of the State of California CMAS contract is an efficient and effective way to purchase the two (2) John Deere backhoe loaders, and saves the time and expense for the City to formally solicit RFB’s, and

WHEREAS, Modesto Municipal Code (MMC) Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000.00 for material, equipment or contractual services to be formally bid. However, there are exceptions to the rule set forth in the Modesto Municipal Code. One exception, MMC Section 8-3.204(d), is available where the Purchasing Manager, in his or her discretion, determines that a process other than the usual formal bid procedure set forth in MMC Section 8-3.203 will result in procurement for the City at the lowest possible cost commensurate with the desired quality, and

WHEREAS, acting within his discretion, the Purchasing Manager invoked that exception for this purchase due to the cost savings of staff time and the limited number of competitors. There are no local vendors who can supply this type of equipment. The purchase of a two (2) John Deere Backhoe Loaders by “piggybacking off a competitive

bid process” of the State of California CMAS contract with Pape Machinery, French Camp, CA, will conform to MMC Section 8-3.204(d), and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid for the purchase of two (2) John Deere Backhoe Loaders for the Department of Public Works, Water Division through the Fleet Services Division, to Pape Machinery, French Camp, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager or his designee to issue a purchase order for a total estimated cost of \$220,279.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of December, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-488**

RESOLUTION AUTHORIZING THE AWARD OF BID FOR THE PURCHASE OF TWO (2) VAC-CON COMBINATION SEWER AND STORM DRAIN CLEANER TRUCKS FOR THE WATER QUALITY CONTROL DIVISION, WASTEWATER SECTION THROUGH THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, BY "PIGGYBACKING OFF A COMPETITIVE BID PROCESS" WITH THE CITY AND COUNTY OF SAN FRANCISCO THROUGH MUNICIPAL MAINTENANCE EQUIPMENT, SACRAMENTO, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR AN ESTIMATED TOTAL COST OF \$786,392

WHEREAS, the Water Quality Control Division, Wastewater Section utilizes Vac-Con combination sewer and storm drain cleaner trucks to clean, maintain and repair sewer pipes to comply with the Clean Water Act, and

WHEREAS, the Vac-Con combination sewer and storm drain cleaner trucks are used to clean out roots and grease in sewer lines, keeping them clear of blockages and reducing the potential for sewer system overflows. The trucks are also utilized to clean out storm drain lines and to provide flood control support during storm events, and

WHEREAS, the Vac-Con trucks are replacing two (2), 2003 model year units that are at the end of their useful life. The Vac-Con trucks have been subjected to a thorough evaluation and have met or exceeded the replacement criteria before being placed on the replacement list, and

WHEREAS, The City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, throughout FY 12/13 through various competitive processes, with the Purchasing Division coming back to Council for award authorization, and

WHEREAS, on December 9, 2011, the City and County of San Francisco went through a competitive bid process for the purchase of a Vac-Con combination sewer and

storm drain cleaner truck. The most responsive and responsible bidder that met the bid specifications was Municipal Maintenance Equipment, Sacramento, CA, and

WHEREAS, Municipal Maintenance Equipment was awarded the City and County of San Francisco bid and is extending the same bid pricing to the City of Modesto, and

WHEREAS, there are no local vendors for this type of equipment and to take advantage of this process and award by “piggybacking off the competitive bid process” is an efficient and effective way to purchase these Vac-Con combination sewer and storm drain cleaner trucks, by saving the time and expense to the City to formally solicit RFB’s, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. However, there are exceptions to the rule set forth in the Modesto Municipal Code,

WHEREAS, one exception, MMC Section 8-3.204(d), is available where the Purchasing Manager, in his or her discretion, determines that a process other than the usual formal bid procedure set forth in MMC Section 8-3.203 will result in procurement for the City at the lowest possible cost commensurate with the desired quality. Acting within his discretion, the Purchasing Manager invoked that exception for this purchase due to the cost savings of staff time and the limited number of competitors. There are no local vendors can supply this type of equipment. The purchase of two (2) Vac-Con combination sewer and storm drain cleaner trucks, by “piggybacking off a competitive bid process” of the City and County of San Francisco contract with Municipal

Maintenance Equipment, Sacramento, CA, will conform to MMC Section 8-3.204(d),
and

WHEREAS, sufficient funds are budgeted in Fiscal year 2012-13 in the following
Fleet Equipment replacement account: 5410-53241-57003.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby authorizes the award of bid for the purchase of two (2) Vac-Con
combination sewer and storm drain cleaner trucks for the Water Quality Control
Division, Wastewater Sections through the Public Works Department, Fleet Services
Division, by "piggybacking off a competitive bid process" with the City and County of
San Francisco through Municipal Maintenance Equipment, Sacramento, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized
to issue a purchase order for an estimated total cost of \$786,392.

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 4th day of December, 2012, by Councilmember Lopez,
who moved its adoption, which motion being duly seconded by Councilmember
Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez,
Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-489**

A RESOLUTION RESCINDING MODESTO CITY COUNCIL RESOLUTION NO. 2011-470 FOR THE AWARD OF CONTRACT FOR THE SOLE BRAND PROCUREMENT, DESIGN AND INSTALLATION OF A LIEBERT UNINTERRUPTIBLE POWER SUPPLY SYSTEM FOR THE MODESTO POLICE DEPARTMENT BY ACCESSING THE TERMS OF THE WESTERN STATE CONTRACT ALLIANCE CONTRACT #B27164 TO NWN CORPORATION, SACRAMENTO, CA

WHEREAS, the City Council, by Resolution No. 2011-470, approved the sole brand procurement design and installation of a Liebert Uninterruptible Power Supply System for the Modesto Police Department by accessing the terms of the Western State Contract Alliance Contract #B27164 to NWN Corporation, Sacramento, CA for an estimated cost of \$119,800, and

WHEREAS, NWN Corporation could not meet the licensing requirements set by the California State Contractors Board to perform the installation of the UPS, and

WHEREAS, The City of Modesto cannot enter into an agreement with NWN Corporation.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby rescinds Resolution No. 2011-470, effective upon adoption of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of December, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh


NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-490**

RESOLUTION ACCEPTING THE AVOID THE TWELVE GRANT FROM THE STATE OF CALIFORNIA OFFICE OF TRAFFIC SAFETY, IN THE AMOUNT NOT TO EXCEED \$35,000, TO REDUCE ALCOHOL RELATED FATAL AND INJURY TRAFFIC COLLISIONS IN STANISLAUS COUNTY; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY PROGRAM DOCUMENTS

WHEREAS, The City of Modesto Police Department desires to undertake a certain project designated as Avoid the Twelve from the State of California Office of Traffic Safety (OTS), and

WHEREAS, the goal of the grant in the amount of \$109,000 is to reduce alcohol related injuries and death within Stanislaus County and raise the awareness of the general public regarding the problems with drinking and driving, and

WHEREAS, the project was accepted for funding for a period of one year commencing on October 1, 2012 and ending on September 30, 2013, and

WHEREAS, the Ceres Police Department will administer the program, and

WHEREAS, the total amount of reimbursable overtime expenses for the Modesto Police Department for this grant shall not exceed \$35,000,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Avoid the Twelve Grant from the State of California Office of Traffic Safety, in the amount not to exceed \$35,000.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto, held on the 4th day of December, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:


SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-491**

A RESOLUTION AMENDING THE FISCAL YEAR 2012/13 OPERATING BUDGET ESTIMATING REVENUE AND OFFSETTING EXPENSES NOT TO EXCEED \$35,000, FOR THE AVOIDTHE TWELVE GRANT, TO REDUCE ALCOHOL RELATED FATAL AND INJURY TRAFFIC COLLISIONS IN STANISLAUS COUNTY; AND AUTHORIZING THE FINANCE DIRECTOR, OR HER DESIGNEE, TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION

WHEREAS, the City of Modesto Police Department, in partnership with Ceres, Turlock, Oakdale, Newman, Stanislaus County Probation Department, Sheriff's Office, and the California State University Police, will unite in "Avoid the Twelve" to reduce alcohol related fatal and injury traffic collisions in Stanislaus County, and

WHEREAS, the Ceres Police Department will have a Project Manager who will oversee administration and implementation of this county-wide program, and

WHEREAS, the City of Ceres Police Department will administer the reimbursement of the various law enforcement agencies that participate in the project, and

WHEREAS, the grant will commence on October 1, 2012 and end on September 30, 2013, and

WHEREAS, the City of Modesto Police Department shall be compensated in an amount not to exceed \$35,000 for overtime on this program, and

WHEREAS, there is no local match required for this program,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2012/2013 Operating Budget estimating revenue and offsetting expenses not to exceed \$35,000, for the Avoid the Twelve Grant is hereby as indicated on **Exhibit A.**

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of December, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Exhibit A

The Avoid the Twelve grant allocation for Fiscal Year 2012/2013 will be applied to:

<u>Revenues:</u>	<u>Increase/(Decrease)</u>	<u>Description</u>
To: MY-1341-19999-42199-100731	<u>\$ 35,000</u>	State – Miscellaneous Grants
TOTAL:	\$ 35,000	

Expenses:

To: MY-100731- Appr Unit A	<u>\$ 35,000</u>	Overtime
TOTAL	\$35,000	

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-492**

**RESOLUTION ACCEPTING AN AWARD IN THE AMOUNT OF \$5,884, FROM
THE U.S. DEPARTMENT OF JUSTICE BULLETPROOF VEST PARTNERSHIP
PROGRAM FOR ARMOR VESTS**

WHEREAS, on May 23, 2012, City staff submitted an application to the U.S. Department of Justice (DOJ) for award funding as part of the Bulletproof Vest Partnership (BVP) Program, and

WHEREAS, on October 16, 2012, staff received notification of award funding approval in the amount of \$5,884, and

WHEREAS, through the BVP Program federal award funds were made available for the purchase of armor vests for law enforcement officers, and

WHEREAS, the BVP Program pays up to 50% of the cost of vests purchased and requires that each applicant jurisdiction be responsible for matching the cost of each qualifying vest purchased, and

WHEREAS, the reimbursable program term is April 1, 2012 through August 31, 2014,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts an award in the amount of \$5,884 from the U.S. Department of Justice, Bulletproof Vest Partnership Program, for armor vests.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto, held on the 4th day of December, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-493**

**RESOLUTION AMENDING THE FISCAL YEAR 2012/13 MULTI-YEAR
OPERATING BUDGET TO ESTIMATE REVENUE OF \$5,884 FROM THE U.S.
DEPARTMENT OF JUSTICE, BULLETPROOF VEST PARTNERSHIP
PROGRAM, AND APPROPRIATE FUNDS FOR THE PURCHASE OF
BULLETPROOF VESTS**

WHEREAS, the City of Modesto Police Department was awarded funding in the amount of \$5,884 from the U.S. Department of Justice, Bulletproof Vest Partnership Program, and

WHEREAS, the funds were made available for the purchase of armor vests for law enforcement officers, and

WHEREAS, the program pays up to 50% of the cost of vests purchased, and requires that each applicant jurisdiction be responsible for matching the cost of each qualifying vest purchased, and

WHEREAS, the Council of the City of Modesto authorized the City Manager, or his designee, to accept the Bulletproof Vest Partnership program funding,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2012/13 Multi-Year Operating Budget is hereby amended as shown in **Exhibit A attached**.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of December, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Exhibit A

The Bulletproof Vest allocation for Fiscal Year 2012/2013 will be applied to:

Reduction of existing General Fund MPD Budget

	<u>Current Budget</u>	<u>Increase/ (Decrease)</u>	<u>Revised Budget</u>	<u>Description</u>
13-0100-19420-52038	\$15,000	(\$ 5,884)	\$9,116	Police Equipment <\$5K

Establish transfer from General Fund to Grant Fund 1341 for the City's match contribution

	<u>Current Budget</u>	<u>Increase/ (Decrease)</u>	<u>Revised Budget</u>	<u>Description</u>
From:				
13-0100-70100-71341	\$ 0	\$ 5,884	\$5,884	Transfer to Fund 1341
To:				
13-1341-19999-60100-100730	\$ 0	\$ 5,884	\$5,884	Transfer from General Fund

Grant Revenue

	<u>Current Budget</u>	<u>Increase/ (Decrease)</u>	<u>Revised Budget</u>	<u>Description</u>
13-1341-19999-42090-100730	\$ 0	\$5,884	\$ 5,884	2012 DOJ Armor Vests

Grant Expense Budget

	<u>Current Budget</u>	<u>Increase/ (Decrease)</u>	<u>Revised Budget</u>	<u>Description</u>
MY-100730-Appr Unit C	\$ 0	\$11,768	\$11,768	2012 DOJ Armor Vests Police Equip <\$5K

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-494**

RESOLUTION APPROVING SUBMITTAL OF APPLICATION TO THE ANTI-DRUG ABUSE (ADA) ENFORCEMENT PROGRAM GRANT FROM THE BOARD OF STATE AND COMMUNITY CORRECTIONS (BSCC), IN THE AMOUNT OF \$251,372, FOR THE STANISLAUS DRUG ENFORCEMENT AGENCY (SDEA), TO COMBAT MAJOR DRUG TRAFFICKING AND MANUFACTURING; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL GRANT APPLICATIONS AND GRANT AGREEMENT DOCUMENTS AND ENTER INTO AN AGREEMENT TO RECEIVE THE GRANT FUNDS (IF AWARDED)

WHEREAS, the Modesto Police Department is requesting approval to submit an application on behalf of the allotted funding for Stanislaus County from the Board of State and Community Corrections (BSCC) for the Stanislaus Anti-Drug Abuse Enforcement Program, and

WHEREAS, in California, these programs fall under the ADA Enforcement Team Program and are funded by the Edward Byrne Memorial Justice Assistance Grant (JAG), and

WHEREAS, the Stanislaus Anti-Drug Abuse Enforcement Program is part of the Stanislaus Drug Enforcement Agency (SDEA), and

WHEREAS, this program will integrate federal, state, and local law enforcement agencies, prosecutors, and probation officers for the purpose of enhancing inter-agency coordination and intelligence and facilitating multi-jurisdictional investigations to combat major drug trafficking and manufacturing, and

WHEREAS, the funding will allow the task force to work on special operations, service of warrants, arrests and seizure of drugs and assets, conduct probation searches, prosecute and convict arrestees, and major methamphetamine manufacturers and distributors, and

WHEREAS, the SDEA is responsible for compliance with all regulations pertaining to the BSCC grant, including all reporting requirements, and

WHEREAS, the City of Modesto is responsible for the financial reporting requirements, and

WHEREAS, federal grant funds received hereunder shall not be used to supplant expenditures, and

WHEREAS, the term of this program grant is October 1, 2012 through September 30, 2013, and

WHEREAS, partnering entities agree to abide by the statues and regulations governing the federal Justice Assistance Grant Program as well as the terms and conditions of the Grant Agreement as set forth by the BSCC,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes submittal of application to the Anti-Drug Abuse (ADA) Enforcement Team Program Grant from the Board of State and Community Corrections (BSCC), in the amount of \$251,372 for the Stanislaus Drug Enforcement Agency (SDEA) to combat major drug trafficking and manufacturing,

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary program grant documents, and enter into an agreement to receive the grant funds and any extensions (if awarded).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of December, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-495**

**RESOLUTION REJECTING ALL QUOTATIONS FOR THE PURCHASE AND
INSTALLATION OF SYNTHETIC TURF AT MARY E. GROGAN
COMMUNITY PARK, AND AUTHORIZING STAFF TO RE-ADVERTISE THE
PROJECT**

WHEREAS, the quotations received for the purchase and installation of synthetic turf at the Mary E. Grogan Community Park were received and opened on October 15, 2012, and

WHEREAS, City staff have reviewed and evaluated all quotations and specifications submitted and has determined it is in the best interest of the City to recommend that all quotations be rejected, and

WHEREAS, City staff will revise and broaden the technical specifications of the Request for Quotations (RFQ) so that manufacturers can submit qualified quotes, and

WHEREAS, City staff recommends re-advertising the project for the purchase and installation of synthetic turf at Mary E. Grogan Community Park with revisions to the project technical specifications,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby rejects all quotations received for the purchase and installation of synthetic turf at Mary E. Grogan Community Park opened on October 15, 2012.

BE IT FURTHER RESOLVED that staff is hereby authorized to re-advertise the project for the purchase and installation of synthetic turf at Mary E. Grogan Community Park with revisions to the project technical specifications.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of December, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-496**

**RESOLUTION ACCEPTING THE PRELIMINARY DESIGN REPORT DATED
OCTOBER 2012 FOR THE DEL RIO TANK, PUMP STATION, AND NEW
WELL PROJECT AS COMPLETE**

WHEREAS, the City owns and operates the outlying water system in the community of Del Rio, located in Stanislaus County, and

WHEREAS, a hydraulic assessment of this system was performed in order to evaluate the system's ability to meet the community's current and build-out demands, and

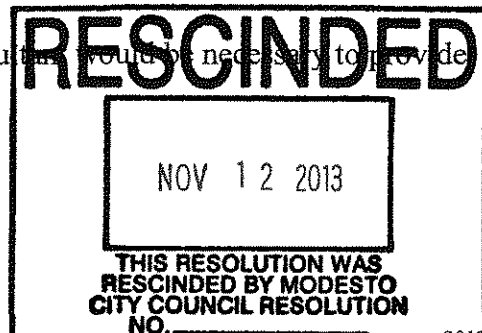
WHEREAS, this assessment identified the need to construct a new 1,000 gallon per minute domestic well, 250,000 gallon storage tank, and one million gallon per day booster pump station in order to correct existing deficiencies in the system, and

WHEREAS, the City is currently obligated to provide these improvements by July 15, 2013 in accordance with the terms of a Settlement Agreement between the City and the Del Rio Community Association, and

WHEREAS, delays resulting from a change in the final project site have precluded meeting the original deadline; however, staff is moving forward with delivery of these improvements as soon as possible, and

WHEREAS, staff is also currently working with the Del Rio Community Association to extend the deadline, and

WHEREAS, given the unique and specialized expertise required for design of tanks and pump stations, staff determined a consultant would be necessary to provide design services for this project, and



WHEREAS, the scope of the consultant's work would first be the preparation of a 35% Preliminary Design Report (PDR), and

WHEREAS, in accordance with the Public Works Department's Major Scope Policy approved on September 26, 2006, all projects exceeding \$1,000,000 are required to be presented at Council at the 35% PDR report stage, and

WHEREAS, upon acceptance of the report by City Council, it is intended to execute a separate consultant agreement for preparation of final design documents, as well as bidding and construction phase services, and

WHEREAS, on June 12, 2012, by Resolution No. 2012-242, Council approved an agreement with NorthStar Engineering Group, Inc. (NorthStar) to complete the 35% design services for the Del Rio Tank, Pump Station and New Well project and summarize the project scope and cost estimates in a Preliminary Design Report (PDR), and

WHEREAS, since that time, NorthStar has successfully completed the 35% PDR, and staff now recommends acceptance of the 35% PDR by City Council, and

WHEREAS, this report will serve as the basis for the final design of the Del Rio Tank, Pump Station, and New Well project, and

WHEREAS, staff has determined the design presented in the 35% PDR for the Del Rio Tank, Pump Station and New Well project meets the City's operational needs, and staff recommends acceptance of the project 35% PDR,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Preliminary Design Report dated October 2012 for the Del Rio Tank, Pump Station, and New Well project as complete.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of December, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-497**

RESOLUTION APPROVING AN AGREEMENT WITH NORTHSTAR ENGINEERING GROUP, INC. FOR FINAL DESIGN SERVICES FOR DEL RIO TANK, PUMP STATION, AND NEW WELL PROJECT IN AN AMOUNT NOT TO EXCEED \$350,391.97 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS \$35,039.00 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF \$385,430.97, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City owns and operates the outlying water system in the community of Del Rio, located in Stanislaus County, and

WHEREAS, a hydraulic assessment of this system was performed in order to evaluate the system's ability to meet the community's current and build-out demands, and

WHEREAS, this assessment identified the need to construct a new 1,000 gallon per minute domestic well, 250,000 gallon storage tank, and one million gallon per day booster pump station in order to correct existing deficiencies in the system, and

WHEREAS, in addition, the City is obligated to provide these improvements by July 15, 2013 in accordance with the terms of a Settlement Agreement between the City and the Del Rio Community Association, and

WHEREAS, staff is currently working with the Del Rio Community Association to extend this deadline, but it is intended to move forward with delivery of these improvements as soon as possible, and

