Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-001

A RESOLUTION APPOINTING RICHARD LAURENZ TO THE GOLF COURSES ADVISORY COMMITTEE

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

WHEREAS, the Sons in Retirement Golf Club recommends RICHARD LAURENZ, as its representative, to the Golf Courses Advisory Committee,

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

SECTION 1. RICHARD LAURENZ is hereby appointed to the Golf Courses Advisory Committee with a term expiration of January 1, 2011.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of January, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-002

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

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

WHEREAS, on December 1, 2008, the Planning Commission recommended CAROLINA BERNAL as its representative to the Citizens Housing and Community Development Committee,

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

SECTION 1. CAROLINA BERNAL, as representative of the Planning Commission, is hereby appointed to the Citizens Housing & Community Development Committee with a term expiration of January 1, 2010.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the 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 6th day of January, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-003

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

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

WHEREAS, on December 1, 2008, the Planning Commission recommended PATRICIA GILLUM as its representative to the Citizens Redevelopment Advisory Commission.

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

SECTION 1. PATRICIA GILLUM, as representative of the Planning Commission, is hereby appointed to the Citizens Redevelopment Advisory Commission with a term expiration of January 1, 2010.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of January, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-004

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

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

WHEREAS, the Planning Commission met on December 1, 2008, and recommended reappointment of TED BRANDVOLD as its representative to the Board of Zoning Adjustment,

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

SECTION 1. TED BRANDVOLD, as representative of the Planning Commission, is hereby reappointed to the Board of Zoning Adjustment with a term expiration of January 1, 2010.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the 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 6th day of January, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-005

A RESOLUTION REAPPOINTING BRUCE NORRIS TO THE BOARD OF BUILDING APPEALS

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

WHEREAS, the Economic Development Committee met on December 8, 2008, and recommended reappointment of BRUCE NORRIS to the Board of Building Appeals,

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

SECTION 1. BRUCE NORRIS is hereby reappointed to the Board of Building Appeals 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 reappointed member of the Board of Building Appeals, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of January, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-006

A RESOLUTION REAPPOINTING AMY NEUMANN AND HENRY POLLARD TO THE BOARD OF ZONING ADJUSTMENT

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

WHEREAS, the Economic Development Committee met on December 8, 2008, and recommended reappointment of AMY NEUMANN and HENRY POLLARD to the Board of Zoning Adjustment.

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

SECTION 1. AMY NEUMANN and HENRY POLLARD are hereby reappointed to the Board of Zoning Adjustment with term expirations of January 1, 2013.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed members 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 6th day of January, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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. 2009-007

Print

A RESOLUTION REAPPOINTING MEMBERS TO THE CITIZENS HOUSING & COMMUNITY DEVELOPMENT COMMITTEE

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

WHEREAS, the Economic Development Committee met on December 8, 2008, and recommended reappointment of DANA CULBERTSON, CHARLES CHITURAS and MICHAEL PRATT to the Citizens Housing & Community Development Committee.

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

SECTION 1. DANA CULBERTSON, CHARLES CHITURAS and MICHAEL PRATT are hereby reappointed 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 reappointed members of the Citizens Housing & Community Development Committee, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of January, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-008

A RESOLUTION REAPPOINTING CAROL DOLAN AND KIRK STOCKHAM TO THE COMMUNITY QUALITIES FORUM

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

WHEREAS, the Economic Development Committee met on December 8, 2008, and recommended reappointment of CAROL DOLAN and KIRK STOCKHAM, Councilmember Keating's selection, to the Community Qualities Forum.

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

SECTION 1. CAROL DOLAN and KIRK STOCKHAM are hereby reappointed to the Community Qualities Forum with term expirations of January 1, 2013.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of January, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-009

A RESOLUTION REAPPOINTING ALICE INGHAM RICHARDS TO THE CULTURE COMMISSION

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

WHEREAS, the Economic Development Committee met on December 8, 2008, and recommended reappointment of ALICE INGHAM RICHARDS to the Culture Commission,

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

SECTION 1. ALICE INGHAM RICHARDS is hereby reappointed to the Culture Commission 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 reappointed member of the Culture Commission, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of January, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-010

A RESOLUTION REAPPOINTING ERIC BENSON AND ANDREW MENDLIN TO THE DOWNTOWN IMPROVEMENT DISRICT 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 Economic Development Committee met on December 8, 2008, and recommended reappointment of ERIC BENSON and ANDREW MENDLIN 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. ERIC BENSON and ANDREW MENDLIN are hereby reappointed to the Downtown Improvement District Advisory Board with term expirations of January 1, 2013.

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 6th day of January, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-011

A RESOLUTION REAPPOINTING HARINDER GREWAL 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 December 8, 2008, and recommended reappointment of HARINDER GREWAL to the Equal Opportunity/Disability Commission,

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

SECTION 1. HARINDER GREWAL is hereby reappointed to the Equal Opportunity/Disability Commission 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 reappointed member of the Equal Opportunity/Disability Commission and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of January, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-012

A RESOLUTION REAPPOINTING JEANNIE McDONALD TO THE GOLF COURSES ADVISORY COMMITTEE

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

WHEREAS, the Economic Development Committee met on December 8, 2008, and recommended reappointment of JEANNIE McDONALD to the Golf Courses Advisory Committee,

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

SECTION 1. JEANNIE McDONALD is hereby reappointed to the Golf Courses Advisory Committee with term expiration of January 1, 2013.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of January, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-013

A RESOLUTION REAPPOINTING VERONNA SIMRIL TO THE HOUSING REHABILITATION LOAN COMMITTEE

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

WHEREAS, the Economic Development Committee met on December 8, 2008, and recommended reappointment VERONNA SIMRIL to the Housing Rehabilitation Loan Committee,

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

SECTION 1. VERONNA SIMRIL is hereby reappointed to the Housing Rehabilitation Loan 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 reappointed member of the Housing Rehabilitation Loan Committee, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of January, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-014

A RESOLUTION REAPPOINTING DOLORES NIEMI TO THE LANDMARK PRESERVATION COMMISSION

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

WHEREAS, the Economic Development Committee met on December 8, 2008, and recommended reappointment of DOLORES NIEMI to the Landmark Preservation Commission,

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

SECTION 1. DOLORES NIEMI is hereby reappointed to the Landmark Preservation Commission 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 reappointed member of the Landmark Preservation Commission, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of January, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-015

A RESOLUTION REAPPOINTING CHRIS MURPHY TO THE LOCAL CABLE PROGRAMMING COMMITTEE

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

WHEREAS, the Economic Development Committee met on December 8, 2008, and recommended reappointment of CHRIS MURPHY to the Local Cable Programming Committee,

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

SECTION 1. CHRIS MURPHY is hereby reappointed to the Local Cable Programming 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 reappointed member of the Local Cable Programming Committee, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of January, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-016

A RESOLUTION REAPPOINTING TOM BERGLUND TO THE PLANNING COMMISSION

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

WHEREAS, the Economic Development Committee met on December 8, 2008, and recommended reappointment of TOM BERGLUND to the Planning Commission,

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

SECTION 1. TOM BERGLUND is hereby reappointed to the Planning Commission 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 reappointed member of the Planning Commission, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of January, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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. 2009-017

Print

A RESOLUTION REAPPOINTING JIM PATTON TO THE SOLID WASTE ADVISORY COMMITTEE

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

WHEREAS, the Economic Development Committee met on December 8, 2008, and recommended reappointment of JIM PATTON to the Solid Waste Advisory Committee,

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

SECTION 1. JIM PATTON is hereby reappointed to the Solid Waste Advisory 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 reappointed member of the Solid Waste 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 6th day of January, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-018

A RESOLUTION REAPPOINTING MARGARET LEAMAN AND MARY GROGAN TO THE TUOLUMNE RIVER REGIONAL PARK CITIZENS ADVISORY COMMITTEE

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

WHEREAS, the Economic Development Committee met on December 8, 2008, and recommended reappointment of MARGARET LEAMAN and MARY GROGAN to the Tuolumne River Regional Park Citizens Advisory Committee,

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

SECTION 1. MARGARET LEAMAN and MARY GROGAN are hereby reappointed to the Tuolumne River Regional Park Citizens Advisory Committee with a term expiration of January 1, 2011.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of January, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-019

A RESOLUTION AUTHORIZING THE AWARD OF CONTRACT TO DELTA WIRELESS, STOCKTON, CA, FOR THE FURNISHING OF MOBILE AND PORTABLE 2-WAY COMMUNICATION RADIO REPAIR AND SERVICE, BY ACCESSING THE TERMS OF A COMPETITIVELY BID CONTRACT FROM STANISLAUS COUNTY, AGREEMENT NO. 10766, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE AGREEMENT FOR A TERM OF TWO (2) YEARS, WITH FIVE (5) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST NOT TO EXCEED $120,000

WHEREAS, on May 30, 2008, Stanislaus County, GSA Purchasing Division, went through a competitive bid process for the furnishing of services to repair and maintain its public safety radio communication system, and

WHEREAS, the lowest responsive and responsible bidder was Delta Wireless, Stockton, CA, and

WHEREAS, the City's current agreement for Mobile and Portable 2-Way Communication radio repair and service is due to expire on February 9, 2009, and

WHEREAS, by accessing the terms from a competitively bid Stanislaus County contract, the City of Modesto maintains service for the repair of the City's public safety radio communication system, 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, and

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, and

WHEREAS, acting within his discretion, the Purchasing Manager invoked that exception for this purchase. The furnishing of mobile and portable 2-way communication radio repair and service to the City's mobile and portable radios by "accessing the terms" of Stanislaus County Agreement No. 10766 with Delta Wireless, Stockton, CA, conforms to MMC Section 8-3.204(d), and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2008-09 in Appropriation C Discretionary accounts: 0100-180-1810, 7200-480-5812, 0100-190-1961, 6100-480-5012,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract to Delta Wireless, Stockton, CA, for the furnishing of mobile and portable 2-way communication radio repair and service, by accessing the terms of a competitively bid contract from Stanislaus County, Agreement No. 10766.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a Purchase agreement for a term of two (2) years, with five (5) one-year extension options, at the sole discretion of the City, for an estimated annual cost not to exceed $120,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of January, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

State of California
OFFICE OF
EMERGENCY SERVICES

MODESTO CITY COUNCIL
RESOLUTION No. 2009-020

OES ID # 099-48354

DESIGNATION OF APPLICANT'S AGENT RESOLUTION FOR NON-STATE AGENCIES

BE IT RESOLVED BY THE City Council (Governing Body) OF THE City of Modesto, California (Name of Applicant)

THAT City Manager Greg Nyhoff (Title of Authorized Agent), OR

Fire Chief James L. Miguel (Title of Authorized Agent), OR

Deputy City Manager Judith Ray (Title of Authorized Agent)

is hereby authorized to execute for and in behalf of the City of Modesto (Name of Applicant), a public entity established under the laws of the State of California, this application and to file it in the Office of Emergency Services for the purpose of obtaining certain federal financial assistance under P.L. 93-288 as amended by the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988, and/or state financial assistance under the California Disaster Assistance Act.

THAT the City of Modesto (Name of Applicant), a public entity established under the laws of the State of California, hereby authorizes its agent(s) to provide to the State Office of Emergency Services for all matters pertaining to such state disaster assistance the assurances and agreements required.

[X] This is a universal resolution and is effective for all open and future disasters.

[ ] This is a disaster specific resolution and is effective for only disaster number(s) _____.