WHEREAS, in compliance with Administrative Directive 3.1, Selection Procedures for Professional Consultants who Provide Architectural and Engineering Services for Capital Projects, approval was granted by the Director of Utility Planning

and Projects to issue a combined Request for Qualifications and Request for Proposal (RFQ/RFP), and

WHEREAS, the RFQ/RFP was mailed to a list of 111 civil engineering firms for preparation of a 35% PDR for the Del Rio Tank, Pump Station and New Well project, and

WHEREAS, the RFQ/RFP specifically indicated that the City intended to execute an agreement for final design services with the selected consultant upon successful completion of the 35% PDR, and

WHEREAS, NorthStar Engineering Group, Inc. (NorthStar), a local firm, was determined to be the top-ranked consultant through the review and ranking process of the submitted proposals, and

WHEREAS, NorthStar's scope of work under the proposed final design services agreement includes preparation of biddable construction documents based on the design presented in the 35% PDR, and

WHEREAS, in addition, NorthStar will provide engineering support during the bidding and construction phases of the project, and

WHEREAS, staff has thoroughly reviewed the proposed scope of work, and has determined it to be comprehensive and appropriate for the engineering needs of the project, and

WHEREAS, the proposed fee has also been thoroughly reviewed and negotiated, and represents a 13.3% reduction from Northstar's originally proposed cost, and

WHEREAS, in addition, NorthStar has agreed to utilize its same hourly rates from the existing 35% PDR agreement, and these rates have been utilized for previous City projects since 2009, and

WHEREAS, on June 12, 2012, by Resolution No. 2012-242, Council approved an agreement with NorthStar to complete the 35% design services for the Del Rio Tank, Pump Station and New Well project and summarize the project scope and cost estimates in a PDR, and

WHEREAS, NorthStar has provided excellent quality service to date through preparation of the 35% PDR, and

WHEREAS, the proposed scope of work for the final design services agreement is comprehensive, and the negotiated fee is reasonable, and

WHEREAS, therefore, staff recommends approval of an agreement for final design services in accordance with the original RFQ/RFP, and

WHEREAS, City staff recommends approving an Agreement with NorthStar as the City does not have the staffing level or subject matter expertise to complete the Final Design Services for the Del Rio Tank, Pump Station and New Well project, and current workload levels do not provide for timely in-house solutions/responses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with NorthStar Engineering Group, Inc. for final design services for the Del Rio Tank, Pump Station and New Well project in an amount not to exceed \$350,391.97 for the identified scope of services, plus \$35,039.00 for additional services (if needed), for a maximum total amount of \$385,430.97.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of December, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Muratore, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-498**

**RESOLUTION APPROVING A PREQUALIFIED CONSULTANT LIST
CONSISTING OF HARRIS AND ASSOCIATES AND HF&H CONSULTANTS,
LLC TO PROVIDE PROPOSITION 218 COMPLIANCE SERVICES FOR A
PERIOD NOT TO EXCEED THREE YEARS**

WHEREAS, the City of Modesto has adopted programs to construct substantial improvements and repairs to our water, wastewater, and storm drain systems to address the challenges of population growth and limitations on conveyance and disposal, to meet expected, new, more restrictive permit conditions, and to improve reliability, and

WHEREAS, in order to fund these improvements and normal operating costs, it may be necessary to increase rates and connection fees in the future, and a mandatory component of this process is Proposition 218 compliance, and

WHEREAS, in order to take the first step in establishing a prequalified list of consultants to provide Proposition 218 compliance services, a Request for Qualifications (RFQ) was issued, and

WHEREAS, in accordance with Administrative Directive 3.1, Selection Procedures for Professional Consultants, City staff solicited and formally advertised an RFQ to 177, including 16 local engineering and/or financial consulting firms, and

WHEREAS, due to the specialized nature of this service, staff received only two Statement of Qualifications (no local firms), and

WHEREAS, after review by staff from the Utility Planning and Projects and Finance Departments, the following two firms were selected:

- Harris and Associates
- HF&H Consultants, LLC,

and

WHEREAS, this prequalified list will be active for three years from the date of Council approval, at which time the City may decide to extend the list, and

WHEREAS, Request for Proposals will be issued to all firms on the prequalified list. Firms will then be selected based on an evaluation and ranking of all submitted proposals in accordance with City of Modesto policies, and

WHEREAS, the City will select a professional services firm that the City believes will best fit the needs and circumstances of each study, and

WHEREAS, the City retains the right to recruit consultants for individual projects and not be restricted to only using the approved list, and

WHEREAS, it is intended that the staff will request proposals and negotiate a scope of work and agreement with the most qualified consultant before recruiting consultants that are not on the prequalified list, and

WHEREAS, the City will also select additional project teams, including financial advisors, and if required, consulting engineers, as needed,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a prequalified consultant list consisting of Harris and Associates and HF&H Consultants, LLC to provide Proposition 218 compliance services for a period not to exceed three years.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of December, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-499**

RESOLUTION APPROVING THE REVISED PLANS AND SPECIFICATIONS FOR THE MODESTO WEST BASIN IMPROVEMENTS PROJECT, ACCEPTING THE BID, AND APPROVING A CONTRACT WITH HOBBS CONSTRUCTION INC. OF CLOVIS, CALIFORNIA IN THE AMOUNT OF \$392,358.30, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, revised plans and specifications have been prepared for the Modesto West Basin Improvements project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Modesto West Basin Improvements project were opened at 11:00 a.m. on November 13, 2012, and later tabulated by the Director of Utility Planning & Projects for the consideration of the Council, and

WHEREAS, the Director of Utility Planning & Projects has recommended that the bid of \$392,358.30, received from Hobbs Construction Inc. of Clovis, California, be accepted as the lowest responsive and responsible bid and the contract be awarded to Hobbs Construction Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the revised plans and specifications for the Modesto West Basin Improvements project, accepts the bid of Hobbs Construction Inc. of Clovis, California, in the amount of \$392,358.30, and awards Hobbs Construction Inc. the contract for the Modesto West Basin Improvements project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of December, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

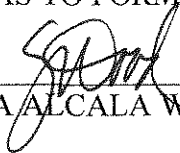
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-500**

**RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE
SCOPE OF THE PROJECT COVERED BY THE MODESTO WASTEWATER
MASTER PLAN MASTER ENVIRONMENTAL IMPACT REPORT (MEIR)
(SCH#2006052076): SCENIC LIFT STATION IMPROVEMENTS**

WHEREAS, on March 13, 2007, the City Council, by Resolution No. 2007-178 certified the Final Wastewater Master Plan Master Environmental Impact Report (MEIR) for the City of Modesto Wastewater Master Plan Update (SCH No. 2006052076, EA/PW2008-03), and

WHEREAS, the City of Modesto intends to rehabilitate and upgrade the Scenic Lift Station to replace deteriorated pumps, valves, piping, and electrical control gear, and to eliminate unsafe confined space entry conditions, and

WHEREAS, the project will also increase pump capacity as well as capacity of associated pipework in conformance with capacity planned for in the WWMP MEIR, all within the confines of the existing lift station, and

WHEREAS, associated site work will include construction of ornamental iron fencing in the front of the site, new curb, gutter, and sidewalk, front landscaping, and installation of one standard streetlight, and

WHEREAS, the Utility Planning and Projects Department has prepared an Initial Study, Environmental Assessment No. EA/PW 2008-03 for proposed Scenic Sewer Lift Station Improvements, and

WHEREAS, pursuant to Section 15162 (a) and 15177 of the CEQA Guidelines, the City of Modesto finds that no new effects could occur or no new mitigation measures would be required, therefore the activity is within the scope of the project covered by the

Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required, and

WHEREAS, in accordance with CEQA guidelines on April 22, 2008, the City caused to be published a 30-day notice of the City's intent to make a finding that the proposed project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a regular meeting on October 23, 2012, at 5:30 p.m., in the Tenth Street Place Chambers, 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it has reviewed and considered the Initial Study prepared for the proposed Project, a copy of which is **attached** hereto as **Exhibit "A"** and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

- A. The type of Project under consideration is described in the Final Wastewater Master Plan Master Environmental Impact Report (MEIR).
- B. All applicable policies, regulations, and mitigation measures identified in the MEIR have been applied to the project or otherwise made conditions of approval of the project.
- C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR. It has been determined that the project is within the scope of the MEIR (SCH No. 2006052076), which analyzed the potential impacts of build out of the Wastewater Master Plan MEIR.
- D. Based on the Initial Study, the City of Modesto finds and determines:
 - 1) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR;
 - 2) No new or additional mitigation measures or alternatives are required.

- E. The Initial Study, Environmental Assessment No. EA/PW 2008-03, provides the substantial evidence to support findings A through D, above.
- F. The criteria for currency of the Master EIR were reviewed and it was determined that the Master EIR is current for all areas of the Initial Study.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Director of Utility Planning and Projects is hereby authorized and directed to file a notice of determination within five (5) business days with the Stanislaus County Clerk, pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of December, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh
NOES: Councilmembers: None
ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

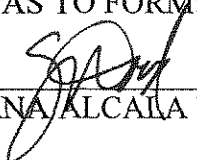
By: 
SUSANA ALCALA WOOD, City Attorney

Exhibit "A"
INITIAL STUDY
EA/PW 2008-03

City of Modesto

**Finding of Conformance to
Wastewater Master Plan Update Master EIR**

**Initial Study Environmental Checklist
PW No. 2008-03**

For the proposed:

Scenic Lift Station Improvements

**Prepared by:
City of Modesto
Public Works Department
Capital Improvement Services/Engineering Design Division**

April, 2008

City of Modesto

Wastewater Master EIR Initial Study Environmental Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Wastewater Master Plan Master EIR. This Initial Study Environmental Checklist ("Initial Study") is used in determining whether a subsequent project is "within the scope" of the project analyzed in the Modesto Wastewater Master Plan Master EIR (SCH# 2006052076) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformity.

A subsequent project is "within the scope" of the Master EIR when:

1. It will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and
2. No new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. (Public Resources Code Section 21158(d))

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (State CEQA Guidelines Section 15384)

City staff consulted with appropriate Responsible Agencies and City Departments regarding potential environmental impacts associated with this project. Any significant comments and conditions are incorporated into this Initial Study. The City's Wastewater Master Plan MEIR (SCH# 2006052076) was also consulted which lists mitigation measures for each area of environmental study.

II. PROJECT DESCRIPTION

A. Title: Scenic Lift Station Improvements

B. Address or Location:

Applicant: Capital Improvement Services Division
Public Works Department
1010 Tenth Street
P. O. Box 642
Modesto, CA 95353

D. City Contact Person: Rich Ulm, Deputy Director/William Wong, Senior Civil Engineer

Project Manager: William Wong, Senior Civil Engineer
Department: Public Works Department
Phone Number: (209) 571-5801

E-mail address: wwong@modestogov.com

E. Current General Plan Designation(s): Residential

F. Current Zoning Classification(s): R-1

G. Surrounding Land Uses: North: Dry Creek, single family residential
South and East: Dry Creek channel with Creekside Golf Course
beyond
West: Residence

H. Project Description (Attach additional maps/support materials as needed for complete record):

The purpose of the project is to rehabilitate and upgrade the Scenic Lift Station to replace deteriorated pumps, valves, piping, and electrical control gear, and to eliminate unsafe confined space entry conditions. The project will also increase pump capacity as well as capacity of associated pipework in conformance with capacity planned for in the WWMP MEIR, all within the confines of the existing lift station. Associated site work will include construction of ornamental iron fencing in the front of the site, new curb, gutter, and sidewalk, front landscaping, and installation of one standard streetlight.

I. Other Public Agencies Whose Approval is Required: none

III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

- 1. X Within the Scope** - The project is within the scope of the Wastewater Master Plan Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. The following items are found to be true:
- A. The type of project is described in Chapter III of the Master EIR.
 - B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.
 - C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.
 - D. Based on the Initial Study, the City of Modesto finds and determines:
 - a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
 - b) No new or additional mitigation measures or alternatives are required.
 - E. The criteria for currency of the Master EIR were reviewed (section 5 below) and it was determined that the Master EIR is current for all areas of the Initial Study.
- 2. ___ Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Wastewater Master Plan Master EIR. A mitigated negative declaration will be prepared for the project. The following items are found to be true:
- A. The type of project is described in Chapter III of the Master EIR.
 - B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.
 - C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.
- 3. ___ Focused EIR Required**- On the basis of the above determinations, the project is not within the scope of the Wastewater Master Plan Master EIR. A Focused EIR will be prepared for the project. The following items are found to be true:
- A. The type of project is described in Chapter III of the Master EIR.
 - B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.
 - C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.


Project Manager

Senior Civil Engineer
Title

4/15/08
Date

4. Within the Scope Analysis of this Document:

The Wastewater Master Plan Master EIR permits projects to be found within the scope of the MEIR if certain criteria are met. Basically, if the following statements are found to be true for all 20 sections of this Initial Study, then the project was covered by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

- | | YES | NO |
|---|-------------------------------------|--------------------------|
| (1) The lead agency for subsequent projects is the City of Modesto or a responsible agency identified in the Master EIR. | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (2) City policies which reduce, avoid or mitigate environmental effects, will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template. | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (3) Federal, State, Regional and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR). | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (4) No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources. | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (5) The project will occur within the boundaries of the planning area as established in the Wastewater Master Plan. | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (6) Development within the project will comply with all mitigation measures identified in the Wastewater Master Plan Master EIR. | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed sections 1 through 20 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any no response must be discussed.

- | | YES | NO |
|---|-------------------------------------|--------------------------|
| (1) Certification of the Wastewater Master Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project. | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (2) This project was described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings. | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (3) No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified. | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (4) No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available. | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the Wastewater Master Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is "within the scope" of the Wastewater Master Plan Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR. Adoption of a notice of conformity after completion of the Initial Study fulfills the City's obligation in that situation.

All environmental effects cited reflect buildout of the project as identified in the MEIR.

The Master EIR for the Wastewater Master Plan organizes its analysis of environmental impacts into eleven subject areas plus Effects Found Not to be Significant (and additional five topics). The following analysis is based on the impact analyses contained in Chapter IV of the Master EIR.

1. AESTHETICS (Visual Resources)

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. At that level of detail, no significant effects on Visual Resources were identified. This topic is discussed in Chapter 4.I of the MEIR.

b. Master EIR and/or New Mitigation Measures Pertinent to the Project

No mitigation measures for this topic are identified in the MEIR. Any new mitigation to be incorporated into or made conditions of approval of this project is listed in Section V, Mitigation Applied to Project:

c. Project-Specific Effects

Section IV.I of the MEIR provides analysis of Visual Resources impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. A project-specific effect is less than significant unless:

- | | YES | NO |
|--|--------------------------|-------------------------------------|
| (1) The project is inconsistent with the Modesto Wastewater Master Plan. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (2) The project would have a substantial adverse effect on a scenic vista or scenic resources. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (3) The project would substantially degrade the existing visual character or quality of the project site and its surroundings. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (4) The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion:

- (1) The project is specifically provided for in the Modesto Wastewater Master Plan.
- (2) The project is rehabilitation of a lift station. The majority of the project is within an existing building. Minor re-landscaping, the installation of a decorative iron fence, and replacement of curb, gutter, and sidewalk are included, but will not result in visible impacts.
- (3) The project is rehabilitation of a lift station. The majority of the project is within an existing building. Minor re-landscaping, the installation of a decorative iron fence, and replacement of curb, gutter, and sidewalk are included, but will not result in visible impacts.
- (4) A single new standard street light will be installed oriented toward the street frontage. No lighting impacts will occur.

2. AGRICULTURAL RESOURCES

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.B of the MEIR.

The Master EIR identified the following significant environmental impacts relative to agricultural lands:

Effect: Construction of the Phase IA tertiary treatment facilities at the Secondary Plant would directly result in the permanent loss of Prime Farmland (Significant and Unavoidable).

Effect: Construction of the proposed project components within the Planned Urbanizing Area would result in the cumulative loss of Prime Farmland (Significant and Unavoidable).

b. Master EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural Land mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages IV.B.8 and IV.B.11 of the MEIR. All feasible measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional measures or alternatives are required for the project.

c. Project-Specific Effects

Section IV.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

- | | YES | NO |
|---|--------------------------|-------------------------------------|
| (1) The project is inconsistent with the Modesto Urban Area General Plan and/or the Modesto Wastewater Master Plan. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (2) The project will directly result in the development of land outside the Modesto Urban Area General Plan planning area boundaries. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (3) The project will conflict with existing zoning for agricultural use, or a Williamson Act contract. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (4) The project will involve other changes in the existing environment which, due to their location or nature, could result in additional conversion of Farmland to non-agricultural use. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion:

- (1) The project is rehabilitation of an existing lift station, as provided for in the Modesto Wastewater Master Plan.
- (2) The project is rehabilitation of an existing lift station, with no direct development of additional land.
- (3) The project is rehabilitation of a lift station, on a site not zoned for agricultural use.
- (4) The project is rehabilitation of a lift station, as provided for in the Modesto Wastewater Master Plan.

3. AIR QUALITY

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.G of the MEIR.

The Master EIR identified the following significant environmental impacts relative to air quality:

Effect: Emissions of criteria pollutants during construction of wastewater system improvements would contribute to existing violations of the ambient air quality standards in the region (Significant and Unavoidable).

Effect: Emissions of criteria pollutants during the operation of the proposed wastewater system improvements would contribute to existing violations of the ambient air quality standards in the region (Significant and Unavoidable).

Effect: The Wastewater Master Plan Update would accommodate growth that would cause direct and cumulatively considerable air quality impacts identified in the Modesto Urban Area General Plan (Significant and Unavoidable).

Effect: The wastewater treatment facilities would cause a cumulatively considerable net increase of pollutants for which the San Joaquin Valley is designated as nonattainment (Significant and Unavoidable).

b. Master EIR and/or New Mitigation Measures Applied to the Project

Air Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages IV.G.16 through IV.G.28 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

Mitigation Measure G.1 in the MEIR shall be made a part of the proposed project to reduce the impacts of construction related PM₁₀ and impacts of ozone precursors from construction equipment exhaust to the extent possible.

c. Project-Specific Effects

Section IV.G of the MEIR provides analysis of Air Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project does not incorporate the best management practices for air pollutant reduction established by the SJVUAPCD.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(2)	The project does not comply with the air quality policies of the Modesto Urban Area General Plan.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(4)	The project would expose sensitive receptors to substantial pollutant concentrations.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(5)	The project would create objectionable odors affecting a substantial number of people.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) Best management practices for air pollutant reduction established by the SJVUAPCD will be incorporated into the construction of the project.
- (2) The project is rehabilitation of an existing lift station, and will not increase air pollutant emissions when in operation.
- (3) The project is rehabilitation of an existing lift station, and will not increase air pollutant emissions when in operation.
- (4) The project is rehabilitation of an existing lift station, and will not increase air pollutant emissions when in operation.

4. BIOLOGICAL RESOURCES

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.E of the MEIR.

The Master EIR identified the following significant environmental impacts relative to Biological Resources.

Effect: Construction of project facilities along the Tuolumne River adjacent to the Primary Plant, or in other riparian areas, could damage the habitat of the Valley Elderberry Longhorn Beetle (Less than Significant with Mitigation).

Effect: Construction of project facilities could cause loss of occupied Burrowing Owl habitat (Less than Significant with Mitigation).

Effect: Construction of project facilities could cause disturbance of nesting raptors (Less than Significant with Mitigation).

Effect: Construction of project facilities could cause impacts to biological resources and regulated habitats of Dry Creek (Beard Brook and of the Tuolumne River (Less than Significant with Mitigation).

Effect: Construction of project facilities or development facilitated by construction of project facilities could cause loss of Swainson's Hawk foraging habitat (Less than Significant with Mitigation).

Effect: Construction during the Swainson's Hawk breeding season could result in the accidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment (Less than Significant with Mitigation).

Effect: Construction of improvements to the Secondary Plant may cause impacts to regulated habitats (Less than Significant with Mitigation).

Effect: Microtunneling could cause impacts to riparian habitats under the jurisdiction of the California Department of Fish and Game and/or the U.S. Army Corps of Engineers (Less than Significant with Mitigation).

Effect: Growth facilitated by the project would result in cumulative loss of Swainson's Hawk and Burrowing Owl habitat (Less than Significant with Mitigation).

b. Master EIR and/or New Mitigation Measures Applied to the Project

Biological Resources mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages IV.E.25 through IV.E.37. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional measures or alternatives are required for the project.

c. Project-Specific Effects

Section IV.E of the MEIR provides analysis of Biological Resources impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

- | | YES | NO |
|---|--------------------------|-------------------------------------|
| (1) The project is inconsistent with the Modesto Wastewater Master Plan. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (2) Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (3) The project would conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion:

- (1) The project is rehabilitation of an existing lift station, as provided for in the Modesto Wastewater Master Plan.
- (2) The project is rehabilitation of an existing lift station, and will not have any new effects on wildlife. All work will be confined to already-developed portions of the site.
- (3) The project is rehabilitation of an existing lift station. No local policies or ordinances will be affected.

5. CULTURAL RESOURCES

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.L (pp. IV.L.10-13) of the MEIR

The Master EIR identified no significant environmental impacts relative to Cultural Resources.

b. Master EIR and/or New Mitigation Measures Applied to the Project

No Cultural Resources mitigation measures pertinent to the project being analyzed in this Initial Study are included in the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional measures or alternatives are required for the project.

c. Project-Specific Effects

Section IV.L (pp. IV.L.10-12) of the MEIR provides analysis of Cultural Resources impacts of development of the Wastewater Master Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

- | | YES | NO |
|--|--------------------------|-------------------------------------|
| (1) The project is inconsistent with the Modesto Wastewater Master Plan. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (2) The project would adversely affect a cultural (historical or archaeological) resource pursuant to § 15064.5. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (3) The project would directly or indirectly destroy a unique paleontological resource or site, or disturb any human remains, including those interred outside of formal cemeteries. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion:

- (1) The project is rehabilitation of an existing lift station, as provided for in the Modesto Wastewater Master Plan.
- (2) The project is rehabilitation of an existing lift station, and will not have any new effects on cultural resources.
- (3) The project is rehabilitation of an existing lift station, and will not have any new effects on paleontological resources or human remains.

6. GEOLOGY AND SOILS

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.L of the MEIR

The Master EIR identified no significant environmental impacts relative to Geology and Soils.

b. Master EIR and/or New Mitigation Measures Applied to the Project

No Geology and Soils mitigation measures pertinent to the project being analyzed in this Initial Study are included in the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional measures or alternatives are required for the project.

c. Project-Specific Effects

Section IV.L (pp. IV.L.7-9) of the MEIR provides analysis of Cultural Resources impacts of development of the Wastewater Master Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

- | | YES | NO |
|---|--------------------------|-------------------------------------|
| (1) The project is inconsistent with the Modesto Wastewater Master Plan. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (2) The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion:

- (1) The project is rehabilitation of an existing lift station, as provided for in the Modesto Wastewater Master Plan.
- (2) The project is rehabilitation of an existing lift station, and will not have any new effects in relation to unstable soils.

7. HAZARDS AND HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.J and IV.K of the MEIR

The Master EIR identified no significant environmental impacts relative to hazardous materials.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Hazard and Hazardous Materials mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages IV.K.11 through IV.K.15. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional measures or alternatives are required for the project.

c. Project-Specific Effects

Section IV.J and IV.K of the MEIR provides analysis of hazardous materials and contaminated soils and Demolition impacts of development of the Master Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Wastewater Master Plan.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(2) The project does not comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(3) The project contains a contaminated site not identified as of December 2006.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(4) The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(5) The project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project is rehabilitation of an existing lift station, as provided for in the Modesto Wastewater Master Plan.
- (2) The project is rehabilitation of an existing lift station. Diesel fuel will continue to be properly stored/used in conformance with all applicable regulations on-site in conjunction with the back-up generator; no change is contemplated in this activity.
- (3) The project is rehabilitation of an existing lift station, with no impact on contaminated sites.
- (4) The project is rehabilitation of an existing lift station. Diesel fuel will continue to be properly stored/used in conformance with all applicable regulations on-site in conjunction with the back-up generator; no change is contemplated in this activity.
- (5) The project is rehabilitation of an existing lift station, with no impact on contaminated sites.

8. HYDROLOGY AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.D of the MEIR.

The Master EIR identified the following significant environmental impacts relative to Hydrology and Water Quality:

Effect: Excavation and construction activities could cause erosion and/or result in chemical releases causing degradation of water quality in nearby surface water and/or groundwater bodies (Less than Significant with Mitigation).

Effect: Elimination of the cross-connections between the stormwater drainage system and the wastewater collection system could result in localized flooding (Less than Significant with Mitigation).

Effect: Implementation of the proposed project at a rate that does not match projected growth may result in an incremental increase in operation-period surface water quality degradation due to the deficient effluent disposal system (Significant and Unavoidable).

Effect: Implementation of the proposed project may result in operation-period surface water degradation due to pollutant loading associated with treated wastewater discharges (Significant and Unavoidable).

Effect: Implementation of the proposed project may result in operation-period surface water degradation during daily operations and/or during flooding of the Primary Plant and sludge drying area (Significant).

Effect: The project would include construction activities within the San Joaquin River channel and on nearby levees and would include placement of a permanent structure in the San Joaquin River channel. These activities could affect river flow patterns and degrade water quality (Less than Significant with Mitigation).

b. Master EIR and/or New Mitigation Measures Applied to the Project

Hydrology and Water Quality mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages IV.D.26 through IV.D.41 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

Mitigation Measure D.1 in the MEIR shall be made a part of the proposed project to reduce the impacts to surface water quality through the construction period.

c. Project-Specific Effects

Section IV.D of the MEIR provides analysis of Hydrology and Water Quality impacts of development of the Master Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Wastewater Master Plan.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(2) The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(3) The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(4) The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project is rehabilitation of an existing lift station, as provided for in the Modesto Wastewater Master Plan.
- (2) Construction of the project will comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act as applicable.
- (3) Construction of the project will comply with Modesto's Guidance Manual for New Development Storm Water Quality Control Measures.
- (4) The project is rehabilitation of an existing lift station. No additional runoff will be created.

9. LAND USE AND PLANNING (Land Use, Plans, and Policies)

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.A of the MEIR

The Master EIR identified no significant environmental impacts relative to Land Use and Planning.

b. Master EIR and/or New Mitigation Measures Applied to the Project

No Land Use and Planning mitigation measures pertinent to the project being analyzed in this Initial Study are included in the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional measures or alternatives are required for the project.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less than significant unless:

- | | YES | NO |
|---|--------------------------|-------------------------------------|
| (1) The project is inconsistent with the Modesto Urban Area General Plan or any applicable Specific Plan. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (2) The project includes a substantive amendment to the Modesto Urban Area General Plan or any Specific Plan. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (3) The project would physically divide an established community | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion:

- (1) The project is rehabilitation of an existing lift station, as provided for in the Modesto Wastewater Master Plan.
- (2) The Project involves no amendment to any Plan.
- (3) The project is rehabilitation of an existing lift station, and will not physically divide an established community.

10. MINERAL RESOURCES

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.L (p. IV.L.8) of the MEIR

The Master EIR identified no significant environmental impacts relative to Land Use and Planning.

b. Master EIR and/or New Mitigation Measures Applied to the Project

No Mineral resources mitigation measures pertinent to the project being analyzed in this Initial Study are included in the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional measures or alternatives are required for the project.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less than significant unless:

- | | YES | NO |
|---|--------------------------|-------------------------------------|
| (1) The project is inconsistent with the Modesto Wastewater Master Plan. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (2) The project would result in the loss of availability of a known mineral resource, either locally important or of regional/statewide significance. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion:

- (1) The project is rehabilitation of an existing lift station, as provided for in the Modesto Wastewater Master Plan.
- (2) The project is rehabilitation of an existing lift station, and will have no effect on the availability of any mineral resource.

11. NOISE

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.H of the MEIR

The Master EIR identified the following significant environmental impacts relative to Noise:

Effect: Construction of the proposed project facilities could cause substantial, though intermittent and short-term, increases in noise levels, which would add to noise levels predicted by the City's General Plan MEIR and the County General Plan (Less than Significant with Mitigation).

Effect: The proposed project would support cumulative development that could increase noise levels in areas where noise levels exceed, or would exceed, the noise and land use compatibility guidelines adopted by the City of Modesto and/or Stanislaus County, or the noise performance standards set by the City and County (Significant and Unavoidable).

b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages IV.H.9 through IV.H.13 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

Mitigation Measure H.1 in the MEIR shall be made a part of the proposed project to reduce noise impacts to sensitive receptors through the construction period.

c. Project-Specific Effects

Section IV.H of the MEIR provides analysis of noise impacts of development of the Master Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(2)	The project will exceed the noise policies of the Modesto Urban Area General Plan.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(3)	The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(4)	The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project is rehabilitation of an existing lift station. During the construction phase, construction activities will be subject to the provisions of the Modesto noise ordinance.
- (2) The project is rehabilitation of an existing lift station. During the construction phase, construction activities will be subject to the provisions of the Modesto Urban Area General Plan.
- (3) The project is rehabilitation of an existing lift station and will not result in any permanent increase in ambient noise levels.

- (4) The project is rehabilitation of an existing lift station. During the construction phase, construction activities will be subject to the provisions of the Modesto noise ordinance and the project will not result in substantial temporary increase in ambient noise levels.

12. POPULATION AND HOUSING

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.L (p. IV.L.13) of the MEIR

The Master EIR identified no significant environmental impacts relative to population and Housing.

b. Master EIR and/or New Mitigation Measures Applied to the Project

No Population and Housing mitigation measures pertinent to the project being analyzed in this Initial Study are included in the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional measures or alternatives are required for the project.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less than significant unless:

- | | YES | NO |
|---|--------------------------|-------------------------------------|
| (1) The project is inconsistent with the Modesto Wastewater Master Plan and/or the Modesto Urban Area General Plan. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion:

- (1) The project is rehabilitation of an existing lift station, as provided for in the Modesto Wastewater Master Plan and serving the area of the Modesto Urban Area General Plan.

13. COMMUNITY SERVICES: PARKS, SCHOOLS, POLICE, AND FIRE

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.C and IV.L (p. IV.L.1-5) of the MEIR

The Master EIR identified no significant environmental impacts relative to Community Services.

b. Master EIR and/or New Mitigation Measures Applied to the Project

No Community Services mitigation measures pertinent to the project being analyzed in this Initial Study are included in the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional measures or alternatives are required for the project.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less than significant unless:

YES NO

- (1) The project is inconsistent with the Modesto Wastewater Master Plan and/or the Modesto Urban Area General Plan.

Discussion:

- (1) The project is rehabilitation of an existing lift station, as provided for in the Modesto Wastewater Master Plan and serving the area of the Modesto Urban Area General Plan.

14. TRANSPORTATION/TRAFFIC (Transportation)

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.F of the MEIR

The Master EIR identified the following significant and unavoidable traffic impacts:

Effect: The Wastewater Master Plan Update would accommodate growth that would cause direct and cumulatively considerable traffic impacts identified in the Modesto Urban Area General Plan (Significant and Unavoidable).

b. Master EIR and/or New Mitigation Measures Applied to the Project

Traffic and Circulation mitigation measures that are pertinent to this project are found on MEIR pages IV.F.12. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional measures or alternatives are required for the project.

c. Project-Specific Effects

Section IV.F of the MEIR provides analysis of Traffic and Circulation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Significance Criteria: A subsequent project will have a new significant effect on the environment if it would exceed the following criteria:

	YES	NO
(1) The project is inconsistent with the Modesto Wastewater Master Plan and/or the Modesto Urban Area General Plan.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(2) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(3) Result in inadequate emergency access.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project is rehabilitation of an existing lift station, as provided for in the Modesto Wastewater Master Plan and serving the area of the Modesto Urban Area General Plan.
- (2) The project is rehabilitation of an existing lift station, and will have no effect on traffic design.
- (3) The project is rehabilitation of an existing lift station, and will have no effect on emergency access.

15. UTILITIES AND SERVICES SYSTEMS: WATER SUPPLY, SANITARY SEWER, STORM DRAINAGE, SOLID WASTE, ENERGY

a. Significant Effects Identified in the Master EIR

The significant effects described in the subject areas contained in the Master EIR are based on the policies, programs, and projects contemplated as part of the Modesto Wastewater Master Plan. This topic is discussed in Chapter IV.L (p. IV.L.5, 9-10) of the MEIR

The Master EIR identified no significant environmental impacts relative to Community Services.

b. Master EIR and/or New Mitigation Measures Applied to the Project

No Community Services mitigation measures pertinent to the project being analyzed in this Initial Study are included in the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional measures or alternatives are required for the project.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less than significant unless:

- | | | | |
|-----|---|--------------------------|-------------------------------------|
| | | YES | NO |
| (1) | The project is inconsistent with the Modesto Wastewater Master Plan and/or the Modesto Urban Area General Plan. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion:

- (1) The project is rehabilitation of an existing lift station, as provided for in the Modesto Wastewater Master Plan and serving the area of the Modesto Urban Area General Plan.

V. MITIGATION MEASURES APPLIED TO THE PROJECT

If the Initial Study results in the determination that a Finding of Conformance can be adopted for the proposed project Section A below applies. If the Initial Study results in the determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration/EIR must be prepared for the project then Section B, below applies.

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to CEQA Section 21157.1(c), in order for a Finding of Conformance to be made, all feasible measures from the Master EIR appropriate to the project shall be incorporated into the project. The following adopted Master EIR Mitigation Measures shall be made part of the project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan:

All applicable and appropriate mitigation measures have been applied to the project (see mitigation measures listed below).

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study.

No new or additional mitigation measures are required for this project. The following measures from the Wastewater Master Plan Master EIR shall be applied to the project:

Aesthetics/Visual Resources Measures:

None.

Agricultural Resources Measures:

None.

Air Quality Measures:

Wastewater Master Plan EIR Mitigation Measure G.1

Biological Resources Measures:

None.

Cultural Resources Measures:

None.

Geology and Soils Measures:

None.

Hazard and Hazardous Materials Measures:

None.

Hydrology and Water Quality Measures:

Wastewater Master Plan EIR Mitigation Measure D.1

Land Use and Planning Measures:

None.

Mineral Resources Measures:

None.

Noise Measures:

Wastewater Master Plan EIR Mitigation Measure H.1

Community Services Measures:

None.

Transportation/Traffic Measures:

None.

Utility and Service System Measures:

None.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-501**

RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE SCENIC SEWER LIFT STATION, ACCEPTING THE BID, AND APPROVING A CONTRACT WITH W.M. LYLES CO. OF FRESNO, CALIFORNIA IN THE AMOUNT OF \$1,575,344.20, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Scenic Sewer Lift Station, and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Scenic Sewer Lift Station were opened at 11:00 a.m. on October 2, 2012, and later tabulated by the Director of Utility Planning and Projects for the consideration of the Council, and

WHEREAS, the Director of Utility Planning and Projects has recommended that the bid of \$1,575,344.20 received from W.M. Lyles Co. of Fresno, California be accepted as the lowest responsible bid and the contract be awarded to W.M. Lyles Co.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Scenic Sewer Lift Station, accepts the bid of W.M. Lyles Co. of Fresno, California in the amount of \$1,575,344.20, and awards W.M. Lyles Co. the contract for the Scenic Sewer Lift Station.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of December, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-502**

**RESOLUTION AUTHORIZING THE ISSUANCE OF CHANGE ORDERS UP TO
10% OF THE ORIGINAL CONTRACT PRICE WITH W.M. LYLES CO.**

WHEREAS, the bids received for the Scenic Sewer Lift Station were opened at 11:00 a.m. on October 2, 2012, and later tabulated by the Director of Utility Planning and Projects for the consideration of the Council, and

WHEREAS, the Director of Utility Planning and Projects has recommended that the bid of \$1,575,344.20 received from W.M. Lyles Co. of Fresno, California be accepted as the lowest responsible bid and the contract for Scenic Sewer Lift Station be awarded to W.M. Lyles Co.,

WHEREAS, the Scenic Lift Station, located at 2812 Scenic Bend, pumps wastewater under Dry Creek to the gravity pipeline near Lincoln Avenue, and

WHEREAS, the lift station was last upgraded in 1986, and

WHEREAS, the tributary area of the station includes Village I and the proposed Tivoli development, and

WHEREAS, as these developments build-out, the increased sewage flow will make the need for this lift station more critical, while it becomes less reliable with age, and

WHEREAS, the cost for possible change orders during construction is estimated to be \$157,535 (10%), an amount which exceeds the Director's authority for the project as established by the Council's Change Order Approval Policy adopted by Resolution No. 94-443, on July 19, 1994,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the issuance of change orders up to 10% of the original contract price with W.M. Lyles Co.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of December, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-503**

RESOLUTION AMENDING THE FISCAL YEAR 2012-2013 CAPITAL IMPROVEMENT PROGRAM BUDGET IN THE AMOUNT OF \$511,732 TO BE TRANSFERRED INTO THE PROJECT FROM WASTEWATER FUND RESERVES IN ORDER TO FULLY FUND CONSTRUCTION, CONTINGENCY, CONSTRUCTION ADMINISTRATION, AND DESIGN SUPPORT DURING CONSTRUCTION FOR THE SCENIC SEWER LIFT STATION PROJECT

WHEREAS, certain budgetary transactions are necessary in the amount of \$511,732, in order to fund construction, contingency, construction administration, and design support during construction for the Scenic Sewer Lift Station project, and

WHEREAS, the Fiscal Year 2012-2013 Capital Improvement Program Budget must be amended as shown in **Exhibit A**, which is incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2012-2013 Capital Improvement Program Budget as shown in **Exhibit A**.

BE IT FURTHER RESOLVED that the Director of Finance, or her 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 4th day of December, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Exhibit A

Due to the increase of estimated construction, contingency, construction administration and design support during construction costs for CIP Account #100537 "Scenic Sewer Lift Station", the total project costs need to be increased by \$511,732. This would be done by adjusting Construction by \$369,935, Contingency by \$36,994, Construction Administration by \$93,580 and Engineering/Design/Administration by \$11,223.