Passed and approved this 6th day of January, 2009

Jim Ridenour, Mayor
(Name and Title of Governing Body Representative)

Kristin Olsen, Vice Mayor Brad Hawn, Councilmember Janice Keating, Councilmember
(Name and Title of Governing Body Representative)

Dave Lopez, Councilmember Garrad Marsh, Councilmember Will O'Bryant, Councilmember
(Name and Title of Governing Body Representative)

CERTIFICATION

I, Stephanie Lopez (Name), duly appointed and City Clerk (Title) of the City of Modesto (Name of Applicant), do hereby certify that the above is a true and correct copy of a resolution passed and approved by the City Council (Governing body) of the City of Modesto, California (Name of Applicant) on the 6th day of January, 20 09.

Stephanie Lopez (Signature)

City Clerk (Title)

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of January, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

State of California
OFFICE OF EMERGENCY SERVICES

OES ID No.: 099-48354

PROJECT APPLICATION FOR FEDERAL ASSISTANCE

SUBGRANTEE'S NAME: City of Modesto
(Name of Organization)

ADDRESS: 1010 10th Street

CITY: Modesto STATE: California ZIP CODE: 95354

TELEPHONE: (209) 577-5404 FAX NUMBER: (209) 571-5128

AUTHORIZED AGENT: Greg Nyhoff TITLE: City Manager

EMAIL ADDRESS: gnyhoff@modestogov.com

ASSURANCES - CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to all of your projects. If you have questions, please contact the Governor's Office of Emergency Services. Further, certain federal assistance awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the subgrantee named above:

1. Has the legal authority to apply for federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the state, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the assistance; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the federal interest in the title of real property in accordance with awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with federal assistance funds to assure nondiscrimination during the useful life of the project.

4. Will comply with the requirements of the assistance-awarding agency with regard to the drafting, review and approval of construction plans and specifications.

5. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progress reports and such other information as may be required by the assistance awarding agency or state.

6. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

7. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gains.

8. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.), which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

9. Will comply with all federal statues relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683 and 1685-1686) which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794) which prohibit discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107) which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 93-255) as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616) as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records;

(h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for federal assistance is being made, and (j) the requirements on any other nondiscrimination statute(s) which may apply to the application.

10. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provides for fair and equitable treatment of persons displaced or whose property is acquired as a result of federal and federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of federal participation in purchases.

11. Will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $5.000 or more.

12. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.O. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved state management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.O. 93-205).

13. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

14. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and preservation of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

15. Will comply with Standardized Emergency Management (SEMS) requirements as stated in the California Emergency Services Act, Government Code, Chapter 7 of Division 1 of Title 2, Section 8607.1(e) and CCR Title 19, Sections 2445, 2446, 2447 and 2448.

16. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984 and the Single Audit Act Amendments of 1996.

17. Will comply with all applicable requirements of all other federal laws, Executive Orders, regulations and policies governing this program.

18. Has requested through the State of California, federal financial assistance to be used to perform eligible work approved in the subgrantee application for federal assistance. Will, after the receipt of federal financial assistance, through the State of California, agree to the following:

    a. The state warrant covering federal financial assistance will be deposited in a special and separate account, and will be used to pay only eligible costs for projects described above;

    b. To return to the State of California such part of the funds so reimbursed pursuant to the above numbered application, which are excess to the approved actual expenditures as accepted by final audit of the federal or state government.

    c. In the event the approved amount of the above numbered project application is reduced, the reimbursement applicable to the amount of the reduction will be promptly refunded to the State of California.

19. Will not make any award or permit any award (subgrant or contract) to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549 and 12689, "Debarment and Suspension."

The undersigned represents that he/she is authorized by the above named subgrantee to enter into this agreement for and on behalf of the said subgrantee.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL

City Manager — TITLE

Jan 6, 2009 — DATE

RESCINDED
Rescinded March 23, 2010
This Resolution was rescinded by Modesto City Council Resolution
By Reso No. 2010-107

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-021

A RESOLUTION APPROVING GRANT APPLICATIONS TO THE CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD (CIWMB) FOR ALL USED OIL AND HAZARDOUS WASTE GRANTS, ACCEPTING GRANT AWARDS, AMENDING THE ANNUAL BUDGET, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL GRANT-RELATED DOCUMENTS

WHEREAS, the State of California collects fees which in turn provide funds to cities and counties for establishing and maintaining used oil and hazardous waste programs throughout the State, and

WHEREAS, the California Integrated Waste Management Board (CIWMB) has the responsibility for the administration of recycling programs within the State, and setting up necessary procedures governing application by cities and counties under these programs, and

WHEREAS, to simplify the application process, the CIWMB allows jurisdictions to adopt a single resolution authorizing a designated official to execute and submit applications and related documents for such funding for up to a five-year period,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that grant applications to the California Integrated Waste Management Board (CIWMB) for used oil and hazardous waste recycling programs and the acceptance of grant awards are hereby approved.

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

BE IT FURTHER RESOLVED that this resolution shall remain in full force and effect for five years from the date of adoption.

BE IT FURTHER RESOLVED to amend the current budget to reflect increases in revenue from grant awards.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of January, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NUMBER 2009-022

A RESOLUTION APPROVING AN AGREEMENT WITH THE STATE OF CALIFORNIA, COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING (POST), FOR UP TO $20,700 TO PROVIDE TRAINING FOR 100 STUDENTS IN FOUR-HOUR FORCE OPTIONS SIMULATOR COURSES AND 100 STUDENTS IN FOUR-HOUR MOBILE FORCE OPTIONS SIMULATOR TRAINING COURSES, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Modesto Police Department acquired the Force Options Simulator (FOS) in 1999, and

WHEREAS, the FOS is a 42-foot trailer that contains state-of-the-art video technology, and

WHEREAS, the video scenarios place an officer in a position to make critical decisions regarding the use of force, and

WHEREAS, the FOS Training provides the student with practical handling of volatile situations and the use of proper force options that are available, and

WHEREAS, the training goal is to reduce unnecessary deaths, injuries, liability costs, and improve safety overall for California law enforcement personnel and the public, and

WHEREAS, when the Police Department acquired the FOS, the State of California Commission on Peace Officer Standards and Training (POST) agreed to reimburse the Modesto Police Department for training administered via the FOS, or the Mobile FOS, and

WHEREAS, when the training is conducted locally, the FOS reimbursement is $79.00 per student, and

WHEREAS, when the training is conducted outside the local area, the reimbursement is $128.00 per student, and

WHEREAS, the maximum reimbursement is 100 students locally ($7,900) and 100 students when the simulator is at another jurisdiction ($12,800), and

WHEREAS, the projected total annual reimbursement is $20,700, and

WHEREAS, staff estimates these reimbursements will fully cover the cost of the officer's salary, per diem, mileage, and routine maintenance expenses for the simulator and transport vehicle, and

WHEREAS, POST is requesting a renewal of the Agreement for the term July 1, 2008 through June 30, 2009, and

WHEREAS, the City of Modesto will realize General Fund revenue of up to $20,700 into the 0100-190-1921-3126 Simulator Training Account.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with the State of California, Commission on Peace Officer Standards and Training (POST), for up to $20,700 to provide training for 100 students in four-hour Force Options Simulator Courses and 100 students in four-hour Mobile Force Options Simulator training courses.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of January, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-023

A RESOLUTION AMENDING THE FISCAL YEAR 2008/2009 OPERATING BUDGET REALIZING GENERAL FUND REVENUE OF UP TO $20,700 FOR THE TRAINING AGREEMENT WITH THE STATE OF CALIFORNIA, COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING (POST)

WHEREAS, the Modesto Police Department acquired the Force Options Simulator (FOS) in 1999, and

WHEREAS, the FOS is a 42-foot trailer that contains state-of-the-art video technology, and

WHEREAS, the video scenarios place an officer in a position to make critical decisions regarding the use of force, and

WHEREAS, the FOS Training provides the student with practical handling of volatile situations and the use of proper force options that are available, and

WHEREAS, the training goal is to reduce unnecessary deaths, injuries, liability costs, and improve safety overall for California law enforcement personnel and the public, and

WHEREAS, when the Police Department acquired the FOS, the State of California Commission on Peace Officer Standards and Training (POST) agreed to reimburse the Modesto Police Department for training administered via the FOS, or the Mobile FOS, and

WHEREAS, when the training is conducted locally, the FOS reimbursement is $79.00 per student, and

WHEREAS, when the training is conducted outside the local area, the reimbursement is $128.00 per student, and

WHEREAS, the maximum reimbursement is 100 students locally ($7,900) and 100 students when the simulator is at another jurisdiction ($12,800), and

WHEREAS, the projected total annual reimbursement is $20,700, and

WHEREAS, staff estimates these reimbursements will fully cover the cost of the officer's salary, per diem, mileage, and routine maintenance expenses for the simulator and transport vehicle, and

WHEREAS, POST is requesting a renewal of the Agreement for the term July 1, 2008 through June 30, 2009, and

WHEREAS, the City of Modesto will realize General Fund Revenue of up to $20,700 into new revenue account 0100-190-1921-3126, Simulator Training Account,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2008/2009 Operating Budget realizing General Fund revenue of up to $20,700 for the Agreement with the State of California, Commission on Peace Officer Standards and Training (POST).

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of January, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-024

A RESOLUTION APPROVING A PURCHASE AGREEMENT, COUNTER ADDENDUM, MOLD ADDENDUM, AND EXISTING CONDITION ACKNOWLEDGEMENT ("AS-IS, WHERE IS" PROVISION) FOR THE ACQUISITION OF A PROPERTY LOCATED AT 3200 NIGHTINGALE DRIVE, OWNED BY HSBC MORTGAGE SERVICES, INC. (APN: 076-001-037) TO BE PURCHASED BY THE CITY OF MODESTO FOR THE HAHN LIFT STATION PROJECT IN THE AMOUNT OF $155,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE PURCHASE AGREEMENT, COUNTER ADDENDUM, MOLD ADDENDUM, AND EXISTING CONDITION ACKNOWLEDGEMENT ("AS-IS, WHERE IS" PROVISION)

WHEREAS, the Hahn Lift Station is currently located on the southeast corner of Nightingale Drive and Honey Creek Road and is identified on the City's 2007 Wastewater Master Plan for rehabilitation, and

WHEREAS, a condition and performance assessment was performed and concluded the following: 1) the lift station is susceptible to flooding during storm events. Currently both pumps operate during heavy storm events; 2) the ventilation system is inadequate and does not meet code since the only ventilation is through the manhole cover. As a result, the lift station pumps burn out about every two years due to improper ventilation; and 3) the existing wet pit is located in the middle of the Nightingale/Honey Creek intersection, and poses traffic problems when accessed and is a danger to the workers who maintain the system, and

WHEREAS, the City Council directed staff to acquire property to facilitate the rehabilitation of the Hahn Lift Station, and

WHEREAS, the City Council directed staff to enter into negotiations with HSBC Mortgage Services, Inc. to purchase a property located at 3200 Nightingale Drive for the Hahn Lift Station Project, and

WHEREAS, the City has evaluated the cost and time benefit of acquiring the property, and

WHEREAS, the property has been appraised and an offer to acquire the property rights at fair market value has been accepted by HSBC Mortgage Services, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Purchase Agreement, Counter Addendum, Mold Addendum, and Existing Condition Acknowledgement ("As-Is, Where Is" Provision) for the acquisition of a property located at 3200 Nightingale Drive, owned by HSBC Mortgage Services, Inc. (APN: 076-001-037) to be purchased by the City of Modesto for the Hahn Lift Station Project in the amount of $155,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Purchase Agreement, Counter Addendum, Mold Addendum, and Existing Condition Acknowledgement ("As-Is, Where Is" Provision).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of January, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-025

A RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN AN ACCEPTANCE FORM FOR THE GRANT DEED FOR THE ACQUISITION OF A PROPERTY LOCATED AT 3200 NIGHTINGALE DRIVE, OWNED BY HSBC MORTGAGE SERVICES, INC. (APN: 076-001-037) TO BE PURCHASED BY THE CITY OF MODESTO FOR THE HAHN LIFT STATION 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 property located at 3200 Nightingale Drive owned by HSBC Mortgage Services (APN: 076-001-037) to be purchased by the City of Modesto for the Hahn Lift Station Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign an acceptance form on behalf of the City of Modesto for one (1) Grant Deed for the acquisition of a property located at 3200 Nightingale Drive owned by HSBC Mortgage Services (APN: 076-001-037) to be purchased by the City of Modesto for the Hahn Lift Station Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of January, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-026

A RESOLUTION APPROVING AN AGREEMENT WITH COFFMAN ASSOCIATES INC. FOR AIRPORT PLANNING SERVICES TO PREPARE A NEW AIRPORT LAYOUT PLAN/NARRATIVE REPORT AND AIRLINE PASSENGER TERMINAL COMPLEX STUDY IN THE AMOUNT OF $237,500 FOR MODESTO CITY-COUNTY AIRPORT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Airport Layout Plan (ALP) is to be maintained and updated every two (2) years per Federal Aviation Administration (FAA) guidance, and

WHEREAS, the Modesto Airport ALP was last updated in May 2005, and

WHEREAS, the Modesto Airport does not have a current Airport Master Plan document, and

WHEREAS, senior FAA officials recommended that Modesto pursue development of a five-year Program Narrative Summary (a short-term airport development master plan), and

WHEREAS, the Airport's terminal building was constructed in 1946, with small updates and expansions in 1971 and 1991, and

WHEREAS, FAA planning officials also recommended that Modesto Airport pursue an Airline Passenger Terminal Complex Study, and

WHEREAS, the City advertised to obtain the services of an airport and aviation planning firm to provide Airport Planning for future projects at Modesto City-County Airport, and

WHEREAS, Coffman Associates, Inc., proposed to provide airport planning services to prepare a new Airport Layout Plan/Narrative Report and Airline Passenger Terminal Complex Study for Modesto City-County Airport, and

WHEREAS, Coffman Associates, Inc.'s proposal was selected as the best qualified applicant for this project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Coffman Associates, Inc., for an amount not to exceed $237,500, to provide airport planning services to prepare a new Airport Layout Plan/Narrative Report and Airline Passenger Terminal Complex Study for Modesto City-County Airport.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of January, 2009, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carrier and the resolution adopted by the following vote:

AYES:	Councilmember:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmember:	None
ABSENT:	Councilmember:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-027

A RESOLUTION AUTHORIZING STAFF TO DECLARE THE CITY-OWNED PROPERTY LOCATED AT 1517 10TH STREET (APN: 105-047-002) AS SURPLUS PROPERTY AND AUTHORIZING THE CITY'S PROPERTY AGENT TO PROCEED WITH THE SALE OF THIS PROPERTY

WHEREAS, the City of Modesto owns the property at 1517 10th Street (APN: 105-047-002), and

WHEREAS, the Kansas-Needham Overhead Project constructed an overhead crossing from the intersection of College and Needham Avenues and 10th Street to the intersection of Franklin and Beech Streets, the future connection to Highway 132, and

WHEREAS, the project design produced a remnant parcel with some degree of limited use, due to the location and limited access, and

WHEREAS, the property is surplus to the City's needs and there are no other City uses for this property, and

WHEREAS, the property located at 1517 10th Street (APN: 105-047-002) has been appraised at $463,000, and

WHEREAS, staff recommends the site be sold as surplus property, and

WHEREAS, staff recommends the City's property agent proceed with the sale of this property,

NOW, THEREFORE, BE IT RESOLVED by the City Council of Modesto that it hereby authorizes staff to declare the City-owned property (APN 105-047-002) known as 1517 10th Street as surplus property.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City's property agent to proceed with the sale of this property.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of January, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-028

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE T-HANGAR L CONSTRUCTION AT THE MODESTO CITY-COUNTY AIRPORT PROJECT, ACCEPTING THE BID AND APPROVING A CONTRACT WITH APPLEGATE JOHNSTON, INC., IN THE AMOUNT OF $611,011.50, FOR THE T-HANGAR L CONSTRUCTION AT THE MODESTO CITY-COUNTY AIRPORT PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the T-Hangar L Construction at the Modesto City-County Airport project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the T-Hangar L Construction at the Modesto City-County Airport project were opened at 11:00 a.m. on December 2, 2008, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $611,011.50 received from Applegate Johnston, Inc. be accepted as the lowest responsible bid and the contract be awarded to Applegate Johnston, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the T-Hangar L Construction at the Modesto City-County Airport project, accepts the bid of Applegate Johnston, Inc. in the amount of $611,011.50, and awards Applegate Johnston, Inc. the contract for the T-Hangar L Construction at the Modesto City-County Airport project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract with Applegate Johnston, Inc., in the amount of $611,011.50, for the T-Hangar L Construction at the Modesto City-County Airport project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of January, 2009, by Councilmember Keating, 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:	Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-029

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO CITY-COUNTY AIRPORT MASTER PLAN FINAL ENVIRONMENTAL IMPACT REPORT (SCH NO. 90020512): T-HANGAR "L" CONSTRUCTION AT THE MODESTO CITY-COUNTY AIRPORT

WHEREAS, on April 20, 1993, the City Council, by Resolution No. 93-229, certified the Final Environmental Impact Report ("EIR") for the Modesto City-County Airport Master Plan (SCH No. 90020512), and

WHEREAS, the City of Modesto proposes to construct T-Hangar "L" at the Airport in substantially the location identified on the adopted Airport Master Plan Project Elements diagram and in the EIR, and

WHEREAS, Section 15168 of the CEQA Guidelines, relating to reviewing subsequent projects for a Program EIR, states that the lead agency shall prepare a written checklist or similar device on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the Program EIR and whether the subsequent project was described in the Program EIR as being within the scope of the project, and

WHEREAS, the City's Public Works Department by Environmental Assessment Initial Study EA/PW 2007-11 reviewed the proposed T-hangar construction project to determine whether the project is within the scope of the project covered by the Modesto City-County Airport Master Plan Final EIR, and made the determination that the proposed project will have no additional significant effect on the environment that was not identified in the Final EIR and, further, that no new or additional mitigation measures

or alternatives are required, and that therefore, the proposed project is within the scope of the project covered by the Final EIR, and

WHEREAS, in accordance with CEQA guidelines on December 7, 2007, 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 Final EIR, and

WHEREAS, said matter was considered by the City Council at a regular meeting on January 6, 2009, 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:

1. The type of Project under consideration is described in the Final EIR.

2. All applicable policies, regulations, and mitigation measures identified in the Final EIR have been applied to The Project.

3. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the PEIR. It has been determined that the project was described in the PEIR and is within the scope of the PEIR (SCH No. 90020512), which analyzed the potential impacts of build out of the Airport Master Plan.

4. Based on the Initial Study, the City of Modesto finds and determines:

   a. That the proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the PEIR.
   b. That no new or additional mitigation measures or alternatives are required.

5. The Initial Study, Environmental Assessment No. EA/PW 2007-11, provides the substantial evidence to support findings 1 through 4, above.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of January, 2009, by Councilmember Keating, 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:	Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit "A"

INITIAL STUDY
EA/PW 2007-11

Determination:
Project within the Scope of the Modesto City-County Airport Master Plan Program Environmental Impact Report for the

T-Hangar "L" Project

Prepared for:

City of Modesto
P.O. Box 642
Modesto, CA 95353
Contact: Dean Phillips
209/577-5260

Prepared by:

Mel Funtila, Associate Civil Engineer
City of Modesto
Public Works Department
209/571-5181

November 2007

WRITTEN CHECKLIST

EA/PW No. 2007-11

I. PURPOSE

This written checklist is prepared under the CEQA Guideline regulations regarding use of a Program EIR with Later Activities, where activities in the program must be examined in the light of the Program EIR to determine whether an additional environmental document must be prepared. Pursuant to CEQA Guidelines Section 15168 (C) (4), this checklist serves to make a determination where subsequent activities of a Program EIR involve site-specific operations, based on evaluation of the site and the activity to determine whether the environmental effects of the operation were covered in the program EIR. Based on a review of the project and the criteria in Section 15162(a), this determination would permit the lead agency (City of Modesto) to approve the activity as being within the scope of the project covered by the Program EIR. This determination includes whether any new environmental document is required beyond the adopted Airport Master Plan Program EIR (SCH# 90020512) for the proposed T-hangar construction.

The 1994 Program EIR is the document reviewed for projects undertaken in implementation of the Airport Master Plan. A summary of significant impacts and their mitigation measures from the 1994 EIR is attached as Exhibit "A". Where appropriate those feasible mitigation measures developed in the Program EIR shall be incorporated into the proposed project.

II. PROJECT INFORMATION

1. **Project Title:**	T-Hangar "L" Construction at the Modesto City-County Airport
2. **Lead Agency Name and Address:**	City of Modesto
3. **Contact Person and Phone Number:**	Mel Funtila City of Modesto, Public Works Department 209/571-5181
4. **Project Location:**	Modesto City-County Airport, 617 Airport Way, Modesto, Stanislaus County, CA

5. **Project Sponsor's Name and Address:** Modesto City-County Airport/City of Modesto Department of Public Works

6. **General Plan Designation:** Industrial (Airport)

7. **Zoning:** M-1, Light Industrial

8. **Description of Project:** Pursuant to the adopted Airport Master Plan (Exhibit A), the City is proposing to construct an additional 10-bay T-hangar space for private aircraft. The proposed hangars would be located in the same general area with the other T-hangars as shown on the adopted Airport Master Plan Project Elements diagram (see item No. 22, 1995 Master Plan Projects, Exhibit B). The T-hangar would measure approximately 11,700 to 11,900 square feet.

9. **Surrounding Land Uses and Setting:** The proposed project site is entirely within and surrounded by the developed Airport. The Airport is surrounded by industrial development to the northeast, residential and commercial uses to the north, open space, parkland, and residential to the south and southwest.

10. **Other Public Agencies whose Approval Is Required:** Stanislaus County

III. DETERMINATION:

Based on the analysis contained in this document, staff finds that pursuant to Guidelines Section 15168 (c) (4) the following is true for the proposed project:

1. There are no substantial changes proposed in the project which result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Airport Master Plan Program EIR are required.

2. No substantial changes have occurred with respect to the circumstances under which the project is undertaken which will result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Airport Master Plan Program EIR are required.

3. There is no new information of substantial importance which was not known and could not have been known with the exercise of reasonable diligence when the Airport Master Plan Program EIR was adopted which shows any of the following:

a. one or more significant effects which is not discussed in the Airport Master Plan Program EIR; or,

b. significant effects which were previously examined will be substantially more severe than previously shown; or,

c. previously infeasible mitigation measures or alternatives are now feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or,

d. mitigation measures or alternatives which are considerably different from those analyzed in the Airport Master Plan Program EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

4. The Initial Study, Environmental Assessment No. EA/PW 2007-11, provides the substantial evidence to support findings 3-5, above, and the City hereby determines that no further environmental documentation is required for the proposed project.

Mel Funtila C. Funtila 12-5-07

Mel Funtila, Project Manager Date

IV. PROJECT EVALUATION:

The following written Checklist based on Appendix G of the CEQA Guidelines serves to document the evaluation of the site and activity of the proposed project pursuant to CEQA Guidelines Section 15168 (c) (4) to determine whether the environmental effects of the operation were covered in the Program EIR.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
I.	**AESTHETICS.** Would the project:				
a.	Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☑
b.	Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings along a scenic highway?	☐	☐	☐	☑
c.	Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☐	☑
d.	Create a new source of substantial light or glare that would adversely affect daytime or nighttime views in the area?	☐	☐	☐	☑

Aesthetic and visual impacts are analyzed on pages II-6 of the Program EIR.