To fund the above account, \$511,732 will be transferred from Wastewater Fund Reserves into CIP Project 100537 for the Scenic Sewer Lift Station project.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-504**

**RESOLUTION ACCEPTING THE CAPITAL FACILITIES FEES ANNUAL
REPORT FOR FISCAL YEAR 2011-2012, AND MAKING FINDINGS
RELATING TO EACH OF THE FEE CATEGORIES**

WHEREAS, Section 8-1.904 of the Modesto Municipal Code authorizes the City Council to establish Capital Facilities Fees (“CFF”) by resolution, and

WHEREAS, California Government Code Sections 66001 and 66006 require that the City make certain information available to the public and findings relating to the necessity of collecting fees for new development, and

WHEREAS, the City is collecting CFF for the purpose of constructing public improvements that will be needed as a result of new development, and

WHEREAS, on March 22, 2011, the City Council, by Resolution No. 2011-105, established the nexus for fees imposed by each land use, and

WHEREAS, the Streets CFF fund was established to accrue funds for arterial roadways, intersections, expressways, freeway interchanges and associated landscaping, and

WHEREAS, the Transit CFF fund was established to accrue funds for the expansion of the City’s transit system including additional buses and their associated facilities, and

WHEREAS, the Air Quality Mitigation CFF Fund was established to accrue funds to assist in the reduction of automobile travel, specifically for the development of park and ride lots, Class I Bike Trails, and

WHEREAS, the Police CFF Fund was established to accrue funds for additional policing needs including an additional station, police cars and associated equipment, a northeast area precinct, a training facility, a computer aided dispatch system, and an expanded radio system, and

WHEREAS, the Fire CFF Fund was established to accrue funds for the construction of additional fire stations, fire vehicles, and a new training station, and

WHEREAS, the Parks and Recreation CFF Fund was established to accrue funds for the development of additional regional parks, community centers, and neighborhood parks, and the expansion of the McClure museum, and

WHEREAS, the General Government CFF Fund was established to accrue funds for the expansion of City Hall, expansion of the City's corporation yards, and technology expansions, and

WHEREAS, the CFF program is a pay-as-you go program that enables improvements to be constructed when enough monies have been accumulated, and

WHEREAS, the Capital Facilities Fee Annual Report for Fiscal Year 2011-2012 has been completed and is on file with the City Clerk and is **attached** as **Exhibit "A"**, and

WHEREAS, a public hearing at the City Council in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California was set for November 27, 2012, to enable the public to have the opportunity to comment on the CFF collected,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby finds and determines that the Capital Facilities Fee program, set forth in

City Council Resolution No. 2011-105, and incorporated herein by reference, is a necessary program to fund future infrastructure needed for new development.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby finds that the CFF revenue anticipated for the full development of infrastructure improvements for new development has not been fully collected to complete the financing of incomplete improvements. It is presently anticipated that there will be no regular sources of funding to develop CFF infrastructure improvements apart from CFF collections.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby finds that the anticipated dates for the full collection of fees is unknown at this time as fees are based on development activity which is not controlled by the City.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby finds that the funding for constructing and/or purchasing additional fire stations, fire vehicles, and a new training station, have not yet been accumulated and the approximate date is not yet known, but there is still a need as outlined in Resolution No. 2011-105, and therefore fees should still be collected for these purposes.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby finds that the funding for constructing and/or purchasing an additional police station, police cars and associated equipment, a northeast area precinct, a training facility, a computer aided dispatch system, and an expanded radio system, have not yet been accumulated and the approximate date is not yet known, but there is still a need as outlined in Resolution No. 2011-105, and therefore fees should still be collected for these purposes.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby finds that the funding for the development of additional regional parks, community centers, neighborhood parks, and the expansion of McClure museum have not yet been accumulated and the approximate date is not yet known, but there is still a need as outlined in Resolution No. 2011-105, and therefore fees should still be collected for these purposes.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby finds that the funding for the expansion of City Hall, expansion of the City's corporation yards, and additional technology expansions is not yet known, but there is still a need as outlined in Resolution No. 2011-105, and therefore fees should still be collected for these purposes.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby finds that the funding for the reduction of automobile travel, specifically for the development of park and ride lots and Class I Bike Trails is not yet known, but there is still a need as outlined in Resolution No. 2011-105, and therefore fees should still be collected for these purposes.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby finds that the funding for arterial roadways, intersections, expressways, freeway interchanges and all of their associated landscaping is not yet known, but there is still a need as outlined in Resolution No. 2011-105, and therefore fees should still be collected for these purposes.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby finds that the funding for the expansion of the transit system is not yet known, but

there is still a need as outlined in Resolution No. 2011-105, and therefore fees should still be collected for these purposes.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby accepts the Fiscal Year 2011-2012 Capital Facilities Fees Report as described in **Exhibit "A"**, attached hereto and incorporated herein by reference.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of December, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:


SUSANA ACALA WOOD, City Attorney

City of Modesto Capital Facilities Fees Annual Report Fiscal Year 2011-12

Prepared By:

Community & Economic Development
Infrastructure Financing Program

October 15, 2012



MODESTO
CALIFORNIA

TABLE OF CONTENTS

LEGAL REQUIREMENTS 1

 A. What Are Impact Fees? 1

 B. Establishing An Impact Fee Program 1

 C. Adoption of a Capital Improvement Program (CIP) 1

 D. Reporting..... 2

CURRENT FEE SCHEDULES..... 5

COMBINING STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCES.... 5

FIVE YEAR REVENUE AND EXPENSE HISTORY 5

DEFERRED CAPITAL FACILITIES FEES 6

 A. Single-Family Residential 6

 B. Multi-Family, Commercial and Industrial..... 6

REFUNDS 6

TRANSFERS..... 6

CAPITAL IMPROVEMENT PROJECTS..... 7

LIST OF TABLES

Table 1: Current Fee Schedules Effective July 1, 2011 through June 30, 2012 8

Table 2: Combining Statement of Revenues, Expenditures and Changes in Fund Balances Year Ended June 30, 2012 9

Table 3: Five Year Revenue History 10

Table 4: Five Year Expenditure History..... 11

Table 5: Five Year Revenue and Expenditure History..... 12

Table 6: Single-Family Residential Deferrals 13

Table 7: Multifamily, Commercial and Industrial Deferrals 14

Table 8: Refund of Capital Facilities Fees 15

Table 9: Transfers within Capital Facilities Fees Funds 16

Table 10: Capital Improvement Project (CIP) Expenditures 17

LEGAL REQUIREMENTS

A. What Are Impact Fees?

California Government Code §66000 allows a local jurisdiction to establish an impact fee to mitigate the impacts of new development. These fees may be used for the purchase, construction, expansion, rehabilitation, or acquisition of public facilities, and must be consistent with the adopted fee program, which is updated every five years.

New development increases the demand for health and safety services provided by a city, affect the quality of the community's infrastructure, and increases the need for public facilities. Typically, impact fees are paid to a city at the time a building permit is issued and assist in paying for the cumulative impact of new development through infrastructure improvements and additions. Facilities partly funded by impact fees include police, fire and administrative buildings, park sites, bike trails, public landscape areas, community centers, transportation and transit facilities and roadway improvements. Impact fees cannot be used for maintenance of existing or future city facilities.

B. Establishing An Impact Fee Program

The City of Modesto ("City") impact fee program, more commonly known as the Capital Facilities Fees Program ("CFF Program"), was established in 1987 and has been updated periodically to reflect the changes in land values, projects and costs. Impact fees imposed on new development must have the proper nexus to any project on which they are imposed. The CFF Program sets forth the relationship between contemplated future developments, facilities needed to serve future development and the estimated cost of those improvements based on the current General Plan for build-out. Estimated project costs and the summary of fee apportionment for each CFF Program fee category are identified in the 2003 and 2011 CFF Program updates.

C. Adoption of a Capital Improvement Program (CIP)

California Government Code §66002 requires local agencies that have implemented an impact fee program to adopt a Capital Improvement Program (CIP) indicating the approximate location, size, and time of projects, plus an estimate for the costs of all facilities or improvements to be financed by the impact fees. At a minimum, a formal CIP is recommended as a five-year plan. The City annually produces a five-year CIP which assists in maintaining and updating the City's General Plan.

The City's CIP connects annual capital expenditures to a long-range plan for public improvements. The City's CIP also assists in maximizing the funds available, connecting the plan for public improvements to the City's capacity for funding, and projecting expenditures over a period of years. This type of fiscal management is particularly

LEGAL REQUIREMENTS (Con't.)

important during periods where budgetary demands exceed financial resources. The City's CIP Program is financed in part by the impact fees collected through the CFF Program.

D. Reporting

Annual reporting of a local agency's impact fee program is required by Government Code §66006. The impact fees collected must be segregated from general and other funds containing fees collected for other improvements. Interest on each impact fee fund or account must be credited to that fund or account and be used only for the purpose for which the impact fee was collected.

California Government Code §66006(b) requires that a local agency make the following information available to the public for each separate impact fee fund on an annual basis and that the local agency review that information at a public meeting. The law also requires the annual report include the following information for the prior fiscal year and be made available within 180 days after the last day of each fiscal year:

- Describe the type of impact fee in the account or fund.
- Identify the amount of the impact fee.
- Provide the beginning and ending balance of the account or fund.
- Provide the amount of impact fees collected and interest earned.
- Identify each public improvement on which impact fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with the impact fee.
- Identify an approximate date by which the construction of the public improvement will commence, if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement and the public improvement remains incomplete.
- Describe each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned impact fees will be expended, and, in the case of an interfund loan, the date on which the loan will be repaid and the rate of interest that the account or fund will receive on the loan.
- Provide the amount of refunds made due to sufficient funds being collected to complete financing on incomplete public improvements, and the amount of reallocation of impact funds made to administrative costs of refunding unexpended revenues exceeding the amount to be refunded.

If an agency no longer needs the funds for the purposes collected or fails to make the required findings or perform certain administrative tasks prescribed, the agency may be

LEGAL REQUIREMENTS (Con't.)

required to refund, on a prorated basis to owners of the properties upon which the impact fees for the improvement were imposed, the monies collected for that project and any interest earned on those funds.

California Government Code §66001(d) also requires that the local agency make all of the following findings every fifth year with respect to that portion of the account remaining unexpended, whether committed or uncommitted:

- Identify the purpose to which the impact fee is to be allocated.
- Demonstrate a reasonable relationship between the impact fee and the purpose for which is it charged.
- Identify all sources and amounts of funding anticipated to complete financing of incomplete improvements.
- Designate the approximate dates on which the funding is expected to be deposited into the appropriate account or fund.
- In any action imposing a fee as a condition of approval of a development project by a local agency, the local agency shall determine how there is a reasonable relationship between the amount of the impact fee and the cost of the public facility or portion of the public facility attributable to the development on which the impact fee is imposed.

DESCRIPTION OF CAPITAL FACILITIES FEES

The CFF Program mitigates the impacts associated with new development on certain public facilities. The CFF Program is used to finance the acquisition, construction, and improvement of public facilities as a result of new development. The City has the following eight (8) CFF Program fee categories:

Streets Capital Facilities Fee – Fund 3410

This fee is collected for roadway improvements such as expressways, interchanges, arterial and collector roads, turn lanes, intersections and traffic signals.

Public Transportation Capital Facilities Fee – Fund 3420

This fee is collected for new buses, bus shelters, bus stops, the bus maintenance facility, and the northeast transfer station.

Air Quality Mitigation Capital Facilities Fees – Fund 3430

This fee is collected for facilities that reduce automobile travel by facilitating alternative modes of travel such as the Amtrak station parking lot, park and ride lots, vanpooling, carpooling, Class I bike trails, bike storage, turn lanes, footpaths, and pedestrian accesses.

Police Capital Facilities Fee – Fund 3440

This fee is collected for the Police Tactical Training Center, police vehicles, parking facilities, communication systems, special equipment, and the future Northeast Area Precinct (to be shared with Fire).

Fire Capital Facilities Fee – Fund 3450

This fee is collected for fire facility expansions, fire vehicles, special equipment, and the future Northeast Area Precinct (to be shared with Police).

Parks Capital Facilities Fees – Fund 3460

This fee is collected for land and construction costs for neighborhood, community, and regional parks, sports facilities, and community buildings.

City Hall and Other Government Facilities Capital Facilities Fee – Fund 3470

This fee is collected for debt service payments on City Hall, related parking facilities, the corporation yard and related facilities, City vehicles, and the City's information technology expansion.

DESCRIPTION OF CAPITAL FACILITIES FEES (Con't.)

Administration Capital Facilities Fee – Fund 3480

This fee is collected for the administration of the CFF Program. This includes preparation of an Annual CFF Program Report, preparation of a Five-Year CFF Report, day-to-day management of the CFF Program including preparation of annual CIP budgets, CFF Program annual inflationary updates, land value analyses and updates and CFF Program Proformas.

CURRENT FEE SCHEDULES

The current CFF Program allows for an annual inflationary adjustment equal to the increase in the annual change in the San Francisco Bay Area Engineering News Record Construction Cost Index through the month of December of the preceding year. For Fiscal Year 2012-13, the CFF Program could have applied an inflationary adjustment of 0.9%. However, due to the continuing economic challenges faced by the City (few anticipated housing starts, continued decrease in housing values and a decrease in construction costs), staff recommended that the inflationary adjustment be frozen as it had been previously done in Fiscal Year 2011-12. On May 1, 2012, the City Council adopted Resolution No. 2012-141 and waived the annual inflationary adjustment for Fiscal Year 2012-13. Table 1 provides the adopted fee schedule for Fiscal Year 2011-12.

COMBINING STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCES

The Combining Statement of Revenues, Expenditures and Changes in Fund Balances provided in Table 2 outlines the beginning and ending balance of each fund for Fiscal Year 2011-2012. Expenditures are identified by general categories. All revenue, unless collected under the deferral program, is collected at the time a building permit is issued. Since the CFF Program is a "pay-as-you-go" program, the City must accrue enough revenue prior to commencing construction of a project, resulting in an "aging" of fund balances. The aging or accumulation occurs until enough revenue has been collected to construct a project.

FIVE YEAR REVENUE AND EXPENSE HISTORY

As previously discussed, most revenue is collected when a building permit is issued for new development. Overall, CFF Program revenues increased 1.28% between Fiscal Years 2010-11 and 2011-12 while expenditures increased 125.85% over the same time period. Even with the decline in revenue, due to previously accumulated revenues in the Streets and Parks Capital Facilities Fees funds, staff has continued to design and put projects out to

FIVE YEAR REVENUE AND EXPENSE HISTORY (Con't.)

bid. Tables 3 and 4 provide a five-year snapshot of the CFF Program revenues and expenditures, respectively. Table 5 offers a combined picture of revenues, expenses and fund balance levels over the past five years.

DEFERRED CAPITAL FACILITIES FEES

A. Single-Family Residential

In June of 2010, the City extended the deferral program of CFF for Single-Family Residential permits for a period of one (1) year. This program allowed the deferral of payment of CFF until issuance of a Certificate of Occupancy. Although the program ended in June 2011, several deferral agreements remain outstanding and are provided in Table 6.

B. Multi-Family, Commercial and Industrial

CFF Deferral Programs for Multi-Family, Commercial, and Industrial developments have been in place since 1991. Deferrals assist in off-setting the cost of new development by allowing applicants to pay a portion of the CFF due at the time of building permit issuance and the balance, plus interest, over a predetermined period of time. Table 7 details the three (3) active deferrals in Fiscal Year 2011-2012: Village Corners and Modesto Mufflers (Commercial) and Acme Construction (Industrial Warehouse & Office).

REFUNDS

A total of four (4) CFF refunds were issued in Fiscal Year 2011-2012. These refunds, outlined in Table 8, were for the removal of temporary trailers. The City's CFF Policies and Procedures (Resolution No. 2008-010) requires CFF to be paid at the time of building permit issuance and later refunded, less the administrative fees, if the temporary trailer is removed within five (5) years.

TRANSFERS

A total of fourteen (14) interfund transfers occurred in Fiscal Year 2011-2012. The transfers included loan payments for the City's new Financial System, the Tenth Street Place (City Hall) Debt Service payment and funding for various projects throughout the City. Table 9 offers details of each transfer.

CAPITAL IMPROVEMENT PROJECTS

Information on projects funded by the CFF Program can be found in Table 10. The information in the table includes a listing of current projects, estimated construction start and end dates, estimated project costs, percentage of project funded by the CFF Program and general accounting information.

CITY OF MODESTO
CAPITAL FACILITIES FEES ANNUAL REPORT
FISCAL YEAR 2011-12

Table 1: Current Fee Schedules Effective July 1, 2011 through June 30, 2012

2011 CFF PROGRAM - Development within City Limits										
Fee Category	Unit Measure Per	Streets	Public Transp.	Air Quality	Police	Fire	Parks	General Gov't.	Admin	Total
Single-Family Residential	Dwelling Unit	\$ 6,268	\$ 91	\$ 548	\$ 852	\$ 363	\$ 5,193	\$ 479	\$ 272	\$ 14,066
Multi-Family Residential	Dwelling Unit	4,342	64	722	513	167	3,228	294	146	9,476
Senior Housing	Dwelling Unit	3,782	34	705	500	164	3,148	288	104	8,725
Hotel/Motel	Room	3,259	57		194	64		111	82	3,767
Retail <50,000 SF	1,000 SF	9,423	187		231	76		133	255	10,305
Retail 50,000-100,000 SF	1,000 SF	7,823	154		231	75		132	212	8,627
Retail 100,000-300,000 SF	1,000 SF	6,603	130		232	76		133	180	7,354
Retail >300,000 SF	1,000 SF	6,160	120		231	75		133	168	6,887
Medical Office	1,000 SF	11,903	238		386	126		221	328	13,202
General Office	1,000 SF	5,760	102		386	126		222	148	6,744
Hospital	1,000 SF	8,347	147		385	126		222	207	9,434
Daycare	1,000 SF	4,609	81		386	126		222	120	5,544
Church	1,000 SF	982	17		391	127		225	34	1,776
Nursing Home	1,000 SF	1,438	25		389	127		224	45	2,248
Industrial (Manufacturing)	1,000 SF	2,233	39		165	54		95	57	2,643
Industrial (Warehousing)	1,000 SF	1,566	28		166	54		95	42	1,951

2011 CFF PROGRAM - Development within City's Sphere of Influence										
Fee Category	Unit Measure Per	Streets	Public Transp.	Air Quality	Police	Fire	Parks	General Gov't.	Admin	Total
Single-Family Residential	Dwelling Unit	\$ 6,815	\$ 72	\$ 1,382					\$ 176	\$ 8,445
Multi-Family Residential	Dwelling Unit	4,904	52	876					120	5,952
Senior Housing	Dwelling Unit	2,870	31	958					95	3,954
Hotel/Motel	Room	3,435	36						51	3,522
Retail <50,000 SF	1,000 SF	9,802	103						143	10,048
Retail 50,000-100,000 SF	1,000 SF	8,161	86						120	8,367
Retail 100,000-300,000 SF	1,000 SF	6,918	73						102	7,093
Retail >300,000 SF	1,000 SF	6,463	69						95	6,627
Medical Office	1,000 SF	12,463	132						183	12,778
General Office	1,000 SF	6,100	64						93	6,257
Hospital	1,000 SF	8,729	92						130	8,951
Daycare	1,000 SF	4,922	52						76	5,050
Church	1,000 SF	1,178	12						25	1,215
Nursing Home	1,000 SF	1,661	17						31	1,709
Industrial (Manufacturing)	1,000 SF	2,374	25						36	2,435
Industrial (Warehousing)	1,000 SF	1,694	18						27	1,739

**CITY OF MODESTO
CAPITAL FACILITIES FEES ANNUAL REPORT
FISCAL YEAR 2011-12**

Table 2: Combining Statement of Revenues, Expenditures and Changes in Fund Balances Year Ended June 30, 2012

	3410	3420	3430	3440	3450	3460	3470	3480	
	Streets	Public Transp.	Air Quality	Police	Fire	Parks	General Gov't	Admin.	TOTAL
REVENUES:									
Grant Monies	\$ 2,855,733	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,855,733
Fees Collected	638,746	11,694	13,488	41,697	15,859	128,909	24,131	20,558	895,064
Interest and Rent	239,192	1,053	2,501	504	316	47,751	511	789	292,615
Net Change in Fair Value of Investments	(127,836)	(606)	(1,926)	(559)	(196)	(27,128)	(676)	(359)	(159,288)
Miscellaneous	-	-	-	-	-	1,300	-	-	1,300
TOTAL REVENUES	\$ 3,605,834	\$ 12,141	\$ 14,063	\$ 41,642	\$ 15,979	\$ 150,832	\$ 23,946	\$ 20,988	\$ 3,885,424
EXPENDITURES:									
Current:									
General Gov't.	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 56,686	\$ 56,686
Highways & Streets	6,540,817	-	-	-	-	-	-	-	6,540,817
Public Works	-	-	-	-	-	-	-	-	-
Parks & Recreation	-	-	-	-	-	1,142,808	-	-	1,142,808
Public Safety	-	-	-	-	-	-	-	-	-
Capital Outlay	-	-	-	-	-	-	-	-	-
TOTAL EXPENDITURES	\$ 6,540,817	\$ -	\$ -	\$ -	\$ -	\$ 1,142,808	\$ -	\$ 56,686	\$ 7,740,311
EXCESS (DEFICIENCY) OF REVENUES OVER (UNDER) EXPENDITURES	\$ (2,934,983)	\$ 12,141	\$ 14,062	\$ 41,641	\$ 15,979	\$ (991,976)	\$ 23,947	\$ (35,699)	\$ (3,854,888)
OTHER FINANCING SOURCES (USES)									
Transfers In	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,160,332	\$ -	\$ -	\$ 1,160,332
Transfers Out	-	-	(1)	(19,784)	(228)	(315,257)	(116,777)	-	(452,047)
Sale of Assets	-	-	-	-	-	-	-	-	-
TOTAL OTHER FINANCING SOURCES	\$ -	\$ -	\$ (1)	\$ (19,784)	\$ (228)	\$ 845,075	\$ (116,777)	\$ -	\$ 708,285
EXCESS (DEFICIENCY) OF REVENUES & OTHER USES	\$ (2,934,983)	\$ 12,141	\$ 14,061	\$ 21,857	\$ 15,751	\$ (146,901)	\$ (92,830)	\$ (35,699)	\$ (3,146,603)
FUND BALANCES, July 1	27,021,741	104,589	370,086	116,836	(1,056,759)	5,525,941	194,210	124,853	32,401,497
FUND BALANCES, June 30	\$ 24,086,758	\$ 116,730	\$ 384,147	\$ 138,693	\$ (1,041,008)	\$ 5,379,040	\$ 101,380	\$ 89,154	\$ 29,254,894

CITY OF MODESTO
CAPITAL FACILITIES FEES ANNUAL REPORT
FISCAL YEAR 2011-12

Table 3: Five Year Revenue History

Fund	2007-2008	2008-2009	2009-2010	2010-2011	2011-2012	Five Year Total
FUND 3410 – STREETS						
Fees Collected	\$ 6,652,755	\$ 1,894,183	\$ 1,047,367	\$ 561,069	\$ 638,746	\$ 10,794,120
Grant Monies	452,710	1,285,467	423,473	2,726,437	2,855,733	7,743,820
All Other Revenue Sources	1,971,665	1,277,416	449,573	172,676	111,356	3,982,686
Subtotal	\$ 9,077,130	\$ 4,457,066	\$ 1,920,413	\$ 3,460,182	\$ 3,605,834	\$ 22,520,625
FUND 3420 – PUBLIC TRANSP.						
Fees Collected	\$ 74,566	\$ 20,638	\$ 11,147	\$ 6,282	\$ 11,694	\$ 124,327
Grant Monies	-	-	-	-	-	-
All Other Revenue Sources	26,275	8,945	1,263	744	447	37,674
Subtotal	\$ 100,841	\$ 29,583	\$ 12,410	\$ 7,026	\$ 12,141	\$ 162,001
FUND 3430 – AIR QUALITY						
Fees Collected	\$ 220,149	\$ 40,276	\$ 19,449	\$ 19,099	\$ 13,488	\$ 312,461
Grant Monies	-	-	-	-	-	-
All Other Revenue Sources	33,356	22,067	10,321	4,677	575	70,996
Subtotal	\$ 253,505	\$ 62,343	\$ 29,770	\$ 23,776	\$ 14,062	\$ 383,457
FUND 3440 – POLICE						
Fees Collected	\$ 257,671	\$ 51,900	\$ 34,967	\$ 25,435	\$ 41,697	\$ 411,670
Grant Monies	-	-	-	-	-	-
All Other Revenue Sources	89,329	31,255	4,614	1,765	(55)	126,908
Subtotal	\$ 347,000	\$ 83,155	\$ 39,581	\$ 27,200	\$ 41,642	\$ 538,578
FUND 3450 – FIRE						
Fees Collected	\$ 75,988	\$ 8,705	\$ 11,669	\$ 7,619	\$ 15,859	\$ 119,840
Grant Monies	-	-	-	-	-	-
All Other Revenue Sources	(30,354)	(28,889)	(28,782)	143	120	(87,762)
Subtotal	\$ 45,634	\$ (20,184)	\$ (17,113)	\$ 7,762	\$ 15,979	\$ 32,078
FUND 3460 – PARKS						
Fees Collected	\$ 1,015,123	\$ 142,655	\$ 85,968	\$ 101,006	\$ 128,909	\$ 1,473,661
Grant Monies	(10,904)	-	-	-	-	(10,904)
All Other Revenue Sources	342,930	257,800	92,734	36,764	21,923	752,151
Subtotal	\$ 1,347,149	\$ 400,455	\$ 178,702	\$ 137,770	\$ 150,832	\$ 2,214,908
FUND 3470 – GENERAL GOV'T						
Fees Collected	\$ 143,128	\$ 25,477	\$ 20,117	\$ 14,201	\$ 24,113	\$ 227,036
Grant Monies	-	-	-	-	-	-
All Other Revenue Sources	121,343	42,416	7,950	3,521	(165)	175,065
Subtotal	\$ 264,471	\$ 67,893	\$ 28,067	\$ 17,722	\$ 23,947	\$ 402,101
FUND 3480 – ADMINISTRATION						
Fees Collected	\$ 125,149	\$ 32,546	\$ 19,348	\$ 13,013	\$ 20,558	\$ 210,614
Grant Monies	-	-	-	-	-	-
All Other Revenue Sources	31,186	16,423	4,468	141,987	430	194,494
Subtotal	\$ 156,335	\$ 48,969	\$ 23,816	\$ 155,000	\$ 20,987	\$ 405,108
TOTAL	\$ 11,592,065	\$ 5,129,280	\$ 2,215,646	\$ 3,836,438	\$ 3,885,424	\$ 26,658,856

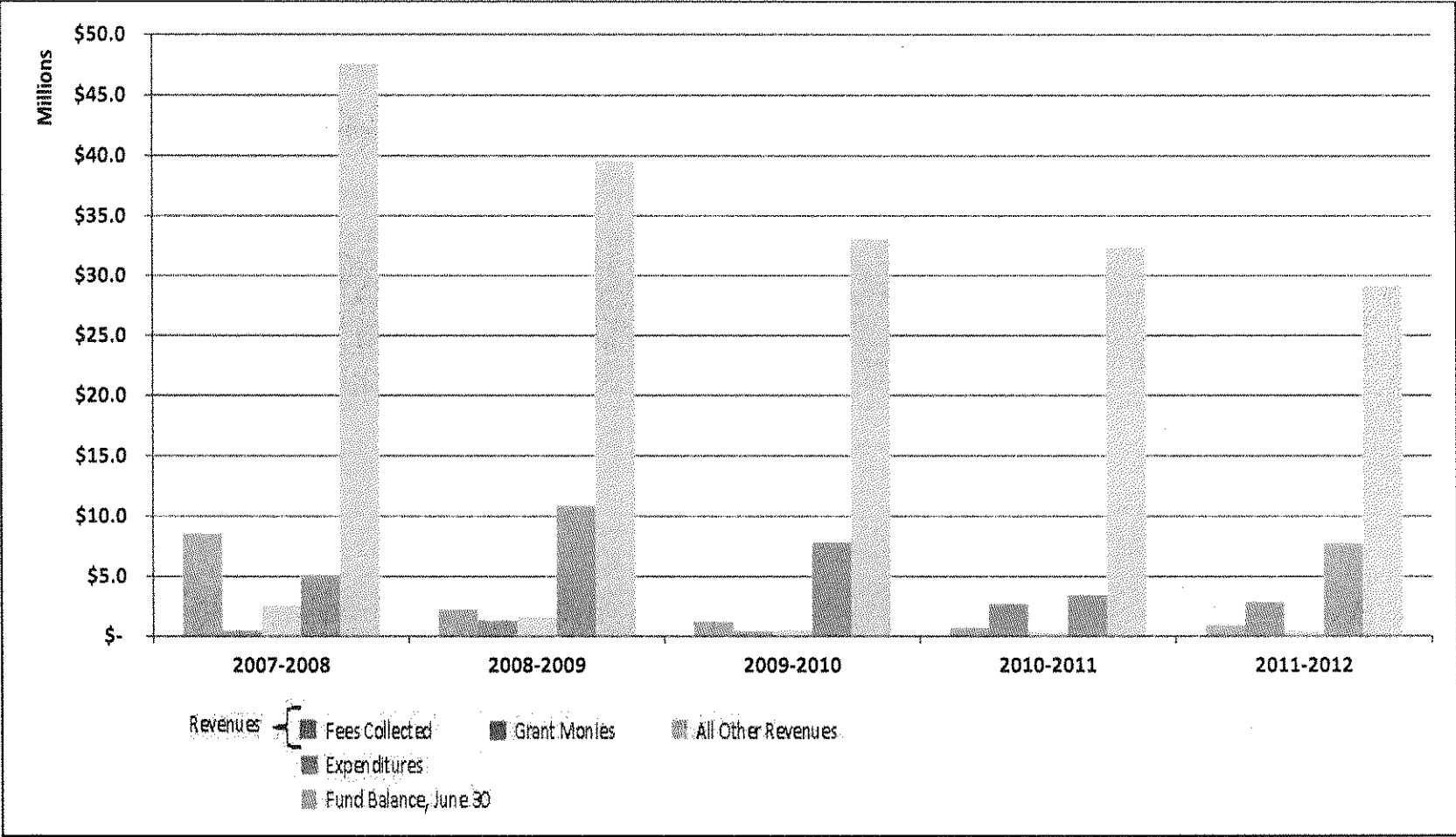
CITY OF MODESTO
 CAPITAL FACILITIES FEES ANNUAL REPORT
 FISCAL YEAR 2011-12

Table 4: Five Year Expenditure History

Fund	2007-2008	2008-2009	2009-2010	2010-2011	2011-2012	Five Year Total
Fund 3410 – Streets	\$ 3,634,276	\$ 10,550,642	\$ 7,274,188	\$ 3,204,214	\$ 6,540,817	\$ 31,204,137
Fund 3420 – Public Transp.	-	-	-	-	-	-
Fund 3430 – Air Quality	-	-	-	-	-	-
Fund 3440 – Police	-	-	-	-	-	-
Fund 3450 – Fire	-	-	-	-	-	-
Fund 3460 – Parks	1,286,843	115,791	370,845	69,661	1,142,808	2,985,948
Fund 3470 – General Gov't	-	-	-	-	-	-
Fund 3480 – Administration	197,781	195,264	209,539	186,170	56,686	845,440
TOTAL	\$ 5,118,900	\$ 10,861,697	\$ 7,854,572	\$ 3,460,045	\$ 7,740,311	\$ 35,035,525

CITY OF MODESTO
 CAPITAL FACILITIES FEES ANNUAL REPORT
 FISCAL YEAR 2011-12

Table 5: Five Year Revenue and Expenditure History



**CITY OF MODESTO
CAPITAL FACILITIES FEES ANNUAL REPORT
FISCAL YEAR 2011-12**

Table 6: Single-Family Residential Deferrals

Receivable Fund	Applicant	Balance June 30, 2011	Payoffs	Outstanding Balance June 30, 2012
Fund 3410 Streets	Oakdale Building Partners – 21 Permits	\$ 131,628	\$ 112,824	\$ 18,804
	Steve and Darlene Mix – 2 Permits	12,536	12,536	-
	Fletcher Organization, Inc. - 6 Permits	37,608	12,536	25,072
Subtotal		\$ 181,772	\$ 137,896	\$ 43,876
Fund 3420 Public Transportation	Oakdale Building Partners – 21 Permits	\$ 1,911	\$ 1,638	\$ 273
	Steve and Darlene Mix – 2 Permits	182	182	-
	Fletcher Organization, Inc. - 6 Permits	546	182	364
Subtotal		\$ 2,639	\$ 2,002	\$ 637
Fund 3430 Air Mitigation	Oakdale Building Partners – 21 Permits	\$ 11,508	\$ 9,864	\$ 1,644
	Steve and Darlene Mix – 2 Permits	1,096	1,096	-
	Fletcher Organization, Inc. - 6 Permits	3,288	1,096	2,192
Subtotal		\$ 15,892	\$ 12,056	\$ 3,836
Fund 3440 Police	Oakdale Building Partners – 21 Permits	\$ 17,892	\$ 15,336	\$ 2,556
	Steve and Darlene Mix – 2 Permits	1,704	1,704	-
	Fletcher Organization, Inc. - 6 Permits	5,112	1,704	3,408
Subtotal		\$ 24,708	\$ 18,744	\$ 5,964
Fund 3450 Fire	Oakdale Building Partners – 21 Permits	\$ 7,623	\$ 6,534	\$ 1,089
	Steve and Darlene Mix – 2 Permits	726	726	-
	Fletcher Organization, Inc. - 6 Permits	2,178	726	1,452
Subtotal		\$ 10,527	\$ 7,986	\$ 2,541
Fund 3460 Parks	Oakdale Building Partners – 21 Permits	\$ 109,053	\$ 93,474	\$ 15,579
	Steve and Darlene Mix – 2 Permits	10,386	10,386	-
	Fletcher Organization, Inc. - 6 Permits	31,158	10,386	20,772
Subtotal		\$ 150,597	\$ 114,246	\$ 36,351
Fund 3470 General Gov't.	Oakdale Building Partners – 21 Permits	\$ 10,059	\$ 8,622	\$ 1,437
	Steve and Darlene Mix – 2 Permits	958	958	-
	Fletcher Organization, Inc. - 6 Permits	2,874	958	1,916
Subtotal		\$ 13,891	\$ 10,538	\$ 3,353
Fund 3480 Administration	Oakdale Building Partners – 21 Permits	\$ 5,712	\$ 4,896	\$ 816
	Steve and Darlene Mix – 2 Permits	544	544	-
	Fletcher Organization, Inc. - 6 Permits	1,632	544	1,088
Subtotal		\$ 7,888	\$ 5,984	\$ 1,904
TOTAL		\$ 407,914	\$ 309,452	\$ 98,462

**CITY OF MODESTO
CAPITAL FACILITIES FEES ANNUAL REPORT
FISCAL YEAR 2011-12**

Table 7: Multifamily, Commercial and Industrial Deferrals

Receivable Fund	Applicant	Agreement Start Date	Agreement End Date	Years Remaining	Balance June 30, 2011	Payoffs	Outstanding Balance June 30, 2012
Fund 3410 Streets	Village Corners - 3 Permits	7/9/2010	4/30/2015	3	\$ 31,680	\$ 8,785	\$ 22,895
	Modesto Mufflers - 1 Permit	7/1/2008	4/30/2013	1	23,828	-	23,828
	Acme Construction - 1 Permit	9/23/2008	4/30/2018	6	161,078	24,737	136,341
<i>Subtotal</i>					<i>\$ 216,586</i>	<i>\$ 33,522</i>	<i>\$ 183,064</i>
Fund 3420 Public Transportation	Village Corners - 3 Permits	7/9/2010	4/30/2015	3	\$ 627	\$ 174	\$ 453
	Modesto Mufflers - 1 Permit	7/1/2008	4/30/2013	1	472	-	472
	Acme Construction - 1 Permit	9/23/2008	4/30/2018	6	2,823	434	2,389
<i>Subtotal</i>					<i>\$ 3,922</i>	<i>\$ 608</i>	<i>\$ 3,314</i>
Fund 3440 Police	Village Corners - 3 Permits	7/9/2010	4/30/2015	3	\$ 776	\$ 215	\$ 561
	Modesto Mufflers - 1 Permit	7/1/2008	4/30/2013	1	584	-	584
	Acme Construction - 1 Permit	9/23/2008	4/30/2018	6	11,840	1,818	10,022
<i>Subtotal</i>					<i>\$ 13,200</i>	<i>\$ 2,033</i>	<i>\$ 11,167</i>
Fund 3450 Fire	Village Corners - 3 Permits	7/9/2010	4/30/2015	3	\$ 260	\$ 72	\$ 188
	Modesto Mufflers - 1 Permit	7/1/2008	4/30/2013	1	195	-	195
	Acme Construction - 1 Permit	9/23/2008	4/30/2018	6	3,871	594	3,276
<i>Subtotal</i>					<i>\$ 4,326</i>	<i>\$ 666</i>	<i>\$ 3,659</i>
Fund 3470 General Gov't.	Village Corners - 3 Permits	7/9/2010	4/30/2015	3	\$ 447	\$ 124	\$ 323
	Modesto Mufflers - 1 Permit	7/1/2008	4/30/2013	1	336	-	336
	Acme Construction - 1 Permit	9/23/2008	4/30/2018	6	6,812	1,046	5,766
<i>Subtotal</i>					<i>\$ 7,595</i>	<i>\$ 1,170</i>	<i>\$ 6,425</i>
Fund 3480 Administration	Village Corners - 3 Permits	7/9/2010	4/30/2015	3	\$ 856	\$ 237	\$ 618
	Modesto Mufflers - 1 Permit	7/1/2008	4/30/2013	1	644	-	644
	Acme Construction - 1 Permit	9/23/2008	4/30/2018	6	4,120	633	3,487
<i>Subtotal</i>					<i>\$ 5,620</i>	<i>\$ 870</i>	<i>\$ 4,749</i>
TOTAL					\$ 251,249	\$ 38,869	\$ 212,378

CITY OF MODESTO
 CAPITAL FACILITIES FEES ANNUAL REPORT
 FISCAL YEAR 2011-12

Table 8: Refund of Capital Facilities Fees

Fund	Date	Applicant	Permit #	Refund
Fund 3410 Streets	April 11, 2012	Gordon Trucking, Inc.	BLD2008-62083	\$ 6,931.90
			BLD2008-62084	14,854.00
			BLD2008-62086	6,931.90
			BLD2008-62087	6,931.90
			<i>Subtotal</i>	\$ 35,649.70
Fund 3420 Public Transportation	April 11, 2012	Gordon Trucking, Inc.	BLD2008-62083	\$ 73.24
			BLD2008-62084	156.95
			BLD2008-62086	73.24
			BLD2008-62087	73.24
			<i>Subtotal</i>	\$ 376.67
			TOTAL	\$ 36,026.37

CITY OF MODESTO
CAPITAL FACILITIES FEES ANNUAL REPORT
FISCAL YEAR 2011-12

Table 9: Transfers within Capital Facilities Fees Funds

Fund	Transfer Description	Loan Maturity Date	Rate of Interest	Transfer Amount
Fund 3430 – Air Quality	Transfer out to Fund 5230 – Oracle Payment FY 12	2012	2.5%	\$ (1)
			<i>Subtotal</i>	<i>\$ (1)</i>
Fund 3440 – Police	Transfer out to Fund 5230 – Oracle Payment FY 12	2012	2.5%	\$ (655)
	Transfer out to Fund 0100 – Tenth Street Place Debt Service Payment	2034	Variable Interest	(20,000)
	Transfer in from Fund 5230 – INET Project Refunds	-	-	871
			<i>Subtotal</i>	<i>\$ (19,784)</i>
Fund 3450 – Fire	Transfer out to Fund 5230 – Oracle Payment FY 12	2012	2.5%	\$ (228)
			<i>Subtotal</i>	<i>\$ (228)</i>
Fund 3460 – Parks	Transfer in from Fund 3200 – Mary Grogan Park Project for FY 12	-	-	\$ 418,094
	Transfer in from Fund 3200 – Mary Grogan Park Project Match FY 12	-	-	210,747
	Transfer in from Fund 3290 – Mary Grogan Park Project for FY 12	-	-	216,991
	Transfer in from Fund 3291 – Mary Grogan Park Project for FY 12	-	-	314,500
	Transfer out to Fund 3130 – Park Partners Project 100300	-	-	(20,000)
	Transfer out to Fund 3140 – Virginia Corridor Project Match Funding FY 12	-	-	(295,257)
			<i>Subtotal</i>	<i>\$ 845,075</i>
Fund 3470 – General Gov't	Transfer out to Fund 0100 – Tenth Street Place Debt Service Payment	2034	Variable Interest	\$ (121,000)
	Transfer out to Fund 5230 – Oracle Payment FY 12	2012	2.5%	(1,124)
	Transfer in from Fund 5230 – INET Project Refunds	-	-	5,347
			<i>Subtotal</i>	<i>\$ (116,777)</i>
			TOTAL	\$ (708,285)

**CITY OF MODESTO
CAPITAL FACILITIES FEES ANNUAL REPORT
FISCAL YEAR 2011-12**

Table 10: Capital Improvement Project (CIP) Expenditures

Fund	Project Number	Project Name	% Funded by Fee	% Funded by Other	Budget	Previous FY Expenditures	FY 11/12 Expenditures	Balance Available	Estimated Construction Start FY	Estimated Construction End FY
Fund 3410 Streets	100030	Right Turn Lane – Northbound McHenry to Eastbound Briggsmore	-	100%	\$ 823,329	\$ 119,679.95	\$ 251,911.81	\$ 451,837.24	2010/11	2012/13
	100031	Right Turn Lane – Eastbound Briggsmore to Southbound McHenry	11.47%	88.53%	733,001	97,257.21	67,204.19	568,539.60	Unknown ¹	Unknown
	100032	New Traffic Signals 2010	-	100%	853,124	21,040.02	40,014.66	792,069.32	2012/13	2013/14
	100035	Dale Road CCTV Cameras	-	100%	350,000	44,993.23	254,519.62	50,487.15	2011/12	2012/13
	100036	Right Turn Lanes – Four (4) Intersections	9.90%	90.10%	1,787,955	831,123.90	792,564.85	164,266.25	2009/10	2010/11
	100037	Turn Signals: Scott/Cheyenne & Prescott/Hawn	10.39%	89.61%	497,027	455,805.23	593.43	40,628.34	2009/10	2010/11
	100041	Claus/Sylvan/Floyd/Lincoln to Carpenter	11.47%	88.53%	977,660	719,957.03	487.80	257,215.17	2008/09	2009/10
	100044	Pelandale CCTV/Fiber Optics	11.47%	88.53%	425,000	385,062.48	88.50	39,849.02	2008/09	2009/10
	100046	Pelandale Interchange at SR 99	77.67%	22.33%	10,274,177	2,733,954.97	4,171,647.61	3,368,574.42	2013/14	2015/16
	100049	Oakdale Road Widening	100%	-	400,000	12,126.04	101.52	387,772.44	Unknown ¹	Unknown
	100051	Claratina: McHenry to Coffee Four (4) Lanes	100%	-	3,904,936	123,231.70	52,126.77	3,729,577.53	2015/16	2016/17
	100053	Carpenter Road Bridge Seismic	-	100%	11,334,441	441,505.34	733,521.02	10,159,414.64	2011/12	2012/13
	100456	Pelandale: Dale to McHenry Six (6) Lanes	99.99%	0.01%	17,736,052	16,542,845.24	3,403.38	1,189,803.38	2009/10	2011/12
	100585	Right Turn Lane – Oakdale to Scenic	12.50%	87.50%	400,000	-	17,366.69	382,633.31	Unknown ²	Unknown
	100586	7 th Street Bridge at Tuolumne River	100%	-	150,000	6,003.74	6,674.63	137,321.63	2015/16	2017/18
	100614	SR 132 West Expressway	100%	-	40,000	-	12,354.99	27,645.01	2016/17	2018/19
100631	Oakdale/Sylvan Intersection Improvements	62.41%	37.59%	1,995,120	-	53,401.66	1,941,718.34	2013/14	2013/14	
100632	Right Turn Lane – McHenry to Briggsmore	-	100%	310,000	-	47,087.62	262,912.38	Unknown ¹	Unknown	
100635	Traffic Model Maintenance	-	100%	400,000	-	33,361.14	366,638.86	2011/12	2015/16	
Subtotal							\$ 6,538,431.89			
Fund 3460 Parks	100288	Mary Grogan Community Park	43.36%	56.64%	\$ 10,961,610	\$ 109,237.89	\$ 1,140,248.18	\$ 9,712,123.93	2011/12	2012/13
	100677	Lighting Playground and Shade	100%	-	285,834	-	2,559.45	283,274.55	2010/11	2012/13
Subtotal							\$ 1,142,807.63			
TOTAL							\$ 7,681,239.52			

¹ Estimated construction start date is unknown due to a constructability issue which may prohibit construction.