Responses to Checklist Questions

a.-c. The proposed project will add a single-story structure to house aircraft to an area currently developed with asphalt for parking of aircraft. The project is surrounded by similar construction and has no potential to affect scenic vistas or other scenic resources, or to degrade the existing visual character of the site or its surroundings. No mitigation is required.

d. The proposed development is consistent with the Airport Master Plan. For this reason, impacts associated with additional light and glare would remain the same as those identified in the program EIR. There would be no additional impact. No additional mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
II.	**AGRICULTURAL RESOURCES.** In determining whether impacts on agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation. Would the project:				
a.	Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	❑	❑	❑	☑
b.	Conflict with existing zoning for agricultural use or conflict with a Williamson Act contract?	❑	❑	❑	☑
c.	Involve other changes in the existing environment that, due to their location or nature, could result in conversion of Farmland to non-agricultural use?	❑	❑	❑	☑

Impacts on agricultural resources are not analyzed in the Program EIR.

Responses to Checklist Questions

a.-c The proposed project will add a single-story structure to house aircraft to an area currently developed with asphalt for parking of aircraft. The project is surrounded by similar construction and has no potential to affect agricultural land or resources. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
III.	**AIR QUALITY.** When available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a.	Conflict with or obstruct implementation of the applicable air quality plan?	❑	❑	❑	☑
b.	Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	❑	❑	❑	☑
c.	Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is a nonattainment area for an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors)?	❑	❑	❑	☑
d.	Expose sensitive receptors to substantial pollutant concentrations?	❑	❑	❑	☑
e.	Create objectionable odors affecting a substantial number of people?	❑	❑	❑	☑

Impacts on air quality are analyzed on pages II-45 through II-58 of the Program EIR.

Responses to Checklist Questions

a.-e. The Airport Master Plan program EIR found that air pollution from project-related traffic and aircraft operations would contribute to existing air quality violations. Traffic and aircraft emissions would contribute to violation of the state and federal 8-hour carbon monoxide (CO) and the federal ozone standard in the Modesto Urban Area and the San Joaquin Valley Air Basin. Jet aircraft operations would increase the frequency of detectable jet exhaust in areas adjacent to the airfield. Partial mitigation for these impacts is included in the program EIR (Mitigation Measures 3–5) and in the Modesto urban Area General Plan Master EIR, and the City of Modesto has adopted a statement of overriding consideration for Air Quality impacts in conjunction with the General Plan Master EIR. The proposed project would not change the amount of development and construction in the project area, so trips generated by the project would not

be affected and the types of land uses would not change. There would be no additional impact. No new mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
IV.	**BIOLOGICAL RESOURCES.** Would the project:				
a.	Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	❑	❑	❑	☑
b.	Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	❑	❑	❑	☑
c.	Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marshes, vernal pools, coastal wetlands, etc.) through direct removal, filling, hydrological interruption, or other means?	❑	❑	❑	☑
d.	Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	❑	❑	❑	☑
e.	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	❑	❑	❑	☑
f.	Conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan?	❑	❑	❑	☑

Impacts on biological resources are analyzed on page II-64 of the Program EIR.

Responses to Checklist Questions

a.-f. The proposed site for the T-hangar construction is in an area that is currently paved and is well separated from the edges of the airport. There is no potential for effect on habitat or species; furthermore, there will be no alteration of drainage patterns as the area is currently paved. There are no applicable local ordinances or conservation plans. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
V.	**CULTURAL RESOURCES.** Would the project:				
a.	Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?	❑	❑	❑	☑
b.	Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?	❑	❑	❑	☑
c.	Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	❑	❑	❑	☑
d.	Disturb any human remains, including those interred outside of formal cemeteries?	❑	❑	❑	☑

Impacts on cultural resources are analyzed on pages II-4 through II-5 of the Program EIR.

Responses to Checklist Questions

a.-d. The project consists of construction of T-hangars over existing paved area. There are no structures within the area to be developed. The proposed project would not change the locations or types of construction in the project area nor the boundaries of the project area.

Since no archaeological, or paleontological resources were found in the previous document to be located in the project area, and since the proposed project would not have a significant impact on historic structures, there would be no impact. No new mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
VI.	**GEOLOGY AND SOILS.** Would the project:				
a.	Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
	1. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	❑	❑	❑	☑
	2. Strong seismic groundshaking?	❑	❑	❑	☑
	3. Seismic-related ground failure, including liquefaction?	❑	❑	❑	☑
	4. Landslides?	❑	❑	❑	☑
b.	Result in substantial soil erosion or the loss of topsoil?	❑	❑	❑	☑
c.	Be located on a geologic unit or soil that is unstable or that would become unstable as a result of the project and potentially result in an onsite or offsite landslide, lateral spreading, subsidence, liquefaction, or collapse?	❑	❑	❑	☑
d.	Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	❑	❑	❑	☑
e.	Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater?	❑	❑	❑	☑

Impacts associated with geology and soils are analyzed on page II-1 of the program EIR.

Responses to Checklist Questions

a.-d. The program EIR found that the project area is not subject to geologic or soil-related hazards that cannot be adequately mitigated through the implementation of existing city regulations, such as the building code. No significant impacts were identified, and no mitigation measures were required. The proposed project would not change the locations or types of construction in the project area nor the boundaries of the project area. There would be no additional impact. No mitigation is required.

e. The Airport is served by public sewers. No septic tanks or alternative wastewater systems are proposed. The proposed project would not change the proposed method of wastewater disposal. There would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
VII.	**HAZARDS AND HAZARDOUS MATERIALS.** Would the project:				
a.	Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☑
b.	Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☐	☑
c.	Emit hazardous emissions or involve handling hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☑
d.	Be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☐	☑
e.	Be located within an airport land use plan area or, where such a plan has not been adopted, be within two miles of a public airport or public use airport, and result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☑

f.	Be located within the vicinity of a private airstrip and result in a safety hazard for people residing or working in the project area?	❑	❑	❑	☑
g.	Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	❑	❑	❑	☑
h.	Expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	❑	❑	❑	☑

Impacts on Safety are analyzed on pages II-36-II-44 of the Program EIR.

Responses to Checklist Questions

a.–c. The proposed T-hangar project does not involve the use of hazardous materials. There would be no impact. No mitigation is required.

d. No hazardous materials are stored at or near the project site. No mitigation is required.

e. The proposed T-hangar project is located in the airport and is a part of the public airport. There would be no impact. No mitigation is required.

f. The proposed T-hangar project is not in the vicinity of a private airstrip. No mitigation is required.

g. City emergency plans are developed with the assumption that the Airport Master Plan will be implemented. The proposed project would not change construction, land use, or other physical attributes of the implementation of the Airport Master Plan. There would be no impact. No mitigation is required.

h. The project site is located on the Airport, in an area that is not adjacent to wildlands. There would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
VIII.	**HYDROLOGY AND WATER QUALITY.** Would the project:				
a.	Violate any water quality standards or waste discharge requirements?	❑	❑	❑	☑
b.	Substantially deplete groundwater supplies or interfere substantially with groundwater recharge, resulting in a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level that would not support existing land uses or planned uses for which permits have been granted)?	❑	❑	❑	☑
c.	Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner that would result in substantial erosion or siltation onsite or offsite?	❑	❑	❑	☑
d.	Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding onsite or offsite?	❑	❑	❑	☑
e.	Create or contribute runoff water that would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	❑	❑	❑	☑
f.	Otherwise substantially degrade water quality?	❑	❑	❑	☑
g.	Place housing within a 100-year flood hazard area, as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	❑	❑	❑	☑
h.	Place within a 100-year flood hazard area structures that would impede or redirect floodflows?	❑	❑	❑	☑

i.	Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam?	❑	❑	❑	☑
j.	Contribute to inundation by seiche, tsunami, or mudflow?	❑	❑	❑	☑

Impacts associated with hydrology and water quality are analyzed on pages II-2 through II-3 of the Program EIR.

Responses to Checklist Questions

a. The proposed T-hangar project would not violate any water quality standards or waste discharge requirements. The proposed project is consistent with the Airport Master Plan, so there would be no additional impacts. No mitigation is required.

b. The proposed T-hangar project would not change the amount of impervious surface in the Specific Plan area or proposed storm drain facilities. There would be no additional impact. No mitigation is required.

c.–e. The proposed T-hangar project will not alter the existing drainage pattern of the area. The proposed project would not change the amount of impervious surface or the proposed storm drain facilities. There would be no additional impact. No mitigation is required.

f. The Airport Master Plan Proggram EIR includes measures to ensure adequate drainage and spill control. The proposed T-hangar project would be consistent with development contemplated by the Master Plan. The proposed project would not change water use or discharge associated with the buildout of the Master Plan. There would be no additional impact. No new mitigation is required.

g.–i. According to the Village One Specific Plan program EIR, the project site is not situated in a 100-year flood hazard area or downstream from a levee or dam. There would be no impact. No mitigation is required.

j. The project site is located in a flat, inland area not susceptible to seiche, tsunami, or mudflow. There would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
IX.	**LAND USE AND PLANNING.** Would the project:				
a.	Physically divide an established community?	❑	❑	❑	☑
b.	Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, a general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	❑	❑	❑	☑
c.	Conflict with any applicable habitat conservation plan or natural community conservation plan?	❑	❑	❑	☑

Impacts associated with land use and planning are analyzed on pages II-7 through II-9 of the Program EIR.

Responses to Checklist Questions

a–c. The proposed T-hangar project is within the established airport property; therefore, the project would not divide an established community. The Airport is a component of the Modesto General Plan. There are no other applicable land use or conservation plans for the project area. There would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
X.	**MINERAL RESOURCES.** Would the project:				
a.	Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	❑	❑	❑	☑

b.	Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	❑	❑	❑	☑

Impacts on mineral resources are not analyzed in the Program EIR.

Responses to Checklist Questions

a., b. No known mineral resources or important recovery sites are located on the Airport. There would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
XI.	**NOISE.** Would the project:				
a.	Expose persons to or generate noise levels in excess of standards established in a local general plan or noise ordinance or applicable standards of other agencies?	❑	❑	❑	☑
b.	Expose persons to or generate excessive groundborne vibration or groundborne noise levels?	❑	❑	❑	☑
c.	Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	❑	❑	❑	☑
d.	Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	❑	❑	☑	❑
e.	Be located within an airport land use plan area, or, where such a plan has not been adopted, within two miles of a public airport or public use airport and expose people residing or working in the project area to excessive noise levels?	❑	❑	❑	☑

f.	Be located in the vicinity of a private airstrip and expose people residing or working in the project area to excessive noise levels?	❑	❑	❑	☑

Impacts associated with noise are analyzed on pages II-10 through II-35 of the Program EIR.

Responses to Checklist Questions

a.-d.. The proposed T-hangar project would not change Airport-related noise-generating activities. There would be no additional impact. No mitigation is required.

e.-f. The proposed T-hangar project is located within and is a part of a public airport. There would be no impact. No mitigation is required. The proposed T-hangar project is not in the vicinity of a private airstrip. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
XII.	**POPULATION AND HOUSING.** Would the project:				
a.	Induce substantial population growth in an area, either directly (e.g., by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure)?	❑	❑	❑	☑
b.	Displace a substantial number of existing housing units, necessitating the construction of replacement housing elsewhere?	❑	❑	❑	☑
c.	Displace a substantial number of people, necessitating the construction of replacement housing elsewhere?	❑	❑	❑	☑

Impacts associated with population and housing are not addressed in the Program EIR.

Responses to Checklist Questions

a.–c. The proposed T-hangar project would not induce population growth and will not displace any housing units or persons. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
XIII.	**PUBLIC SERVICES.** Would the project:				
a.	Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or a need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the following public services:				
	Fire protection?	❑	❑	❑	☑
	Police protection?	❑	❑	❑	☑
	Schools?	❑	❑	❑	☑
	Parks?	❑	❑	❑	☑
	Other public facilities?	❑	❑	❑	☑

Impacts on public services are analyzed on pages II-65 through II-66 of the Program EIR.