² Project currently in Preliminary Engineering Phase. Construction time period is unknown because there are no monies programmed at this time.

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-505**

**RESOLUTION APPROVING THE SUBMITTAL OF THE UPDATED AIRPORT
CAPITAL IMPROVEMENT PLAN SUMMARY TO THE FEDERAL AVIATION
ADMINISTRATION AND CALTRANS AERONAUTICS**

WHEREAS, Modesto City-County Airport is a commercial service airport that is a part of the federal airport system and is eligible for federal funding, and

WHEREAS, as airport sponsor, the City is eligible for discretionary funding from the Federal Airport Improvement Program (AIP), and

WHEREAS, the Federal Aviation Administration (FAA) requires that the City submit a revised ACIP covering at least the next five years to maintain eligibility for future project funding, and

WHEREAS, in addition to updating cost estimates, the ACIP annual update is intended to reflect ongoing changes in City priorities, airport needs, and/or federal mandates, and

WHEREAS, keeping the ACIP current helps the FAA plan for the airport's long-term funding needs and better distribute the funds on a priority rating, and

WHEREAS, Caltrans uses the ACIP submission to develop the State Capital Improvement Plan (SCIP), and

WHEREAS, the Modesto City-County Airport ACIP update will be focusing on mandated safety and compliance issues (obstruction removal), current infrastructure needs, and planning for future airport needs, and

WHEREAS, the total package of capital improvements submitted to the FAA for the multi-year period ending in 2022 is estimated to cost \$12,884,060, and

WHEREAS, funding for projects that are approved will be borne by the FAA at 90% (\$11,595,681) with the Airport Fund providing the remaining 10% (\$1,288,409), and

WHEREAS, Passenger Facility Fees will generate most of the revenue for the 10% match, and

WHEREAS, the Airport Advisory Committee, at its September 20, 2012, meeting recommended forwarding this item to Council for consideration,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves submittal of the Airport Capital Improvement Plan Update, **attached** hereby as **Exhibit A**, to the Federal Aviation Administration and Caltrans Aeronautics.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of December, 2012, by Councilmember Burnside, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmember: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Airport Capital Improvement Program (ACIP) Summary, 2013-2022

	<i>Total</i>	<i>FAA (90%)</i>	<i>Sponsor (10%)</i>
Oct. 1, 2012 (FFY 2013)			
Obstruction Removal - Environmental NEPA/CEQA (18 mos.)	\$203,612	\$183,251	\$20,361
West Ramp Reconstruction/Strengthening - Design	\$277,778	\$250,000	\$27,778
Oct. 1, 2013 (FFY 2014)			
Airfield Perimeter Fence - Reconstruct - Access Control System - Design	\$277,778	\$250,000	\$27,778
Airfield Electrical Improvements (est.) - 25% of project	\$277,778	\$250,000	\$27,778
Airfield Drainage Improvements (est.) - 75% of project	\$833,334	\$750,000	\$83,334
Obstruction Removal - Tree Trimming	\$500,000	\$475,000	\$25,000
West Ramp Reconstruction/Strengthening - Construct	\$833,334	\$750,000	\$83,334
Oct. 1, 2014 (FFY 2015)			
Airfield Perimeter Fence - Reconstruct - Access Control System - Construct	\$833,334	\$750,000	\$83,334
Airfield Slurry Seal - Rubber Removal - Marking Removal, Crack Repair and Repaint, Pave Shoulders RW28R	\$1,111,112	\$1,000,000	\$111,112
Oct. 1, 2015-2020 (FFY 2016-2021); prices in 2002 dollars			
<u>Runway 28R Extension, 500' - 600'</u>			
2015			
Environmental NEPA/CEQA	\$300,000	\$270,000	\$30,000
2016			
Land Acquisition - Phase 1 (15)	\$1,875,000	\$1,687,500	\$187,500
2017			
Land Acquisition - Phase 2 (15)	\$1,875,000	\$1,687,500	\$187,500
2018			
Land Acquisition - Phase 3 (13)	\$1,625,000	\$1,462,500	\$162,500
2019			
Relocate Localizer	\$400,000	\$360,000	\$40,000
Relocate Perimeter Road	\$160,000	\$144,000	\$16,000
2020			
Extend Runway/Taxiway 500'	\$1,260,000	\$1,134,000	\$126,000
Pavement Removal	\$11,000	\$9,900	\$1,100
Replace VASI with PAPI, 10L/28R	\$80,000	\$72,000	\$8,000
	<hr/>	<hr/>	<hr/>
	\$7,586,000	\$6,827,400	\$758,600
Oct. 1, 2021 (FFY 2022)			
Wildlife Assessment Study	\$150,000	\$135,000	\$15,000
TOTAL for ALL YEARS SHOWN ABOVE		\$12,884,060	
Pending:			
Computer-based Airfield Drivers Education Program			
Construct New Airport Fire Station			
Construct New Airport Maintenance Shop			

Exhibit A

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-506

RESOLUTION SUMMARILY VACATING A 10-FOOT WIDE PUBLIC UTILITY
EASEMENT LOCATED AT 616 COLUMBIA WAY IN THE CITY OF
MODESTO

WHEREAS, there is a public utility easement on the property located at 616
Columbia Way, and

WHEREAS, there are no utilities located within the easement, and

WHEREAS, the property owner has submitted a written request that the public
utility easement be vacated, and

WHEREAS, the public utility easement to be summarily vacated is more
particularly described in **Exhibit "A" attached** hereto and incorporated herein by this
reference, and

WHEREAS, California Streets and Highways Code Section 8333 states that, "The
legislative body of a local agency may summarily vacate a public service easement, in
any of the following cases: (a) The easement has not been used for the purpose for which
it was dedicated or acquired for five consecutive years immediately preceding the
proposed vacation" and

WHEREAS, the Land Development Engineering Division contacted all affected
City departments and public utility companies, and no objections to the proposed
vacations have been received, and

WHEREAS, the Council of the City of Modesto finds and declares that:

1. The summary vacation of this 10-foot wide public utility easement at
616 Columbia Way is made pursuant to California Streets and Highways Code Section
8333.

2. Streets and Highways Code Section 8333 allows for the summary vacation of a public service easement when “The easement has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation.”

3. California Environmental Quality Act (CEQA) Sec. 15061 (b)(3) exempts all activities where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment. Since this is an abandonment of a utility easement that is no longer needed for utility purposes, it meets the criteria for exemption under this section.

4. That from and after the date this resolution is recorded, the public utility easement, which is proposed to be summarily vacated, will no longer constitute public easements,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the public utility easement located at 616 Columbia Way in the City of Modesto, which is more particularly described in **Exhibit “A” attached** hereto and incorporated herein by reference, is hereby summarily abandoned.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to sign the document to vacate the 10-foot wide public utility easement.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to record a certified copy of this resolution in the Stanislaus County Recorder’s Office. From and after the date this resolution is recorded, said easements shall no longer constitute public easements.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney


EXHIBIT "A"

Stacie M. Bradford and John Carter

10-ft Utility Easement Abandonment

All that portion of the southwest quarter of Section 20, Township 3 South, Range 9 East, Mount Diablo Meridian, more particularly described as follows:

The Southerly Ten feet (10.00-ft) of Lot 9 as shown on the Subdivision "Liberty Park Tract" filed for records in Volume 14 of Maps, at Page 17, Stanislaus County Records; excepting therefrom the Easterly Ten feet (10-ft) thereof.


Kaiser I. Shahbaz
L.S. 8599
Expires: 12/31/2013

1-31-2012
Date



MODESTO CITY COUNCIL
RESOLUTION NO. 2012-507

**RESOLUTION SUMMARILY VACATING A 10-FOOT WIDE PUBLIC UTILITY
EASEMENT LOCATED AT 1700 CROWS LANDING ROAD IN THE CITY OF
MODESTO**

WHEREAS, there is a public utility easement on the property located at 1700
Crows Landing Road, and

WHEREAS, there are no utilities located within the easement, and

WHEREAS, the property owner has submitted a written request that the public
utility easement be vacated, and

WHEREAS, the public utility easement to be summarily vacated is more
particularly described in **Exhibit "A" attached** hereto and incorporated herein by this
reference, and

WHEREAS, California Streets and Highways Code Section 8333 states that, "The
legislative body of a local agency may summarily vacate a public service easement, in
any of the following cases: (a) The easement has not been used for the purpose for which
it was dedicated or acquired for five consecutive years immediately preceding the
proposed vacation" and

WHEREAS, the Land Development Engineering Division contacted all affected
City departments and public utility companies, and no objections to the proposed
vacations have been received, and

WHEREAS, the Council of the City of Modesto finds and declares that:

1. The summary vacation of this 10-foot wide public utility easement at
1700 Crows Landing Road is made pursuant to California Streets and Highways Code
Section 8333.

2. Streets and Highways Code Section 8333 allows for the summary vacation of a public service easement when “The easement has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation.”

3. California Environmental Quality Act (CEQA) Sec. 15061 (b)(3) exempts all activities where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment. Since this is an abandonment of a utility easement that is no longer needed for utility purposes, it meets the criteria for exemption under this section.

4. That from and after the date this resolution is recorded, the public utility easement, which is proposed to be summarily vacated, will no longer constitute public easements,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the public utility easement located at 1700 Crows Landing Road in the City of Modesto, which is more particularly described in **Exhibit “A” attached** hereto and incorporated herein by reference, is hereby summarily abandoned.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to sign the document to vacate the 10-foot wide public utility easement.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to record a certified copy of this resolution in the Stanislaus County Recorder’s Office. From and after the date this resolution is recorded, said easements shall no longer constitute public easements.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

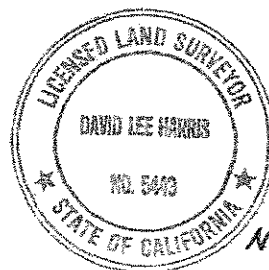
By: 
SUSANA ALCALA WOOD, City Attorney

EXHIBIT "A"
Legal Description

All that portion lying in the Northwest ¼ of Section 9, Township 4 South, Range 9 East, Mount Diablo Meridian described as follows:

Being an abandonment of a portion of a certain 10-foot P.U.E. situate in Parcel "2" as shown on the Parcel Map Filed for record February 25, 1982, in Book 32 of Parcel Maps, Page 109, said P.U.E. having been created on the Parcel Map filed for record June 2, 1970, in Book of Parcel Maps, Page 8, all in Stanislaus County Records, said abandoned portion being more particularly described as follows:

The south 10 feet of above said Parcel "2" excepting therefrom the west 10 feet of said Parcel "2" as the west line of said Parcel "2" is measured at 70-feet easterly from the west line of said Section 9.



Nov. 28, 2012

David Lee Harris

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-508**

**RESOLUTION AMENDING THE FISCAL YEAR 2012/13 CAPITAL
IMPROVEMENT PROGRAM BUDGET IN THE AMOUNT OF \$734,641**

WHEREAS, City Staff worked diligently with StanCOG to expedite schedules for federal aid projects CML 5059 (197) Bus Turnout SB Dale Road, CML 5059 (198) Right Turn Lane WB D Street @ 9th Street and CML 5059 (199) 14th and D Street Improvements by using the Expedited Project Schedule Procedure (EPSP) to effectively move forward the programming of \$365,641 of additional CMAQ appropriations, and

WHEREAS, \$334,000 of additional CMAQ appropriations has been programmed for federal aid project CML 5059 (176) Right Turn Lane Bangs and Prescott, and

WHEREAS, \$35,000 of CMAQ appropriations reallocate from Eng/Design/Admin to Utility and EIR for federal aid project CML 5059 (176) Right Turn Lane Bangs and Prescott, and

WHEREAS, the revised appropriations will result in CIP amounts totaling \$734,641 for roadway projects, and

WHEREAS, as a result, the Fiscal Year 2012/13 Capital Improvement Program budget needs to be amended to reflect the addition of \$734,641 CMAQ appropriations, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2012-2013 Capital Improvement Program budget to modify and add Capital Improvement Program funding in the amount of \$734,641.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None


ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:


SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-509**

RESOLUTION ACCEPTING CONGESTION MITIGATION AIR QUALITY (CMAQ) FUNDS IN THE AMOUNT OF \$699,641, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY GRANT DOCUMENTS

WHEREAS, the staff worked diligently with StanCOG staff to effectively move forward federal aid projects CML 5059 (197) Bus Turnout SB Dale Road, CML 5059 (198) Right Turn Lane WB D Street @ 9th Street and CML 5059 (199) 14th and D Street Improvements in the amount of \$365,641 from FFY 2014/15 to FFY 2011/12, and

WHEREAS, staff expedited project schedules for federal aid projects CML 5059 (197) Bus Turnout SB Dale Road, CML 5059 (198) Right Turn Lane WB D Street @ 9th Street and CML 5059 (199) 14th and D Street Improvements by using Expedited Project Schedule Procedure (EPSP), and

WHEREAS, the City has received an additional \$334,000 in CMAQ funds for federal aid project CML 5059 (176) Right Turn Lane EB Bangs Ave to SB Prescott Road,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts Congestion Mitigation Air Quality (CMAQ) funds in the amount of \$669,641.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-510

RESOLUTION AMENDING EXHIBIT "C" OF RESOLUTION NO. 2012-370,
WHICH AMENDED THE CLASS RANGE TABLE FOR EXECUTIVE
MANAGEMENT INCLUDING CHARTER OFFICERS, TO AMEND THE
SALARY RANGE FOR CHIEF OF POLICE

WHEREAS, by Resolution No. 2012-370 which became effective on September 11, 2012, the City Council amended the class range tables for unrepresented Management and Confidential employees including Charter Officers and Executives, and

WHEREAS, the Council of the City of Modesto desires to amend the Chief of Police salary range, and

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

SECTION I. AMENDMENT TO RESOLUTION NO. 2012-370. Exhibit "C" entitled, "City Of Modesto Class Range Table, Executive Management, Effective July 2, 2013" attached to Resolution No. 2012-370, is hereby amended as shown on the amended **Exhibit "A"** entitled "City of Modesto Class Range Table, Executive Management, Effective December 4, 2012" which is **attached** hereto and made a part hereof as though set forth in full herein. **Said Exhibit "A"** amends the Chief of Police salary from range 1427 to range 1431.

SECTION II. EFFECTIVE DATE. This resolution shall become effective on and after December 11, 2012.

AMENDED
on January 28, 2014
By Resolution 2014-39

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh


NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
CLASS RANGE TABLE
EXECUTIVE MANAGEMENT
Effective December 4, 2012

RANGE	TITLE
1414	City Auditor City Clerk
1420	Director of Finance Director of Human Resources
1422	Chief Information Officer Director of Community and Economic Development Director of Parks, Recreation and Neighborhoods Director of Public Works Director of Utility Planning and Projects
1427	Deputy City Manager Fire Chief
1428	City Attorney
1431	Chief of Police
1436	City Manager

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-511**

**RESOLUTION RECOMMENDING TO CONTINUE WITH THE
MEMORANDUM OF UNDERSTANDING (MOU) FOR EXEMPTION FROM
THE MOBILE HOME RENT STABILIZATION ORDINANCE BETWEEN THE
CITY OF MODESTO AND SIGNATORY MOBILE HOME PARKS WITH AN
AMENDMENT TO SUSPEND CONTRIBUTIONS TO THE RENTAL
ASSISTANCE PROGRAM UNTIL THE CITY HAS MATCHING FUNDS TO
RESUME THE PROGRAM AND AUTHORIZING THE MAYOR, CITY
ATTORNEY AND/OR CITY MANAGER, OR THEIR DESIGNEES, TO
EXECUTE THE MOU AND ANY RELATED DOCUMENTS**

WHEREAS, on September 4, 2007 the City Council introduced a Mobile Home Rent Stabilization Ordinance, Modesto Ordinance 4-19.05(c), including a draft MOU as proposed by the stakeholders group, which includes owners of local mobile home parks. In the proposed MOU, mobile home park owners agreed to provide funding, up to \$20 per space, per year, for a rental assistance program, if the City provided matching funds, and

WHEREAS, as a positive alternative to the Mobile Home ordinance, mobile home parks within the City of Modesto agreed to enter into an MOU agreement with the City of Modesto, and

WHEREAS, since this MOU has been in effect, each of the Signatory Park Owners has received an exemption from any rent control ordinance or regulation adopted by the City, and

WHEREAS, on September 25, 2007, by motion, the City Council approved the MOU with any change in circumstances requiring amendments to or revision of this MOU, and

WHEREAS, any of the Signatory Park Owners or the City may decide to withdraw from the MOU at any time upon providing at least one hundred and eighty days

(180) written notice to the other members of the Signatory Park Owners and to the Mayor and City Attorney of the City of Modesto, and

WHEREAS, in the event that the MOU is to be amended or revised, all parties to the MOU must agree in writing to such amendment or revision, and

WHEREAS, on June 28, 2011, as part of the 2011-2012 State of California budget bill, companion bills Assembly Bill 1X 26 and Assembly Bill 1X 27 were enacted, dissolving the Redevelopment Agency unless the City elected to participate in an Alternative Voluntary Redevelopment Program, established by AB 27 and paid an annual "commitment remittance" payment to the County of Stanislaus, and

WHEREAS, on December 29, 2011, the Supreme Court issued its opinion in the Legal Action, upholding AB 26, invalidating AB 27, extending certain statutory deadlines under Health and Safety Code Sections 34170 through 34191, and dissolving all redevelopment agencies throughout the State, effective February 1, 2012, and

WHEREAS, pursuant to AB 26, on January 24, 2012, the City Council adopted Resolution No. 2012-40 electing to serve as the Successor Agency to the former Agency, and

WHEREAS, the City Council adopted Resolution No. 2012-41 electing to retain the housing assets and functions previously performed by the Agency, and

WHEREAS, RDA funds were no longer available for the Mobile Home Rental Assistance Program, and

WHEREAS, City staff brought the five year review of the MOU to Citizens' Housing and Community Development Committee for guidance, and

WHEREAS, per the request received via e-mail, mobile home park owners have decided to continue the MOU for five more years through October 2017, and

WHEREAS, the Citizens' Housing and Community Development Committee (CH&CDC) considered this item at its October 17, 2012, meeting, and the Committee recommended that the City Council approve to continue with the MOU with an amendment to suspend contributions to the rental assistance program until the City has matching funds to resume the program.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves to continue with the MOU with an amendment to suspend contributions to the rental assistance program until the City has matching funds to resume the program.

BE IT FURTHER RESOLVED, that the Mayor, City Attorney and/or City Manager, or their designees, are hereby authorized to execute the MOU and any related documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2012, by Councilmember Lopez, who moved its adoption, with motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh


NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-512**

**RESOLUTION APPROVING AN AMENDMENT TO THE HOME
INVESTMENT PARTNERSHIP PROGRAM (HOME) LOAN AGREEMENT
WITH THE CITY OF MODESTO FOR THE DEVELOPMENT OF BENNETT
PLACE APARTMENTS LOCATED AT 421 LINCOLN, MODESTO AND
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE
THE AGREEMENTS AND RELATED DOCUMENTS**

WHEREAS, on July 24, 2007, by Resolution No. 2007-442, the City Council approved HOME predevelopment funds for a project located at 416 Downey Avenue for \$250,000 of which \$52,040 has been spent to date with \$112,960 needed to complete the remaining predevelopment activities, and

WHEREAS, the remaining balance of \$85,000 was recommended and approved as part of the revised expenditure plan for NSP 2 & 3 for the Bennett Place Apartments project located at 421 Lincoln Avenue, and

WHEREAS, on June 24, 2008, City Council, by Resolution No. 2008-363, approved the allocation of \$940,427 in HOME funds to Stanislaus County Affordable Housing Corporation (STANCO) for the acquisition and development of 18 senior housing units for permanent supportive housing, and

WHEREAS, on October 6, 2009, an amendment to the HOME loan agreement was approved to: (1) reduce the number units assisted with HOME funds from eighteen (18) to eight (8) to conform to a state law allowing borrowers to seek additional financing for the Project from multiple funding sources, and (2) require STANCO to prepare and submit to the City a detailed project budget and project time line, and

WHEREAS, due to economic conditions, STANCO was unsuccessful in securing additional financing to fund the Project and as a result the Project has been delayed, and

WHEREAS, in order to get the project completed, Staff identified additional funding to allocate to the project which includes \$85,0000 of unspent HOME funds from fiscal year 2007-2008 and along with NSP funds, and

WHEREAS, due to the combination of funding sources, it is necessary to: modify the target population for the Project to include (a) seniors (b) emancipated foster youth, and (c) special needs population, including homeless and persons at risk of homelessness, and

WHEREAS, six (6) of the HOME assisted units of the Project need to be reserved for qualified persons/households whose income does not exceed 65% of the area median income (AMI), and

WHEREAS, two (2) HOME assisted units need to be reserved for persons/households whose income does not exceed 50% AMI, and

WHEREAS, STANCO will provide the City of Modesto a project budget and timeline, commencement of construction and completion of the Project plan.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an amendment to the HOME Investment Partnership Program (HOME) loan agreement with the City of Modesto for the development of Bennett Place Apartments located at 421 Lincoln Avenue, Modesto.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-513**

**RESOLUTION AMENDING THE FISCAL YEAR 2012-2013 CAPITAL
IMPROVEMENT PROGRAM BUDGET TO ADJUST THE EXPENSE
CATEGORIES WITHIN THE PROJECT ACCOUNT, AND AUTHORIZING
THE FINANCE DIRECTOR, OR HER DESIGNEE, TO IMPLEMENT THE
PROVISIONS OF THIS RESOLUTION**

WHEREAS, on July 24, 2007, by Resolution No. 2007-442, the City Council approved HOME predevelopment funds for a project located at 416 Downey Avenue for \$250,000 of which \$52,040 has been spent to date with \$112,960 needed to complete the remaining predevelopment activities, and

WHEREAS, the remaining balance of \$85,000 was recommended and approved as part of the revised expenditure plan for NSP 2 & 3 for the Bennett Place Apartments project located at 421 Lincoln Avenue, and

WHEREAS, on June 24, 2008, City Council, by Resolution No. 2008-363, approved the allocation of \$940,427 in HOME funds to Stanislaus County Affordable Housing Corporation (STANCO) for the acquisition and development of 18 senior housing units for permanent supportive housing, and

WHEREAS, in order to get the project completed, Staff identified additional funding to allocate to the project which includes \$85,0000 of unspent HOME funds from fiscal year 2007-2008 and along with NSP funds, and

WHEREAS, STANCO will provide the City of Modesto a project budget and timeline, commencement of construction and completion of the Project plan.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2012-2013 Capital Improvement Program budget as shown in **Exhibit A**, which is **attached** hereto.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

\$85,000 in HOME funds are being transferred from the Downey Project (#100317) to assist with activity delivery fees for the Bennett Place Project located at 421 Lincoln Avenue, Modesto. Developer: Stanislaus County Affordable Housing Corporation (STANCO)

Funds from: Project #100317	(\$85,000)
Funds to: 1170-38500-54720-000000-00830	\$85,000

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-514**

RESOLUTION APPROVING THE RELEASE OF FUNDS IN THE AMOUNT OF \$140,655 TO PURCHASE AND REHABILITATE REAL PROPERTY WHICH IS LOCATED AT 2101 RESEDA LANE TO BE CARRIED OUT BY THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS (HACS) AND AUTHORIZE THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN LOAN DOCUMENTS AND ALL RELATED CLOSING DOCUMENTS

WHEREAS, on January 26, 2012 a Special Council Study/Workshop session was held to outline a plan to move forward with expending the remaining NSP2 funds in the NSP2 General Acquisition and Rehabilitation activity, and

WHEREAS, on March 13, 2012, by Resolution 2012-104, Council approved the updated NSP2 Guidelines which included approving the HACS as the sub-recipient to expend the remaining NSP2 funds, and

WHEREAS, on September 4, 2012, City Council, by Resolution No. 2012-361, approved a NSP2 Memorandum of Understanding (MOU) with the HACS to expend the remaining funds budgeted in the NSP2 "General Acquisition and Rehabilitation" activity to not exceed \$2 million, and

WHEREAS, on September 4, 2012, by Resolution No. 2012-362, City Council approved all "boilerplate" loan agreements for the purchase and rehabilitation of 2101 Reseda Lane, and

WHEREAS, the CH&CDC sub-committee recommended the property acquisition and rehabilitation loan for real property located at 2101 Reseda Lane at its meeting.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the release of funds in the amount of \$140,655 to purchase and

rehabilitate real property which is located at 2101 Reseda Lane to be carried out by the Housing Authority of the County of Stanislaus that City.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute the required documents for the release of funds.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

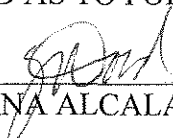
ATTEST:


STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:


SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-515**

RESOLUTION APPROVING THE RELEASE OF FUNDS IN THE AMOUNT OF \$165,000 TO PURCHASE AND REHABILITATE REAL PROPERTY WHICH IS LOCATED AT 1901 VALLEJO DRIVE TO BE CARRIED OUT BY THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS (HACS) AND AUTHORIZE THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN LOAN DOCUMENTS AND ALL RELATED CLOSING DOCUMENTS

WHEREAS, on January 26, 2012 a Special Council Study/Workshop session was held to outline a plan to move forward with expending the remaining NSP2 funds in the NSP2 General Acquisition and Rehabilitation activity, and

WHEREAS, on March 13, 2012, by Resolution 2012-104, Council approved the updated NSP2 Guidelines which included approving the HACS as the sub-recipient to expend the remaining NSP2 funds, and

WHEREAS, on September 4, 2012, City Council, by Resolution No. 2012-361, approved a NSP2 Memorandum of Understanding (MOU) with the HACS to expend the remaining funds budgeted in the NSP2 "General Acquisition and Rehabilitation" activity to not exceed \$2 million, and

WHEREAS, on September 4, 2012, by Resolution No. 2012-362, City Council approved all "boilerplate" loan agreements for the purchase and rehabilitation of 1901 Vallejo Drive, and

WHEREAS, the CH&CDC sub-committee recommended the property acquisition and rehabilitation loan for real property located at 1901 Vallejo Drive at its meeting.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the release of funds in the amount of \$165,000 to purchase and

rehabilitate real property which is located at 1901 Vallejo Drive to be carried out by the Housing Authority of the County of Stanislaus that City.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute the required documents for the release of funds.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-516**

RESOLUTION APPROVING THE RELEASE OF FUNDS IN THE AMOUNT OF \$134,903 TO PURCHASE AND REHABILITATE REAL PROPERTY WHICH IS LOCATED AT 1634 WYLMA WAY TO BE CARRIED OUT BY THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS (HACS) AND AUTHORIZE THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN LOAN DOCUMENTS AND ALL RELATED CLOSING DOCUMENTS

WHEREAS, on January 26, 2012 a Special Council Study/Workshop session was held to outline a plan to move forward with expending the remaining NSP2 funds in the NSP2 General Acquisition and Rehabilitation activity, and

WHEREAS, on March 13, 2012, by Resolution 2012-104, Council approved the updated NSP2 Guidelines which included approving the HACS as the sub-recipient to expend the remaining NSP2 funds, and

WHEREAS, on September 4, 2012, City Council, by Resolution No. 2012-361, approved a NSP2 Memorandum of Understanding (MOU) with the HACS to expend the remaining funds budgeted in the NSP2 "General Acquisition and Rehabilitation" activity to not exceed \$2 million, and

WHEREAS, on September 4, 2012, by Resolution No. 2012-362, City Council approved all "boilerplate" loan agreements for the purchase and rehabilitation of 1634 Wylma Way, and

WHEREAS, the CH&CDC sub-committee recommended the property acquisition and rehabilitation loan for real property located at 1634 Wylma Way at its meeting.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the release of funds in the amount of \$134,903 to purchase and

rehabilitate real property which is located at 1634 Wylma Way to be carried out by the Housing Authority of the County of Stanislaus that City.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute the required documents for the release of funds.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-517**

RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE TUOLUMNE RIVER REGIONAL PARK GATEWAY - PHASE 1.3 TRAILS PROJECT, ACCEPTING THE BID, AND APPROVING AN AGREEMENT WITH HARRIS BUILDERS, INC. OF HILMAR, CA, IN THE AMOUNT OF \$364,900.00 FOR THE TUOLUMNE RIVER REGIONAL PARK GATEWAY - PHASE 1.3 TRAILS PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Tuolumne River Regional Park Gateway – Phase 1.3 Trails Project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Tuolumne River Regional Park Gateway – Phase 1.3 Trails Project were opened at 11:00 a.m. on November 13, 2012, and later tabulated by the Director of Parks, Recreation and Neighborhoods for the consideration of the Council, and

WHEREAS, the Director of Parks, Recreation and Neighborhoods has recommended that the bid of \$364,900.00 received from Harris Builders, Inc. for the project be accepted as the lowest responsible bid and the contract be awarded to Harris Builders, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Tuolumne River Regional Park Gateway – Phase 1.3 Trails Project, accepts the bid of Harris Builders, Inc. in the amount of \$364,900.00 for the project and awards Harris Builders, Inc. the contract for the Tuolumne River Regional Park Gateway – Phase 1.3 Trails Project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Stephanie Lopez
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-518

RESOLUTION AMENDING THE FISCAL YEAR 2012-2013 CAPITAL
IMPROVEMENT PROGRAM BUDGET TO ADJUST THE EXPENSE
CATEGORIES WITHIN THE PROJECT ACCOUNT FOR THE TUOLUMNE
RIVER REGIONAL PARK GATEWAY – PHASE 1.3 TRAILS PROJECT, AND
AUTHORIZING THE FINANCE DIRECTOR, OR HER DESIGNEE, TO
IMPLEMENT THE PROVISIONS OF THIS RESOLUTION

WHEREAS, the Project was advertised for bid on October 22, 2012, and bids were opened on November 13, 2012, with three (3) contractors submitting sealed bids, and

WHEREAS, a budget adjustment is necessary in order to adjust the expense budgets in the Parks CIP Account 100709.PRN.Park Planning and Development (TRRP Gateway – Phase 1.3 Trails) in order to award this bid; and

WHEREAS, the Fiscal Year 2012-2013 Capital Improvement Program budget must be amended as shown in **Exhibit A**, which is incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2012-2013 Capital Improvement Program budget as shown in **Exhibit A**, which is **attached** hereto.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Airport Neighborhood Community Center
Budget Adjustment

EXHIBIT A

Exhibit A

TRRP Gateway Phase 1.3 Expense Budget

	Current	NEW	Diff
CON	435,000.00	384,900.00	(50,100.00)
CA	43,500.00	46,188.00	2,688.00
CTGY	21,500.00	38,490.00	16,990.00
EDA	50,000.00	27,000.00	(23,000.00)
	<u>550,000.00</u>	<u>496,578.00</u>	<u>(53,422.00)</u>

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-519**

RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE SANITARY LIFT STATION LINING REHABILITATION PROJECT, ACCEPTING THE BID, AND APPROVING A CONTRACT WITH SOCAL PACIFIC CONSTRUCTION CORP OF LAKE ELSINORE, CALIFORNIA IN THE AMOUNT OF \$173,719, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Sanitary Lift Station Lining Rehabilitation, and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Sanitary Lift Station Lining Rehabilitation were opened at 11:00 a.m. on November 6, 2012, and later tabulated by the Director of Utility Planning and Projects for the consideration of the Council, and

WHEREAS, the Director of Utility Planning and Projects has recommended that the bid of \$173,719 received from Socal Pacific Construction Corp of Lake Elsinore, California be accepted as the lowest responsible bid and the contract be awarded to Socal Pacific Construction Corp,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Sanitary Lift Station Lining Rehabilitation project, accepts the bid, and approves a contract with Socal Pacific Construction Corp of Lake Elsinore, California in the amount of \$173,719.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Gunderson, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Gunderson, Lopez, Muratore,
Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Burnside, Geer

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-520**

RESOLUTION APPROVING THE CITY OF MODESTO (I) TAKING OWNERSHIP OF REMAINING UNSOLD SINGLE-FAMILY PROPERTIES FROM NSP1 ACTIVE DEVELOPERS THROUGH A MUTUAL RELEASE IN EXCHANGE FOR PAYMENT OF DEVELOPER FEE, (II) REALLOCATING NSP1 ADMINISTRATION FUNDS TO INCREASE THE NSP1 SUBSIDY FOR THE AIRPORT NEIGHBORHOOD COMMUNITY CENTER, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL NECESSARY AGREEMENTS AND RELATED DOCUMENTS REQUIRED TO ENACT ALL NSP1 GRANT CLOSE OUT TRANSACTIONS DEPICTED IN THIS RESOLUTION

WHEREAS, On May 12, 2009, the City Council, by Resolution No. 2009-212, approved the allocation of \$8.1 million in NSP1 funds received through U.S. Department of Housing and Urban Development (HUD), Community Development Block Grant Program, under the Housing and Economic Recovery Act of 2008 (HERA), AND

Whereas, under the terms of the NSP1 agreement, all remaining grant funds must be spent by March 19, 2013, and

WHEREAS, in an effort to ensure that the NSP1 expenditure deadline is met, Staff recommended the City of Modesto take ownership of any remaining unsold single-family properties from NSP1 from active developers through a mutual release in exchange for payment of developer fee, and

WHEREAS, staff recommended to increase the allocation of NSP1 funds for the Airport Neighborhood Community Center and decrease the allocation of Community Development Block Grant (CDBG) funds, and

WHEREAS, the exact amount is determined by the rate of completion for Airport Neighborhood Community Center Project 100698 in keeping with the NSP1 deadlines, and

WHEREAS, this recommendation does not change the approved budget/bid for the Airport Neighborhood Community Center and will not exceed the total allocation approved by Council, and

WHEREAS, while assisting the City with meeting the expenditure deadlines for the NSP1 grant, this reallocation will free up CDBG funds for use on other projects.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the City of Modesto (i) take ownership of any remaining unsold single-family properties from NSP1 from active developers through a mutual release in exchange for payment of developer fee and (ii) increase the allocation of NSP1 funds for the Airport Neighborhood Community Center Project 100698 and decrease the allocation of Community Development Block Grant (CDBG) funds.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to sign any and all related documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-521**

RESOLUTION APPROVING THE CITY OF MODESTO (I) TRANSFERRING FULL OWNERSHIP OF ALL UNSOLD CONDOMINIUMS TO ACTIVE NSP2 NON-PROFIT DEVELOPERS, (II) MODIFYING THE MAXIMUM TOTAL UNIT SUBSIDY FOR FUTURE ACQUISITION AND REHABILITATION PROPERTIES, (III) INCREASING THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS (HACS) ALLOCATION FOR "GENERAL ACQUISITION AND REHABILITATION ACTIVITIES, (IV) ALLOCATING A MINIMUM OF \$100,000 IN NSP2 FUNDS TO TOWER PARK PROJECT, WITH A NOT TO EXCEED AMOUNT OF \$250,000, (V) TAKING OWNERSHIP OF REMAINING UNSOLD SINGLE-FAMILY PROPERTIES FROM NSP2 ACTIVE DEVELOPERS THROUGH A MUTUAL RELEASE IN EXCHANGE FOR PAYMENT OF DEVELOPER FEE, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL NECESSARY AGREEMENTS AND RELATED DOCUMENTS TO THESE ACTIONS

WHEREAS, the City of Modesto received a \$25 million grant award under the American Recovery and Reinvestment Act of 2009 (ARRA) for NSP2, and

WHEREAS, under the terms of the agreement all NSP2 grant funds, including all funds budgeted for administrative oversight, must be spent fully expended by February 11, 2013, and

WHEREAS, in an effort to ensure that the NSP2 expenditure deadline is met, Staff recommended the City of Modesto transfer ownership of condominiums from current NSP2 developers to active non-profits or sub-recipients within the NSP2 program, and

WHEREAS, on March 13, 2012, the City Council, by Resolution, 2012-104, approved the revised NSP2 guidelines to set the maximum amount of total unit subsidy for acquisition and rehabilitation of NSP2 units at \$165,000 for single-family homes and \$125,000 for multi-family homes, and

WHEREAS, these guidelines, together with increasing real estate prices, have greatly restricted the number of properties available to the program as shown in graph “A” attached, and

WHEREAS, staff recommended an increase to the maximum amount for single-family homes subsidy for acquisition and rehabilitation of NSP2 units of 15% to \$189,750 which reflects current market trends as shown in graph “B” attached, and

WHEREAS, staff recommended the remaining single-family housing units that have not sold or are not in contract to be sold prior to January 11, 2013 be transferred to the City of Modesto in exchange for the transfer of property, the City of Modesto will pay each developer their current developer fee and release the developers of all NSP2 liability, and

WHEREAS, the properties will then be sold by the City of Modesto to an eligible household, which will allow the City to meet its national objective, and

WHEREAS, on September 4, 2012, by Resolution No. 2012-361, the City Council approved a Memorandum of Understanding (MOU) with the HACS to expend the remaining funds in NSP2 on “General Acquisition and Rehabilitation” activities not to exceed \$2 million, and

WHEREAS, staff recommended the MOU for the HACS be revised to now include all unspent NSP2 funds, including funds previously budgeted for administration oversight, to be used on NSP2 “General Acquisition and Rehabilitation” activities, and

WHEREAS, staff recommended providing additional eligible funding to Satellite Housing for a 46 unit multifamily apartment complex located at 17th and G Street (Tower Park Project) with eligible NSP2 funds to facilitate the predevelopment process.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the City of Modesto (i) transfer full ownership of all unsold condominiums to active NSP2 non-profit developers, (ii) modify the maximum total unit subsidy for future acquisition and rehabilitation properties, (iii) increase the HACS allocation in order to expend all remaining NSP2 funds on “General Acquisition and Rehabilitation” activities (iv) allocate a minimum of \$100,000 in NSP2 funds to Tower Park Project with a not to exceed amount of \$250,000, (v) take ownership of remaining unsold single-family properties from NSP2 active developers through a mutual release in exchange for payment of developer fee.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to sign any and all related documents required to enact all NSP2 grant close out transactions depicted in this Resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Mayor Marsh

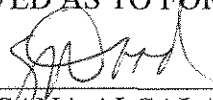
NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