Responses to Checklist Questions

a. The proposed T-hangar project would not change demand for or provision of public services as compared to the Airport Master Plan. There would be no additional impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
XIV.	**RECREATION.** Would the project:				
a.	Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	❑	❑	❑	☑
b.	Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?	❑	❑	❑	☑

Impacts associated with recreation are not addressed in the Program EIR.

Responses to Checklist Questions

a., b. The proposed T-hangar project is a public facility and will have no effect on demand for recreational facilities.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
XV.	**TRANSPORTATION/TRAFFIC.** Would the project:				
a.	Cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in the number of vehicle trips, the volume-to-capacity ratio on roads, or congestion at intersections)?	❑	❑	❑	☑
b.	Cause, either individually or cumulatively, exceedance of a level-of-service standard established by the county congestion management agency for designated roads or highways?	❑	❑	❑	☑

c.	Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	❑	❑	❑	☑
d.	Substantially increase hazards because of a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	❑	❑	☑	❑
e.	Result in inadequate emergency access?	❑	❑	❑	☑
f.	Result in inadequate parking capacity?	❑	❑	❑	☑
g.	Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	❑	❑	❑	☑

Impacts on transportation and traffic are analyzed on pages II-59 through II-63 of the Program EIR.

Responses to Checklist Questions

a., b. The proposed T-hangar project would result in negligible increases in traffic. There would be no additional impact. No mitigation is required.

c. The proposed T-hangar project implements the Airport Master Plan. There would be no impact. No mitigation is required.

d.-g. The proposed T-hangar project would not affect any traffic design features, affect emergency access, affect parking capacity, or conflict with any adopted policies supporting alternative transportation. There would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
XVI.	**UTILITIES AND SERVICE SYSTEMS.** Would the project:				
a.	Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	❑	❑	❑	☑

b.	Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	❑	❑	❑	☑
c.	Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	❑	❑	❑	☑
d.	Have sufficient water supplies available to serve the project from existing entitlements and resources, or would new or expanded entitlements be needed?	❑	❑	❑	☑
e.	Result in a determination by the wastewater treatment provider that serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	❑	❑	❑	☑
f.	Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	❑	❑	❑	☑
g.	Comply with federal, state, and local statutes and regulations related to solid waste?	❑	❑	❑	☑

Impacts associated with utilities are addressed on pages II-65 through II-66 of the Program EIR.

Responses to Checklist Questions

a., b., e. The City provides sewer services to the Airport. All wastewater would be directed to city wastewater treatment facilities. No wastewater discharges would occur in the project area. The proposed project would not significantly increase the amount of wastewater that will be generated at the Airport. There would be no additional impact. No mitigation is required.

c. The proposed T-hangar project is located on a currently-paved area and as such would not result in any new or additional storm drainage.

d. The City currently provides domestic water at the Airport. There would be no additional impact resulting from the proposed project. No mitigation is required.

f., g. The proposed T-hangar project would not result in any generation of additional solid waste. There would be no impact. No mitigation is required.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
XVII.	**MANDATORY FINDINGS OF SIGNIFICANCE.**				
a.	Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	❑	❑	❑	☑
b.	Does the project have impacts that are individually limited but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)	❑	❑	❑	☑
c.	Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?	❑	❑	❑	☑

Cumulative impacts are analyzed on page III-1 of the 1994 Supplement.

Responses to Checklist Questions

a. As described above, the proposed T-hangar project implements a component of the Airport Master Plan and does not have the potential to degrade the quality of the environment.

b. As described above, the proposed project would not result in any significant impacts, either on a project or on cumulative level, over and above those associated with implementation of the Airport Master Plan and as analyzed in the Airport Master Plan program EIR. There are no significant cumulative impacts.

c. As described above, the proposed project would not result in any significant impacts affecting humans over and above those associated with implementation of the Airport Master Plan and as analyzed in the Airport Master Plan program EIR.

V. MITIGATION APPLIED TO PROJECT

The following mitigation measures developed in the Airport Master Plan Program EIR are appropriate to the project and will be incorporated into the project. With incorporation of the following measures, the environmental effects of the project were covered by the program EIR.

1. **Aesthetics/Light and Glare**: Mitigation as set forth in Section II. D. 3:

   All lighting plans for airport development projects shall comply with FAA standards and shall be reviewed by the Airport Operator to ensure that no conflicts develop. Fixtures shall be shielded and/or directed downward in such a fashion as to eliminate glare.

2. **Air Quality**: Construction of the T-hangars shall implement PM10 control measures as set forth in the Program EIR at pages II-57-58 and Modesto Urban Area General Plan Mitigation Measures Air-1 and Air-2, pages V-2-24 and 25, as applicable.

3. **Cultural Resources**: Mitigation as set forth in Section II.C.3:

   All construction personnel shall be alerted to the potential for uncovering artifacts and human remains. Should distinct cultural objects, significant changes in soil color, be observed or human remains discovered, construction shall be halted and a specialist and/or the County Coroner, as appropriate, shall be called in to evaluate the potential of any find.

4. **Water Quality**: Mitigation as set forth in Section II.B.3:

   Adequate measures to minimize/eliminate the potential for accidental discharge into any waterway shall be taken. Measures shall also be taken to ensure that the spillage of potential hazardous materials would be contained within the project boundaries. Development plans shall include drainage and spill containment measures that ensure discharges onto off-airport property do not take place. Proper grading and drainage plans for new development shall be submitted to the City for review and approval prior to the issuance of any building permit. Drainage plans shall also include provisions to route runoff and spills away from existing dry wells.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-030

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

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of January, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-031

A RESOLUTION RECOMMENDING THE STANISLAUS COUNCIL OF GOVERNMENTS SUBMIT THE "GENERAL PLAN DENSITIES" GROWTH SCENARIO TO THE SAN JOAQUIN VALLEY BLUEPRINT PLANNING PROCESS AS THE STANISLAUS COUNTY PREFERRED SCENARIO

WHEREAS, Blueprint planning is being conducted in various regions in the State of California by Metropolitan Planning Organizations to address the population growth anticipated in California in the next several decades, and

WHEREAS, the Councils of Governments (COGs) in the San Joaquin Valley have agreed to develop a coordinated plan, the San Joaquin Valley Regional Blueprint ("Blueprint"), and

WHEREAS, the goal of the Blueprint process is to develop a 2050 vision for the San Joaquin Valley that is created and shared by its citizens, and

WHEREAS, the San Joaquin Valley Blueprint will formulate an approach to long-term regional planning that addresses land use, housing, transportation, environmental issues, and economic development interests in the San Joaquin Valley, and

WHEREAS, the Blueprint process examines alternative illustrative scenarios and identifies a conceptual "preferred scenario" that represents the long-term vision for the future of Stanislaus County through 2050, and

WHEREAS, the Stanislaus Council of Governments (StanCOG) conducted fourteen (14) Blueprint Phase II Community Outreach Workshops in all cities and in the unincorporated areas of Stanislaus County, and

WHEREAS, during the Blueprint Community Outreach Workshops, the Moderate Change 2050 Conceptual Growth Scenario received the highest number of votes from among the four options presented (No Change, Some Change, Moderate Change, and Major Change), and

WHEREAS, StanCOG asked its member agencies to recommend and/or modify the "Moderate Change" scenario for use in development of the Blueprint Valley-wide scenarios, and report the results to StanCOG for presentation to the StanCOG Policy Board, and

WHEREAS, StanCOG subsequently adopted a resolution at its November 12, 2008, meeting to submit the "No Change" ("General Plan Densities") scenario to the San Joaquin Valley Blueprint process as the Stanislaus County Preferred Conceptual Growth Scenario, and

WHEREAS, the action by the Modesto City Council to recommend to the StanCOG Policy Board the "General Plan Densities" scenario as the Stanislaus County Preferred Conceptual Growth Scenario is not a project under the California Environmental Quality Act, and

WHEREAS, the City Council finds that the "General Plan Densities" scenario of the Blueprint Valley-wide scenarios supports goals, policies and strategies of the City of Modesto Urban Area General Plan and the Strategic Plan,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby recommends that StanCOG submit the "General Plan Densities" growth scenario to the San Joaquin Valley Blueprint planning process as the Stanislaus County Preferred Scenario.

The foregoing resolution was introduced at the regular meeting of the Council of the City of Modesto held on the 6th day of January, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

Ayes:	Councilmembers:	Hawn, Keating, Lopez, O'Bryant, Olsen, Mayor Ridenour
Noes:	Councilmembers:	Marsh
Absent:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-032

A RESOLUTION APPROVING A SEVERANCE PACKAGE FOR EMPLOYEES AUTHORIZING SEVERANCE PAY, HEALTH BENEFITS AND INTERVIEW LEAVE FOR EMPLOYEES SUBJECT TO AN AUTHORIZED REDUCTION IN FORCE THROUGH JANUARY 30, 2009

WHEREAS, the City of Modesto again faces a budget crisis which has resulted in elimination of filled positions, and

WHEREAS, the City Council desires to establish a severance package to include Severance Pay, Health Benefits and Interview Leave for employees subject to an authorized reduction in force from January 1, 2009 through January 30, 2009, and

WHEREAS, current Personnel Rules and Memoranda of Understanding provide that employees who are laid off receive only those benefits to which any departing employee would be entitled, and

WHEREAS, City staff is recommending to the Council that laid off employees should receive Severance Pay equivalent to a minimum of four (4) weeks of the employee's salary and City health contribution upon the effective date of the layoff and thereby provide a limited cash payment to assist the laid off employee who is faced with loss of job and income, and

WHEREAS, City staff is also recommending that employees who are notified of pending lay off should receive Interview Leave which would provide paid leave time for employees to seek other employment prior to their date of layoff, and

WHEREAS, City staff is recommending that where an employee volunteers to be laid off and is in the classification or the approved bumping chain of a position

authorized for layoff due to an authorized reduction in force, the City Manager may authorize said employee to be laid off, with all rights to receive severance benefits.

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

SECTION 1. Eligibility for Benefits: City employees who are laid off due to an authorized reduction in force shall be eligible to receive severance benefits subject to the terms and conditions as set forth below. All severance benefit entitlements shall be in addition to any other benefits to which the employee would otherwise be entitled pursuant to the City's Personnel Rules or appropriate Memorandum of Understanding. The City Manager is authorized to postpone an employee's date of layoff or demotion for up to ninety (90) days, at his discretion, if deemed necessary to meet the needs of the City.

SECTION 2. Eligibility for One Hundred and Sixty (160) Work Hours of Severance Pay: All non-sworn employees in regular positions in the classified service who are laid off due to a reduction in force shall be entitled to receive upon separation from service, severance pay equivalent to One Hundred Sixty (160) work hours. Severance pay shall be calculated based upon the employee's regular base pay, excluding acting pay, assignment pay, shift differential, or other special pays.

SECTION 3. Eligibility for Additional Severance Pay: All non-sworn employees in regular positions in the classified service who are laid off due to a reduction in force and who have six (6) or more complete years of continuous service are eligible for additional severance pay as follows:

A. Employees with six (6) to eight (8) years of service shall receive severance pay equivalent to forty (40) work hours

B. Employees with nine (9) to eleven (11) years of service shall receive severance pay equivalent to eighty (80) work hours

C. Employees with twelve (12) to fourteen (14) years of service shall receive severance pay equivalent to one hundred twenty (120) work hours

D. Employees with fifteen (15) or more years of service shall receive severance pay equivalent to one hundred and sixty (160) work hours.

Additional severance pay shall be calculated based upon the employee's regular base pay, excluding acting pay, assignment pay, shift differential, or other special pays.

SECTION 4. Severance Pay Options: At the time of separation, an employee may elect to receive severance pay in a lump sum payment or in the form of a contribution to the employee's deferred compensation plan or a combination thereof subject to all appropriate IRS regulations and limitations.

SECTION 5. Eligibility for Health Contribution: Employees 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 the 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.

SECTION 6. Eligibility for Counseling Benefit: Employees who receive severance pay shall also be eligible for an extension of the City's Employee Assistance

Program (EAP) benefit for a period of six (6) months from date of layoff. Said benefit shall provide for a maximum of six (6) EAP visits per family.

SECTION 7. Eligibility for Interview Leave: All non-sworn employees in regular positions in the classified service who are provided notice by his/her Department Director that the employee may be laid off due to a reduction in force shall be entitled, prior to separation, to a maximum of fifteen (15) work hours of paid leave time for purposes of participating in employment interviews or examinations with any other employer.

Authorized interview leave shall be subject to prior written approval of the employee's supervisor and with consideration for the needs of the City. Written verification of scheduled interviews or examinations may be required by the employee's supervisor. Interview leave in excess of fifteen (15) work hours may be granted with the prior written approval of the employee's Department Director. Interview leave shall not be subject to cashout or conversion to any other benefit.

SECTION 8. Voluntary Layoff: The City Manager may authorize any non-sworn employee in a regular position in the classified service who volunteers to be laid off, and is in the classification or the approved bumping chain of a position authorized for layoff, to be laid off, with all rights to receive severance pay, health contributions and interview leave as provided herein.

SECTION 9. Term: Severance benefits, as set forth in this Resolution shall terminate effective January 30, 2009, unless extended by resolution of the Modesto City Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of January, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-033

A RESOLUTION APPROVING A POLICY FOR THE HOUSING AND URBAN DEVELOPMENT (HUD) FUNDED PUBLIC SERVICE GRANTS TO PLACE A CAP OF $40,000 ON PUBLIC SERVICE GRANT AWARDS, TO ESTABLISH A SEPARATE AWARD PROCESS FOR FAIR HOUSING SERVICES, INCLUDING A $40,000 CAP, AND TO ALLOCATE PUBLIC SERVICE FUNDING FOR CITY OF MODESTO RECREATION PROGRAMS; AND AUTHORIZING STAFF TO MOVE FORWARD WITH THE CHANGES FOR FISCAL YEAR 2009/2010

WHEREAS, the City of Modesto receives several Federal grants from the United States Department of Housing and Urban Development (HUD), and

WHEREAS, the City receives a Community Development Block Grant (CDBG), and

WHEREAS, the City is required to obligate fifteen percent (15%) of the City's available CDBG entitlement for the purpose of providing public service grants to serve very low, low and moderate income persons and families residing within the city limits of Modesto, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) met in January 2009, and recommended a policy for the HUD funded public service grants to place a cap of $40,000 on public service grant awards, to establish a separate award process for fair housing services including a $40,000 cap, and to allocate public service funding for City of Modesto recreation programs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a policy for the Housing and Urban Development (HUD) funded public service grants to place a cap of $40,000 on public service grant awards, to establish a separate award process for fair housing services including a

$40,000 cap, and to allocate public service funding for City of Modesto recreation programs.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorizes staff to move forward with the changes for Fiscal Year 2009/2010.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of January, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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. 2009-034

RESOLUTION OF INTENTION

TO APPROVE AN AMENDMENT TO CONTRACT

BETWEEN THE

BOARD OF ADMINISTRATION
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

AND THE

CITY COUNCIL
CITY OF MODESTO

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

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

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

To provide Section 2118 (Partial Service Retirement) for local miscellaneous members.

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

By: _____
Presiding Officer Jim Ridenour

Mayor - City of Modesto
Title

January 13, 2009
Date adopted and approved

(Amendment)
CON-302 (Rev. 4/96)

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of January, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CalPERS

EXHIBIT

California
Public Employees' Retirement System

AMENDMENT TO CONTRACT

Between the
Board of Administration
California Public Employees' Retirement System
and the
City Council
City of Modesto

The Board of Administration, California Public Employees' Retirement System, hereinafter referred to as Board, and the governing body of the above public agency, hereinafter referred to as Public Agency, having entered into a contract effective August 1, 1946, and witnessed July 27, 1946, and as amended effective December 1, 1950, July 1, 1956, July 1, 1959, November 1, 1959, January 1, 1960, October 1, 1962, January 1, 1969, May 1, 1973, May 1, 1974, June 24, 1975, March 28, 1978, July 4, 1978, November 1, 1980, October 20, 1981, June 29, 1982, October 15, 1985, June 24, 1986, April 14, 1987, November 22, 1991, July 25, 1997, November 7, 2000, June 19, 2001, July 2, 2002, June 26, 2007 and August 1, 2008 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 August 1, 2008, and hereby replaced by the following paragraphs numbered 1 through 13 inclusive:

1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 55 for local miscellaneous members and age 50 for local safety members.

PLEASE DO NOT

2. Public Agency shall participate in the Public Employees' Retirement System from and after August 1, 1946 making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.

3. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:

   a. Local Fire Fighters (herein referred to as local safety members);

   b. Local Police Officers (herein referred to as local safety members);

   c. Employees other than local safety members (herein referred to as local miscellaneous members).

4. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:

   a. POLICE COURT EMPLOYEES;

   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.

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

PLEASE DO NOT

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

7. The percentage of final compensation to be provided for each year of credited prior and current service as a local safety member shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).

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

   a. Section 21222.1 (One-Time 5% Increase - 1970). Legislation repealed said Section effective January 1, 1980.

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

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

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

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

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

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

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

PLEASE DO NOT STAPLE

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

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

k. Section 21317 (One-Time 15% Increase for Certain Local Safety Members Who Retired for Service Retirement). Legislation repealed said Section effective January 1, 2002.

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

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

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

o. Section 21118 (Partial Service Retirement) for local miscellaneous members only.

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

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

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

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

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

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

12. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.

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

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

BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

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

CITY COUNCIL
CITY OF MODESTO

BY_____
PRESIDING OFFICER

_____
Witness Date

Attest:

_____
Clerk

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-035

A RESOLUTION REVISING THE POSITION CLASSIFICATION PLAN FOR THE CITY OF MODESTO TO AMEND THE JOB SPECIFICATION FOR THE CLASSIFICATION OF WATER RESOURCE 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 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 classification of Water Resource Specialist. The job specification for this classification is being amended to change the job duties to more accurately reflect the assigned essential functions. The job specification for the classification of Water Resource Specialist, as shown on the **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 II. EFFECTIVE DATE. This resolution shall become effective on and after January 13, 2009.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 13th day of January, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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
NO. 3343

WATER RESOURCE 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 provide technical support, reporting and analysis for environmental compliance; to perform research, statistical and other analytical work; to serve as a liaison between the City and state/federal regulatory agencies in the areas pertaining to environmental compliance for water quality.

SUPERVISION RECEIVED AND EXERCISED

Receives direction from and reports to management staff.

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

Essential Functions:

Preparation of regulatory reports, including drinking water assessments and testing waivers.

Serve as liaison to water quality testing laboratories; schedule water quality testing by site and prepare documentation related to testing, such as chain of custody.

Investigate, analyze, develop and prepare special studies or projects, as requested.

Answer questions and provide information/reports for release to the public, outside agencies and City staff, including preparation of the Consumer Confidence Report and other public notices and reports.

Assist with documentation and reporting related to legal actions.

Analyze reports and flag discrepancies and/or issues of concern.

~~Research and advise staff on equipment purchases, write specifications or justifications, and order materials or services.~~

Maintain databases pertinent to the management of water quality, disinfection, treatment, operations and distribution.

Exhibit A

Essential Functions: (Continued)

Develop and analyze databases pertinent to the management of water quality, disinfection, treatment, operations and distribution.

Investigate water quality problems in the distribution system.

Monitor system flow and pressure in response to consumer demands.

Marginal Functions:

Perform related duties, as assigned.

MINIMUM QUALIFICATIONS

Knowledge of:

Modern office procedures, methods and computer equipment.

Technical and public report writing procedures.

Statistical methods and methods of graphic presentation.

Computer applications including database, spreadsheet and word processing.

Applicable Federal, State and local laws, codes and regulations.

Procedures and methods for environmental compliance monitoring.

~~Procedures and policies relating to the public bidding process.~~

Database management of water quality, disinfection, treatment, operations and distribution data.

Ability to:

Learn procedures and methods used in environmental compliance monitoring.

Interpret and apply Federal, State and local policies, procedures, laws and regulations.

Analyze facts and make sound recommendations.

Learn the principles of chemistry, biology and related sciences as they pertain to Environmental compliance.

Ability to (Continued):

Use and operate a personal computer including applicable software.

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

~~Schedule and deliver water certification training.~~

Communicate clearly and concisely, both orally and in writing.

Identify and respond to public issues and concerns.

Understand and determine proper chemical dosage rates for wellhead disinfection.

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

Experience and Training Guidelines

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

Experience:

One year of increasingly responsible ~~administrative~~, related analytical and/or technical experience with a private or public agency, preferably in the area of environmental compliance, or a related field.

Training:

~~An Associate of Science Degree from an accredited college or a Certificate in Water Technology that includes 15 units of college coursework from an accredited college in physical, chemical, or biological science, or a related field.~~

Equivalent to an Associate of Arts Degree from an accredited college in public administration, business administration, environmental science, biology, chemistry or a related field.

License or Certificate:

Possession of, or the ability to obtain, an appropriate 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 and weekend work and travel is rare.

Class Spec History	
Adopted	7/03
Revised	12/08
BU	Gen NS

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-036

A RESOLUTION APPROVING AN OFFICE OF EMERGENCY SERVICES (OES) ANTI-DRUG ABUSE PROGRAM GRANT OF $298,739 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, in April 2008, 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, SDEA has been a recipient of the OES grant for the past 18 years, and

WHEREAS, the grant is used to pay for personnel and needed equipment within the countywide Joint Powers Agreement unit, and

WHEREAS, the SDEA is responsible for compliance with all regulations pertaining to the OES grant, including all reporting requirements,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Office of Emergency Services (OES) Anti-Drug Abuse

Enforcement Program Grant of $298,739 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 13th day of January, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NUMBER 2009-037

A RESOLUTION AMENDING THE FISCAL YEAR 2008/2009 MULTI-YEAR BUDGET TO APPROPRIATE REVENUES AND EXPENDITURES OF $298,739 FROM THE OFFICE OF EMERGENCY SERVICES (OES) FOR THE STANISLAUS DRUG ENFORCEMENT AGENCY (SDEA) TO COMBAT MAJOR DRUG TRAFFICKING AND MANUFACTURING

WHEREAS, in April 2008, 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 18 years, and

WHEREAS, the grant is used to pay for personnel and needed equipment within the countywide Joint Powers Agreement unit.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2008/2009 Multi-Year Budget is hereby amended as indicated in **attached** Budget Adjustment, which is 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.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of January, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Polly Findlen
Telephone No.: 29518
Department: POLICE

Fund Title: SDEA

Council Action Date:
Resolution Number:

Adjustment to FY: FY 09

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
DEPARTMENTAL REVENUES/INCLUDES TRANFERS IN					
FROM					
TO					
8850-190-1974-3501		$200,000	$98,739	$298,739	Federal Grant (to equal grant award)
8850-190-1974-3702		-0-	$157,727	$157,727	MPD - In Kind
APPROPRIATIONS/INCLUDES TRANSFERS OUT					
FROM					
TO					
0100-190-1970-0260	1900C	-0-	$157,727	$157,727	Misc Services (for GF share of grant positions)

COMMENTS/JUSTIFICATION (USE ADDITIONAL PAGES AS NECESSARY)

The SDEA budgeted that some grant revenue would be received or that SDEA would cover $200,000 of on-going grant positions. Therefore, revenue was budgeted at $200K and will be amended to $298,739 (grant amount). A new adjustment is needed for the amount of salary not reimbursed by the grant for two PD positions. This amount will be charged to the general fund as an in-kind MPD contribution to SDEA