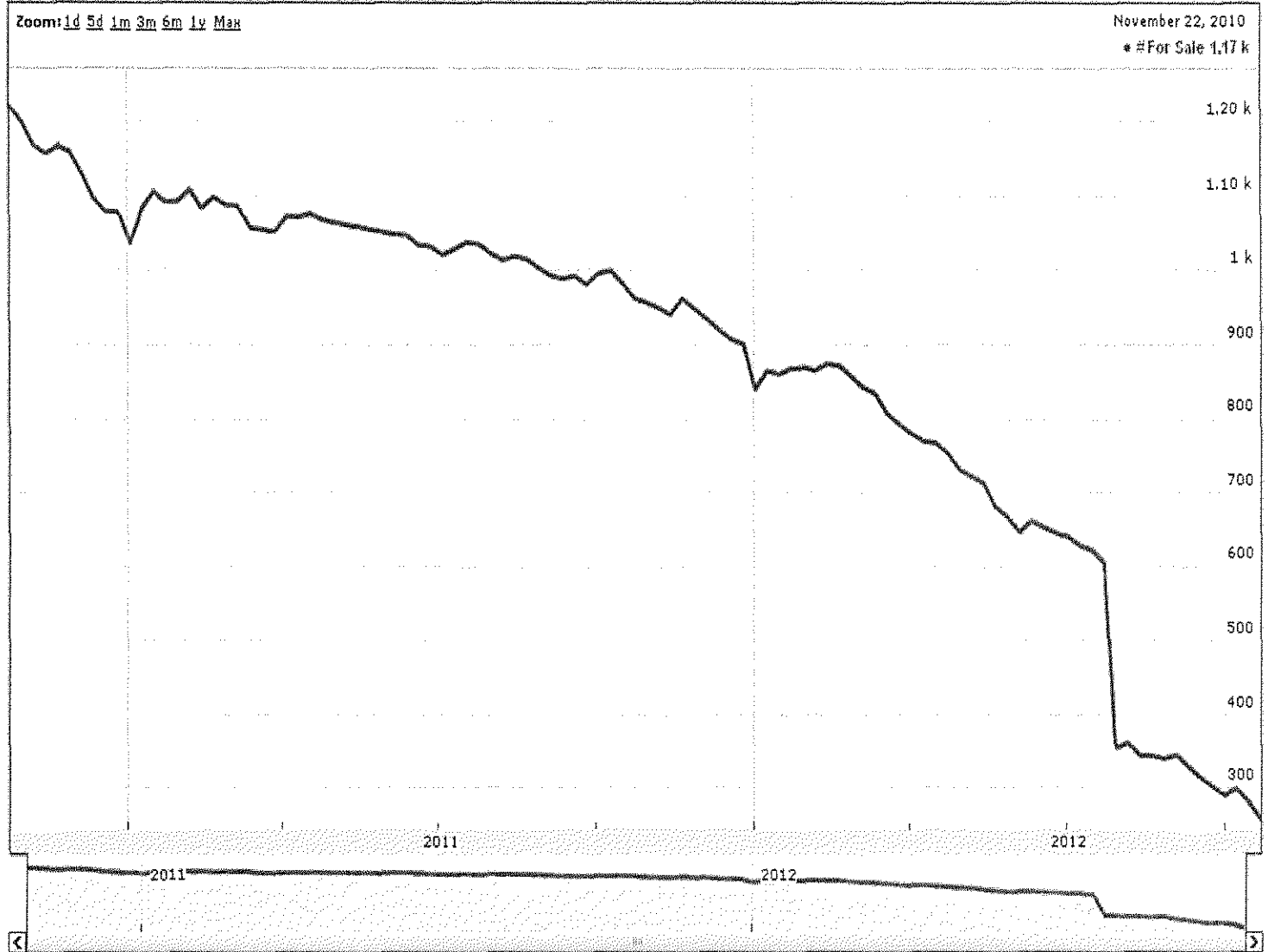
Graph "A"

Modesto Market Trends [How should I use this?](#)

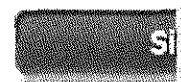
HOUSE CONDO BOTH

Listing \$/SqFt Sold \$/SqFt Sale-to-List % # For Sale # Sold

[Add graphs to your site](#)



Get a monthly email
sales and changes to



More Resources

- [Sacramento Area](#)
- [Modesto Neighborhoods](#)
- [Map Modesto](#)
- [Modesto Demographics](#)
- [Share on Facebook](#)
- [Share on Twitter](#)
- [Print](#)
- [Problem or suggestion](#)

Sacramento For

How is Sacramento's
Monday, Oct 29

Buying BEFORE you
Wednesday, Oct 17

Source: www.Redfin.com

[About this data](#)

Graph "B"

Homes for Sale	Sep '12	vs. Prev. Month	vs. Prev. Year
# Homes for Sale	277	↓ 20.2%	↓ 72.4%
Median List Price	\$140K	↑ 0.7%	↑ 12.1%
Median List \$/SqFt.	\$97	↑ 5.4%	↑ 24.4%
Homes Sold	Jul '12	vs. Prev. Month	vs. Prev. Year
# Homes Sold	286	↓ 15.4%	↑ 1.4%
Median Sold Price	\$129K	↑ 7.5%	↑ 7.5%
Median Sold \$/SqFt.	\$83	↑ 1.2%	↑ 5.1%
% Sale to List	99.7%	↓ 0.5%	↓ 0.4%

Source: www.Redfin.com

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-522**

RESOLUTION AMENDING THE FY 2012-13 MULTI-YEAR BUDGET FOR NSP1 PROJECT 100265 AND NSP2 PROJECT 100243 AS DETERMINED BY THE REALLOCATION OF FUNDS AS SET FORTH IN ACTUAL GRANT CLOSE OUT PER THE DISASTER RECOVERY GRANT REPORTING SYSTEM (DRGR), AND AUTHORIZING THE DIRECTOR OF FINANCE, OR HER DESIGNEE, TO TAKE THE NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION

WHEREAS, on May 12, 2009, the City Council, by Resolution No. 2009-212, approved the allocation of \$8.1 million in NSP1 funds received through U.S. Department of Housing and Urban Development (HUD), Community Development Block Grant Program, under the Housing and Economic Recovery Act of 2008 (HERA), and

WHEREAS, under the terms of the agreement, all NSP1 grant funds must be spent by March 19, 2013, and

WHEREAS, the City received a \$25 Million grant award under the American Recovery and Reinvestment Act of 2009 (ARRA) for NSP2, and

WHEREAS, under the terms of the agreement, all NSP2 grant funds must be spent by February 11, 2013, and

WHEREAS, the Multi-Year NSP1 100265 and NSP2 Project 100243 budgets will be amended to include new allocations within the approved grants to be determined by the Disaster Recovery Grant Reporting System (DRGR), and

WHEREAS, staff will report back to City Council with the final allocations.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the FY 2012-13 multi-year budgets for NSP1 Project 100265 and NSP2 Project 100243 as determined by the reallocation of funds as set forth in actual grant close out per the Disaster Recovery Grant Reporting System (DRGR).

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2012, by Councilmember Lopez, who moved its adoption, with motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Mayor Marsh


NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-523**

A RESOLUTION APPROVING A NEW CAPITAL IMPROVEMENT PROGRAM (CIP) ACCOUNT FOR THE PROJECT TITLED, "RECONFIGURATION OF 10TH AND 11TH STREETS BETWEEN D STREET AND MORTON BOULEVARD", WITH AN ESTIMATED INITIAL COST OF \$36,000

WHEREAS, Stanislaus Foods applied for and was issued an Encroachment Permit on July 24, 2012 for the temporary closure of 11th Street, from D Street to Morton Boulevard, from July 20, 2012 to September 30, 2012, and

WHEREAS, Stanislaus Food Products and City of Modesto agree to use their best efforts to reach an agreement within 90 days of issuance of the permit, addressing the permanent closure of 11th Street and opening of 10th Street, and

WHEREAS, Stanislaus Food Products paid the City of Modesto \$36,000, which monies will be used specifically for the first phase (Design Phase) of the closure of 11th Street and opening of 10th Street project, and

WHEREAS, on August 21, 2012, the CIP Task Force approved this project to develop preliminary plans and cost estimates for opening 11th Street and closing 10th Street between D Street and Morton Boulevard, and

WHEREAS, City staff recommends approving a new Capital Improvement Program Account for the project titled "Reconfiguration of 10th and 11th Streets between D Street and Morton Boulevard",

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a new Capital Improvement Program Account for the project titled "Reconfiguration of 10th and 11th Streets between D Street and Morton Boulevard".

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Mayor Marsh


NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-524**

**A RESOLUTION AMENDING THE FISCAL YEAR 2012-2013 CAPITAL
IMPROVEMENT PROGRAM BUDGET FOR THE RECONFIGURATION OF
10TH AND 11TH STREETS AND APPROPRIATING \$36,000 FROM TRUST
ACCOUNT TO CIP PROJECT # 100725**

WHEREAS, Stanislaus Foods applied for and was issued an Encroachment Permit on July 24, 2012 for the temporary closure of 11th Street, from D Street to Morton Boulevard, from July 20, 2012 to September 30, 2012, and

WHEREAS, Stanislaus Food Products and City of Modesto agree to use their best efforts to reach an agreement within 90 days of issuance of the permit, addressing the permanent closure of 11th Street and opening of 10th Street, and

WHEREAS, Stanislaus Food Products paid the City of Modesto \$36,000, which monies will be used specifically for the first phase (Design Phase) of the closure of 11th Street and opening of 10th Street project, and

WHEREAS, on August 21, 2012, the CIP Task Force approved this project to develop preliminary plans and cost estimates for opening 11th Street and closing 10th Street between D Street and Morton Boulevard,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2012-2013 Capital Improvement Program budget to appropriate \$36,000 from Trust Account 6800-00000-23504 to CIP Project # 100725.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2012, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Burnside, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: Muratore

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-525**

**RESOLUTION AUTHORIZING THE AWARD OF PROPOSAL AND
CONTRACT FOR THE REPOWERING OF MODEL YEAR 2003 GILLIG
TRANSIT BUSES FOR THE DEPARTMENT OF PUBLIC WORKS, TRANSIT
DIVISION, TO COMPLETE COACH WORKS, RIVERSIDE, CA, AND
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE A
CONTRACT FOR AN ESTIMATED TOTAL COST OF \$1,285,746**

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Proposals (RFP) for the repowering of Model Year 2003 Gillig Transit Buses, and

WHEREAS, the Purchasing Division issued RFP No. 1112-38 Repower Model Year 2003 Gillig Transit Buses to four (4) prospective proposers, none of which were local vendors, posted the RFP on the City's website and formally advertised as required by law, and

WHEREAS, there are no local companies capable of providing this work, and

WHEREAS, proposals were formally opened in the City Clerk's Office. Three (3) companies choose to respond. All three (3) companies provided responsive and responsible proposals, and

WHEREAS, an evaluation committee comprised of two (2) City staff members evaluated and graded the proposals, and

WHEREAS, based on being ranked highest in total evaluation criteria, the evaluation committee recommends the award of proposal and contract for the repowering of Model Year 2003 Gillig Transit Buses for the Department of Public Works, Transit Division, to Complete Coach Works, Riverside, CA, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. The award of proposal for the repowering of Model Year 2003 Gillig Transit Buses for the Department of Public Works, Transit Division, to Complete Coach Works, Riverside, CA, conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted in Fiscal Year 2012-13 for the repowering of Model Year 2003 Gillig Transit Buses in Appropriation Unit: 4510-59999-55010-100449.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of proposal for the repowering of Model Year 2003 Gillig Transit Buses for the Department of Public Works, Transit Division, to Complete Coach Works, Riverside, CA.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute a contract for an estimated total cost of \$1,285,746.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-526**

RESOLUTION APPROVING A PROPOSED EXTENSION AGREEMENT INCLUDING LANGUAGE CHANGES FOR A THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MODESTO AND THE MODESTO POLICE OFFICER ASSOCIATION (MPOA) FOR EXTENDING THE TERM OF THE AGREEMENT FROM JUNE 30, 2013 TO JUNE 30, 2014 AND AUTHORIZING THE DIRECTOR OF HUMAN RESOURCES AND CITY MANAGER TO TAKE THE NECESSARY ADMINISTRATIVE ACTION TO IMPLEMENT THE AGREEMENT

WHEREAS, the current Memorandum of Understanding (MOU) between the City of Modesto (CITY) and the Modesto Police Officer Association (MPOA) expires July 15, 2013, and

WHEREAS, representatives of the CITY and the MPOA have met and conferred in good faith concerning wages, hours, terms and conditions of employment for employees in said bargaining unit, and

WHEREAS, the CITY and MPOA have reached agreement on language changes for a one year extension of the current MOU which, upon execution, shall be attached hereto and made a part hereof, and

WHEREAS, the MOU provides as follows:

SECTION 1. TERM. The term of the MOU shall be extended from June 30, 2013 to June 30, 2014.

SECTION 2. SALARY. Section 4 B.5 shall be amended to change the date of the current salary range increase of 3% effective July 2, 2013 to March 12, 2013.

SECTION 3. SALARY PROGRESSION THROUGH THE STEP RANGES. Section 4.C. steps 2 - 4 will remain temporarily inoperative from the first pay period of fiscal year 2010 – 2011 through March 11, 2013 instead of the current contract period

that ran through June 30, 2013. Therefore, MPOA members will not receive any step increases during this period. Beginning March 12, 2013 instead of June 30, 2013 Section 4.C. steps 2 – 4 will become operative and employees will move to the next step of the salary range (one step) on the employees' next normal anniversary date.

SECTION 5. RETIREMENT. Section 11 has been amended to include a second tier pension benefit for new employees hired on or after September 11, 2012 and include changes to employee contribution for employees hire prior to September 11, 2012.

Effective December 18, 2012, employees under the 3%@50 CALPERS formula shall begin paying 6.5% of their 9% employee contributions which is an increase in payment of 5% by each employee. Employees under the 3%@55 CALPERS formula will continue to pay their 9% of the employee share of retirement contributions so no change for this group is recommended since they already pay their 9%.

1. SECTION 6. HEALTH, DENTAL AND VISION INSURANCE. Section 13 shall be amended as follows to redirect the January 2013 medical contribution to POST Pay:

- a. The increases in the City's contribution for fiscal plan year 2010 – 2011 in Section 13 of the MOU deferred until January 1, 2013 shall be eliminated. The CITY shall contribute the following amounts bi-weekly (based on 24 pay periods) toward the combined total premium for health, dental, and vision insurance plans, with the employee responsible for the balance of the premium cost, if any. The City's contribution shall remain at the amount listed below until such time as a new agreement is adopted.

1. \$550.00 bi-weekly (\$1,100.00/monthly) for employees with dependent coverage. For plan year beginning January 1, 2013 through December 31, 2013, active employees with dependent coverage who are enrolled in the CITY-sponsored High Deductible Health plan shall be eligible to receive a health savings incentive in the amount of \$35.00 bi-weekly (\$70.00/monthly).
2. \$310.50 bi-weekly (\$621.00/monthly) for employees without dependent coverage.
3. For employees who opt out of health coverage, the City contribution shall be equal to 80% of the designated CITY contribution for employees without dependent coverage.

SECTION 7. SPECIAL COMPENSATION. Section 5 (H) POST pay shall be amended effective January 1, 2013 to increase the intermediate POST pay from 2.5% to 3.2% and to increase the advance POST pay from 5% to 5.7% that represents the amounts redirected from the contributions towards medical that is due through the current contract on January 1, 2013.

2. SECTION 8. REOPENERS. The City and the Association agree to the following reopener:

- A. Sick leave conversion program for retiree health: MPOA and the City agree to begin meeting and conferring no later than December 31, 2012 on restructuring the current sick leave program all the way through the conclusion of the process of impasse and binding arbitration as provided for in the City's charter.

The exact language of all provisions shall be set forth in the LOU between the CITY and MPOA.

WHEREAS, the Council considered this matter at its meeting of December 11, 2012,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the language changes for an extension agreement to the Memorandum of Understanding between the City of Modesto and the Modesto Police Officers' Association, which covers a term through June 30, 2014, and upon execution of same, a copy of the MOU will be on file in the office of the City Clerk.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh


NOES: Councilmembers: None

ABSENT: Councilmembers: None

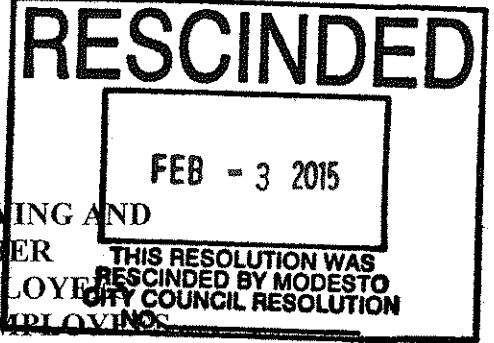
ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-527



RESOLUTION AMENDING A LABOR POLICY FOR PAYING AND REPORTING THE VALUE OF EMPLOYER PAID MEMBER CONTRIBUTIONS TO THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (CALPERS) ON BEHALF OF EMPLOYEES REPRESENTED BY THE MODESTO POLICE OFFICERS' ASSOCIATION (MPOA) 2015-32

WHEREAS, by Resolution No 2012-350 adopted by the Council, the City adopted a labor policy providing for Public Employees' Retirement System (PERS) employee contributions to be paid by the City on behalf of employees and for reporting of employer-paid normal member contributions to PERS as compensation, and

WHEREAS, the governing body of the City of Modesto has the authority to implement Government Code Section 20636(c)(4) pursuant to Section 20691, and

WHEREAS, the governing body of the City of Modesto has a written labor policy or agreement which specifically provides for the normal member contributions to be paid by the employer, and reported as additional compensation, and

WHEREAS, one of the steps in the procedures to implement Section 20691 is the adoption by the governing body of the City of Modesto of a Resolution to commence paying and reporting the value of said Employer Paid Member Contributions, and

WHEREAS, the governing body has the authority to amend all members in a group or class of employment pursuant to Government Code Section 20691.

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

Effective December 18, 2012, MPOA employees hired before September 11, 2012, the City of Modesto elects to pay two and one-half percent (2.5%) of the normal

member contributions of nine percent (9%) as employer paid member contributions and report the same value to CalPERS as compensation earnable as additional compensation.

Effective September 11, 2012, MPOA employees hired on or after September 11, 2012, the City of Modesto elects to pay zero percent (0%) of the normal member contributions of nine percent (9%). No payment shall be implemented pursuant to the provisions of Section 20636 (c)(4) of the California Government Code.

BE IT FURTHER RESOLVED that this Resolution shall become effective on December 18, 2012.

BE IT FURTHER RESOLVED that effective December 18, 2012 Resolution No. 2012-350 is hereby repealed in its entirety.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2012, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Cogdill, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2012-528**

RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE HILLTOP AREA STRENGTHEN AND REPLACE WATER SYSTEM PROJECT, ACCEPTING THE BID, AND APPROVING A CONTRACT WITH DSS COMPANY DBA KNIFE RIVER CONSTRUCTION OF STOCKTON, CALIFORNIA IN THE AMOUNT OF \$967,368, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Hilltop Area Strengthen and Replace Water System project, and City staff recommends approval by the City Council, and

WHEREAS, the bids received for Hilltop Area Strengthen and Replace Water System were opened at 11:00 a.m. on November 13, 2012, and later tabulated by the Director of Utility Planning and Projects for the consideration of the Council, and

WHEREAS, the Director of Utility Planning and Projects has recommended that the bid of \$967,368 received from DSS Company dba Knife River Construction of Stockton, California be accepted as the lowest responsible bid and the contract be awarded to DSS Company dba Knife River Construction,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Hilltop Area Strengthen and Replace Water System project, accepts the bid of DSS Company dba Knife River Construction of Stockton, California, in the amount of \$967,368, and awards DSS Company dba Knife River Construction the contract with for the Hilltop Area Strengthen and Replace Water System project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2012, by Councilmember Burnside, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2012-529

RESOLUTION AMENDING THE FISCAL YEAR 2012-2013 CAPITAL IMPROVEMENT PROGRAM BUDGET IN THE AMOUNT OF \$441,841 TO BE TRANSFERRED INTO THE PROJECT FROM WATER FUND RESERVES IN ORDER TO FULLY FUND CONSTRUCTION, CONTINGENCY, CONSTRUCTION ADMINISTRATION, AND DESIGN SUPPORT DURING CONSTRUCTION FOR THE HILLTOP AREA STRENGTHEN AND REPLACE WATER SYSTEM PROJECT

WHEREAS, certain budgetary transactions are necessary in the amount of \$441,841, in order to fund construction, contingency, construction administration, and design support during construction for the Hilltop Area Strengthen and Replace Water System project, and

WHEREAS, the Fiscal Year 2012-2013 Capital Improvement Program Budget must be amended as shown in **Exhibit A**, which is incorporated by reference herein,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2012-2013 Capital Improvement Program Budget as shown in **Exhibit A**.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of December, 2012, by Councilmember Burnside, who moved its adoption, which motion being duly seconded by Councilmember Geer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Burnside, Cogdill, Geer, Gunderson, Lopez, Muratore, Mayor Marsh

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
SUSANA ALCALA WOOD, City Attorney

Exhibit A

Due to the increase of estimated construction, contingency, construction administration, and design support during construction costs for CIP Account #100649 "Hilltop Area Water Main Replacement", the total project costs need to be increased by \$441,841. This would be done by adjusting Construction by \$215,709, creating Contingency by adding \$96,500, creating Construction Administration by adding \$77,500, creating Construction City Force by adding \$30,000, and adding to Engineering/Design/Administration \$22,132.

To fund the above account, \$441,841 will be transferred from Water Fund Reserves into CIP Project 100649 for the Hilltop Area Strengthen and Replace Water System project.