AUTHORIZATION	SIGNATURE	DATE
(Authority levels reflected on back)		
DEPARTMENT DIRECTOR or AUTHORIZED DESIGNEE (Attach Delegation Authorization)		
DEPUTY DIRECTOR (If needed)		
ADMINISTRATIVE SERVICES OFFICER (If needed)		
FINANCE DIRECTOR		
CITY MANAGER		

TRANSFER NUMBER_____

BY_____ **DATE**_____

ITEMS REQUIRING COUNCIL ACTION:

1. Appropriation of undesignated reserves
2. Appropriation of new revenues
    a. Does not include Developer Payment
3. Budgeting inter-fund transfers
    a. Does not include adjustments to budgeted transfers where the intent is to subsidize an enterprise operation
4. Creation of inter-fund loans
5. Creation of, or increase in, any multi-year appropriation
6. Addition of permanent staff positions
7. Appropriation of payments for new indebtedness including operating leases
8. All other budgetary actions not delegated to another official

ITEMS DELEGATED TO CITY MANAGER:

1. Transfer appropriations between departments within a fund
2. Changing any capital equipment appropriation
3. Changing appropriations for temporary agency labor
4. Transfer appropriations to or from salary line items
5. Appropriate reserves for litigation on a case-by-case basis
6. Revoke multi-year appropriations
7. Transfer appropriations from a primary capital project to create of modify the budget of a related secondary capital project without increasing the total appropriations
8. Transfer appropriations between two or more related secondary capital projects without increasing the total appropriations
9. Close Capital Improvement Program projects
10. Adjustments to Inter-fund transfers intended to balance enterprise fund operations
11. Appropriate Developer Payments not previously budgeted
    a. Annexation Deposits
    b. Special District Formation Deposits
    c. Developer Deposits to be recognized as revenue

ITEMS DELEGATED TO FINANCE DIRECTOR:

1. Appropriate unbudgeted grant interest
2. 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 of decrease to the total amount of discretionary appropriations provided to the affected departments(s)
3. Make technical budget corrections to implement the intent of Council-approved actions and resolutions
4. Transfer appropriations between sub-funds of a single fund (except where this changes appropriation amounts for temporary agency labor and/or capital equipment purchases)

ITEMS DELEGATED TO DEPARTMENT DIRECTORS:

1. Transfer appropriations between non-salary line items within a department, within a single fund (exludes appropriations related to capital equipment, capital improvement program projects and temporary labor)

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-038

A RESOLUTION ACCEPTING A MINI GRANT IN THE AMOUNT OF $17,895.76 FROM THE OFFICE OF TRAFFIC SAFETY (OTS) SOBRIETY CHECKPOINT MINI-GRANT PROGRAM, TO CONDUCT SOBRIETY CHECKPOINTS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY PROGRAM DOCUMENTS

WHEREAS, on June 16, 2008, the Modesto Police Department received an announcement for the solicitation of applications for the "Sobriety Checkpoint Mini-Grant Program for Local Law Enforcement Agencies" from the Office of Traffic Safety (OTS), through the National Highway Traffic Safety Administration (NHTSA), and

WHEREAS, the mini-grant is for personnel overtime costs to conduct sobriety checkpoints during the Winter Holiday Period, which fell between December 22, 2008 and January 3, 2009, and the Labor Day period in August/September 2009, and

WHEREAS, staff was unable to bring to Council for acceptance of award before the Winter Holiday mandated period so checkpoints were conducted on December 31, 2008 and January 2, 2009, and

WHEREAS, on November 5, 2008, the Modesto Police Department received notification that it was awarded $17,895.76 for the operation of up to four sobriety checkpoints in Modesto; however, the notification was sent to the Patrol Division and delayed this staff report resulting in the necessity to work checkpoints prior to acceptance, and

WHEREAS, the goal of the statewide sobriety checkpoint program is to reduce the number of people killed in alcohol-related collisions, and

WHEREAS, sobriety checkpoints have proven to be one of the most important DUI countermeasures available to law enforcement agencies, and

WHEREAS, this mini grant will result in increased grant revenue of $17,895.76 to the City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby accepts a mini grant in the amount of $17,895.76 from the Office of Traffic Safety (OTS) Sobriety Checkpoint Mini-Grant Program to conduct sobriety checkpoints.

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 13th day of January, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-039

A RESOLUTION AMENDING THE FISCAL YEAR 2008/2009 MULTI-YEAR BUDGET TO APPROPRIATE REVENUES AND EXPENDITURES OF $17,895.76 TO CONDUCT SOBRIETY CHECKPOINTS

WHEREAS, on June 16, 2008, the Modesto Police Department received an announcement for the solicitation of applications for the "Sobriety Checkpoint Mini-Grant Program for Local Law Enforcement Agencies" from the Office of Traffic Safety (OTS), through the National Highway Traffic Safety Administration (NHTSA), and

WHEREAS, the mini-grant is for personnel overtime costs to conduct sobriety checkpoints during the Winter Holiday Period, which fell between December 22, 2008 and January 3, 2009, and the Labor Day period in August/September 2009, and

WHEREAS, staff was unable to bring to Council for acceptance of award before the Winter Holiday mandated period so checkpoints were conducted on December 31, 2008 and January 2, 2009, and

WHEREAS, on November 5, 2008, the Modesto Police Department received notification that it was awarded $17,895.76 for the operation of up to four sobriety checkpoints in Modesto; however, the notification was sent to the Patrol Division and delayed this staff report resulting in the necessity to work checkpoints prior to acceptance, and

WHEREAS, the goal of the statewide sobriety checkpoint program is to reduce the number of people killed in alcohol-related collisions, and

WHEREAS, sobriety checkpoints have proven to be one of the most important DUI countermeasures available to law enforcement agencies, and

WHEREAS, this results in increased grant revenue of $17,895.76 to the City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby amends the Fiscal Year 2008/2009 multi-year budget to appropriate revenues and expenditures of $17,895.76 for overtime to conduct sobriety checkpoints, as listed in **Exhibit A**.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of January, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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 Fiscal Year 2008/2009 Operating Budget will be applied to:

	Revenue	Increase/(Decrease)	Description
To:	0410-190-2972-3188	$17,896	2008/09 OTS Sobriety Checkpoint Mini Grant
	Expense		
To:	0410-190-2972-0130	$17,896	Overtime

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-040

A RESOLUTION APPROVING THE PROSPECTIVE BIDDER PREQUALIFICATION APPEALS PANEL FOR THE EMERALD TRUNK REHABILITATION PROJECT CONSISTING OF NICHOLAS PINHEY, PUBLIC WORKS DIRECTOR, RICHARD ULM, PUBLIC WORKS DEPUTY DIRECTOR, AND MARK AVERELL, PURCHASING MANAGER

WHEREAS, the Emerald Trunk Rehabilitation Project involves the rehabilitation of approximately 20,700 feet of existing 24 to 36-inch reinforced concrete sewer pipeline, and

WHEREAS, the project is located in a busy corridor with numerous roadways, railroad, utility, and canal crossings, and

WHEREAS, in order to limit project impacts, the City will use trenchless technologies to rehabilitate and optimize the capacity of the existing system, and

WHEREAS, because of the nature of the project, City staff are prequalifying contractors for the proposed work based on prior experience with projects of similar size and complexity, and

WHEREAS, the deadline for prospective bidders to submit a prequalification package to bid on the project was December 23, 2008, and

WHEREAS, the City will evaluate the prospective bidders' qualifications and the qualified bidders will be placed on the bidder's list included in the project bid documents, and

WHEREAS, contractors who receive ratings below that necessary to pre-qualify, may file an appeal with the City within seven calendar days of receiving notification, and

WHEREAS, a hearing must be held by an appeals panel within ten calendar days of such appeal being filed, and

WHEREAS, the City Council has the authority to name the appeals panel, consisting of at least three persons, and

WHEREAS, staff recommends Nicholas Pinhey, Public Works Director, Richard Ulm, Public Works Deputy Director, and Mark Averell, Purchasing Manager to serve in this capacity, upon Council approval, and

WHEREAS, in addition to the persons listed above, the Mayor will appoint a Councilmember to observe any appeal hearings,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Prospective Bidder Prequalification Appeals Panel for the Emerald Trunk Rehabilitation Project consisting of Nicholas Pinhey, Public Works Director, Richard Ulm, Public Works Deputy Director, and Mark Averell, Purchasing Manager.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of January, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-041

A RESOLUTION APPROVING THE FOURTH AMENDMENT TO AGREEMENT WITH GEOLOGICAL TECHNICS, INC. FOR ENVIRONMENTAL CONSULTANT SERVICES FOR THE POLICE HEADQUARTERS BUILDING AT 10TH & G STREET PROJECT, IN AN AMOUNT NOT TO EXCEED $9,340.00, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE FOURTH AMENDMENT TO AGREEMENT

WHEREAS, during the course of constructing the Police Headquarters Facility at 10th and G Streets, the contractor encountered contaminated soil that had to be monitored, and

WHEREAS, on April 12, 2004, the City entered into an Agreement with Geological Technics, Inc., a local environmental services firm, to monitor the soil and groundwater contamination that was discovered, and

WHEREAS, on September 8, 2005, the First Amendment to the Agreement was executed for additional geological services that were necessary to complete the scope of services provided for under the original Agreement, and

WHEREAS, on May 9, 2006, the Second Amendment to the Agreement was executed for additional geological services that were necessary to complete the scope of services provided for under the original Agreement, and

WHEREAS, on January 22, 2008, the Third Amendment to the Agreement was executed for additional geological services that were necessary to complete the scope of services provided for under the original Agreement, and

WHEREAS, it was determined that additional services would be needed from Geological Technics, Inc. to allow final closure of the contamination site and additional required reporting, and

WHEREAS, staff recommends execution of a Fourth Amendment to the Agreement with Geological Technics, Inc. for services associated with the closure of the contamination site at the Police Headquarters Facility at 10th and G Streets,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Fourth Amendment to the Agreement with Geological Technics, Inc. for additional services related to soil and groundwater contamination discovered during construction of the Police Headquarters Facility at 10th and G Streets, in the amount of $9,340.00, thereby increasing the total not to exceed amount to $94,063.00 for consultant services in conjunction with ground water monitoring and site closure.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of January, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-042

A RESOLUTION AMENDING THE FY 08-09 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FULLY FUND THE FOURTH AMENDMENT TO AGREEMENT WITH GEOLOGICAL TECHNICS, INC. FOR ENVIRONMENTAL CONSULTANT SERVICES FOR THE POLICE HEADQUARTERS BUILDING AT 10TH & G STREET PROJECT FOR ADDITIONAL DESIGN AND CONSTRUCTION ADMINISTRATION STAFF CHARGES NEEDED FOR PROJECT COMPLETION

WHEREAS, certain budgetary transactions are necessary in the amount of $10,000, in order to provide funding necessary for additional geological services that were required by the State and County regulating agencies overseeing the site for the Police Headquarters Building at 10th and G Streets project, and

WHEREAS, the Fiscal Year 2008-2009 Capital Improvement Program budget must be amended by transferring funds from Object 6041-City Forces to Object 6040-Construction in the amount of $10,000 in CIP Account 6180-480-W615 "Modesto System Improvements-Secondary."

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2008-2009 Capital Improvement Program budget as shown on **Exhibit A**, which is **attached** hereto and incorporated by reference herein.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of January, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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

FUND:

Water Fund

EXPENDITURES:		Increase/(Decrease)
Modesto System Improvements-Secondary	6180-480-W615-6041	($10,000)
Modesto System Improvements-Secondary	6180-480-W615-6040	$10,000

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-043

A RESOLUTION APPROVING AN AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC. FOR AIRPORT DESIGN AND CONSTRUCTION MANAGEMENT SERVICES FOR APRON REHABILITATION DESIGN – PHASE 2 FOR THE MODESTO CITY-COUNTY AIRPORT IN THE AMOUNT OF $112,365, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City has approved numerous Airport Capital Improvement Plan (ACIP) projects planned over approximately the next five years at the Modesto City-County Airport, and

WHEREAS, skilled airport engineering, design, construction and inspection assistance will be required to move forward with those projects, and

WHEREAS, on May 16, 2008, the City solicited professional services for an airport consulting engineer to provide airport engineering, design, construction and inspection, and

WHEREAS, Kimley-Horn and Associates, Inc. (KHA), proposed to provide said services for the Modesto City-County Airport, and

WHEREAS, KHA was selected by the City as the best qualified applicant, and

WHEREAS, KHA has proposed an Agreement to provide design services and assist with advertising for the project to rehabilitate portions of the East General Aviation Area (East Apron) of the Modesto City-County Airport.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Kimley-Horn Associates, Inc. to provide design and construction management services for Apron Rehabilitation – Phase 2 for the Modesto City-County Airport in an amount not to exceed $112,365.

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 January, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carrier and the resolution adopted by the following vote:

AYES:	Councilmember:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmember:	None
ABSENT:	Councilmember:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-044

A RESOLUTION APPROVING AN AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC. TO PROVIDE DESIGN SERVICES AND ASSIST THE CITY WITH ADVERTISING TO ENHANCE RUNWAY 10R SAFETY AREA FOR THE MODESTO CITY-COUNTY AIRPORT IN THE AMOUNT OF $110,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City has approved numerous Airport Capital Improvement Plan (ACIP) projects planned over approximately the next five years at the Modesto City-County Airport, and

WHEREAS, skilled airport engineering, design, construction and inspection assistance will be required to move forward with those projects, and

WHEREAS, on May 16, 2008, the City solicited professional services for an airport consulting engineer to provide airport engineering, design, construction and inspection, and

WHEREAS, Kimley-Horn and Associates, Inc. (KHA), proposed to provide said services for Modesto City-County Airport, and

WHEREAS, KHA was selected by the City as the best qualified applicant, and

WHEREAS, KHA has proposed an Agreement to provide design services and assist with advertising for the project to Enhance Runway 10R Safety Area for the Modesto City-County Airport,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Kimley-Horn and Associates, Inc. to provide design and construction management services to Enhance Runway 10R Safety Area for the Modesto City-County Airport for an amount not to exceed $110,000.

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 13th day of January, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carrier and the resolution adopted by the following vote:

AYES:	Councilmember:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmember:	None
ABSENT:	Councilmember:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-045

A RESOLUTION APPROVING PLANS AND SPECIFICATIONS FOR THE STATE ROUTE 219 WIDENING FROM WEST OF DALE ROAD TO MORROW ROAD PROJECT, ACCEPTING THE BID AND APPROVING A $3,349,138.40 CONTRACT WITH GEORGE REED, INC. FOR THE STATE ROUTE 219 WIDENING FROM WEST OF DALE ROAD TO MORROW ROAD PROJECT CONDITIONED UPON RECEIVING, WITHIN 120 DAYS OF THIS ACTION, CONFIRMATION THAT STATE FUNDING IS AVAILABLE FOR THE PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT AFTER THE CITY HAS RECEIVED CONFIRMATION THAT STATE FUNDS ARE AVAILABLE FOR THE PROJECT

WHEREAS, plans and specifications have been prepared for the State Route 219 Widening from West of Dale Road to Morrow Road project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the State Route 219 Widening from West of Dale Road to Morrow Road project were opened at 11:00 a.m. on December 23, 2008, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $3,349,138.40 received from George Reed, Inc. be accepted as the lowest responsible bid and the contract be awarded to George Reed, Inc., and

WHEREAS, a significant portion of the funding for this project comes from the Regional Improvement Program (RIP), and

WHEREAS, the RIP funds were allocated in early 2008 by the California Transportation Commission and require that the project be awarded no later than January 31, 2009, and

WHEREAS, because of the uncertainty with all sources of State funding, staff is recommending that the award be made contingent upon receiving confirmation from the State that the funds will be available,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the State Route 219 Widening from West of Dale Road to Morrow Road project, accepts the bid of George Reed, Inc. in the amount of $3,349,138.40, and awards George Reed, Inc. the contract for the State Route 219 Widening from West of Dale Road to Morrow Road project conditioned upon receiving, within 120 days of this action, confirmation that State funding is available for the project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract with George Reed, Inc., in the amount of $3,349,138.40, for the State Route 219 Widening from West of Dale Road to Morrow Road project after the City has received confirmation that State funds are available for the project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of January, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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. 2009-046

Print

A RESOLUTION AMENDING THE FISCAL YEAR 2008-2009 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO PROVIDE FUNDING NECESSARY FOR CONSTRUCTION CONTINGENCIES BY TRANSFERRING FUNDS FROM OBJECT 6040-CONSTRUCTION TO OBJECT 6050-CONTINGENCY IN THE AMOUNT OF $155,214 IN CIP ACCOUNT 2370-430-I1930 "DALE/KIERNAN INTERSECTION IMPROVEMENTS"

WHEREAS, certain budgetary transactions are necessary in the amount of $155,214, in order to provide funding necessary for construction contingencies for the State Route 219 Widening from West of Dale Road to Morrow Road project, and

WHEREAS, the Fiscal Year 2008-2009 Capital Improvement Program budget must be amended by transferring funds from Objects 6040-Construction to Object 6050-Contingency in the amount of $155,214 in CIP Account 2370-430-I1930 "Dale/Kiernan Intersection Improvements."

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2008-2009 Capital Improvement Program budget as shown in **Exhibit A**.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of January, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Marsh, O'Bryant, Olsen, 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

FUND:

Capital Grants-Gas

EXPENDITURES:		Increase/(Decrease)
Dale/Kiernan Intersection Improvements	2370-430-I1930-6040	($155,214)
Dale/Kiernan Intersection Improvements	2370-430-I1930-6050	$155,214

MODESTO CITY COUNCIL
RESOLUTION 2009-047

Print

A RESOLUTION APPROVING THE DEFERRAL OF CAPITAL FACILITIES FEES (CFF) UNTIL ISSUANCE OF ANY CERTIFICATE OF OCCUPANCY FOR A PERIOD OF ONE YEAR, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO ENTER INTO DEFERRED PAYMENT AGREEMENTS AND NOTICE OF LIENS WITH APPLICANTS

WHEREAS, Modesto Municipal Code Section 8-1.206 currently requires Capital Facilities Fees (CFF) to be paid prior to issuance of any building permit, and

WHEREAS, on or about April of 2008, the Building Industry Association of Central California made a request to defer CFF until issuance of Certificate of Occupancy, and

WHEREAS, in June 2008, the Economic Development Committee heard this issue and recommended that CFF be deferred until issuance of any Certificate of Occupancy for a period of one year, and

WHEREAS, the City has determined that it is appropriate to defer payment of CFF for a period of one year, and

WHEREAS, prior to issuance of a building permit, anyone deferring payment of CFF will be required to enter into a deferred payment agreement, and

WHEREAS, a lien will be placed on the property until all CFF is paid, and

WHEREAS, to enter into a deferred payment agreement, an administrative fee must be paid to the City to monitor and ensure that CFF is paid,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the deferral of Capital Facilities Fees (CFF) until issuance of any Certificate of Occupancy, for a period of one year.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to enter into deferred payment agreements and notice of liens with applicants.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of January, 2009, by Councilmember Hawn, 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: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Stephanie Lopez
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: SAlcala Wood
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-048

RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE A FORMAL REQUEST FOR PROPOSAL (RFP) FOR AUDITOR SERVICES FOR THE CITY OF MODESTO FOR A FOUR (4) YEAR AGREEMENT WITH A ONE (1) YEAR OPTION TO EXTEND

WHEREAS, the City of Modesto entered into a contract with Maze & Associates (Maze) on April 1, 2003, to perform its annual financial statement audits, and

WHEREAS, the contract called for Maze to perform audit services for three years, with an option to extend the contract for an additional two years, and

WHEREAS, on May 6, 2008, by Resolution No. 2008-249 the City Council approved an additional one year extension to the contract with Maze so the annual financial audit could be performed for the Fiscal Year ending June 30, 2008, and

WHEREAS, Section 1306 of the Modesto City Charter requires the Council to employ independent auditors to perform the annual financials audits for the City, and

WHEREAS, the Audit Committee, at its January 5, 2009, meeting recommended Council adopt a resolution requesting the Purchasing Manager to issue a Request for Proposal to perform annual financial statement audits for the City of Modesto,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue a formal Request for Proposal for auditor services for the City of Modesto for a four (4) year agreement, with a one (1) year extension option.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of January, 2009, by Councilmember Hawn, who moved its adoption which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-049

A RESOLUTION APPROVING A CITY/COUNTY DISASTER COUNCIL AND THE DECISION MAKING PROCESS, APPOINTING ONE MEMBER OF THE CITY COUNCIL TO SERVE ON THE CITY/COUNTY DISASTER COUNCIL, AND APPOINTING THE FIRE CHIEF, OR HIS DESIGNEE, AS THE EMERGENCY MANAGER FOR THE CITY TO SERVE ON THE OPERATIONAL AREA COUNCIL

WHEREAS, Stanislaus County and the City of Modesto have, in the past, each had separate Disaster Councils, and

WHEREAS, the purpose of the Disaster Council was to oversee the disaster preparedness activities including the preparation of emergency and disaster plans, policies and procedures, and

WHEREAS, Government Code Section 8610 also allows for Disaster Councils to be created that can be a combination of cities and counties for the entire operational area, and

WHEREAS, Government Code Section 8559 defines an operational area as an intermediate level of the state emergency services organization, consisting of a county and all political subdivisions within the county area, and

WHEREAS, the Stanislaus County Board of Supervisors adopted the Stanislaus Operational Area Decision Process for Emergency Planning in April 2008 for the purpose of clarifying memberships, purpose, roles and responsibilities of the Disaster Council and Operational Area Council, and

WHEREAS, this Emergency Planning Decision Process is based upon the FIRESCOPE Decision Process that is the model used by the Federal Government when developing the National Incident Management System (NIMS), and

WHEREAS, benefits to re-establishing and re-defining the Disaster Council include effective use of resources by establishing one Disaster Council instead of 10, maintaining NIMS/SEMS compliance for grant funding and recovery funding after an emergency event/incident, maintaining local control by membership on the single Disaster Council with ultimate approval for city plans remaining with the Modesto City Council, maximum use of resources in planning, preparedness, response and recovery to emergencies in the Operational Area, and access to the public for input, inclusion, collaboration, coordination, and communication,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a City/County Disaster Council and the Decision Making process, the appointment of one member of the City Council to serve on the City/County Disaster Council, and appointment of the Fire Chief, or his designee, as the Emergency Manager for the City to serve on the Operational Area Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of January, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-050

A RESOLUTION APPROVING THE FOURTH AMENDMENT TO THE ON-CALL ENGINEERING SERVICES AGREEMENT WITH CAROLLO ENGINEERS IN THE AMOUNT OF $30,000, FOR A TOTAL AMOUNT NOT TO EXCEED $74,000 FOR FY 2008-09, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE FOURTH AMENDMENT TO THE AGREEMENT

WHEREAS, on January 3, 2006, by Resolution No. 2006-012, the City Council approved an On-Call Engineering Services Agreement with Carollo Engineers (Carollo) in the amount of $44,000 annually for wastewater-specific services, and

WHEREAS, on January 2, 2007, by Resolution No. 2007-034, the City Council approved a First Amendment to the Agreement with Carollo in the amount of $70,000 to pay for additional engineering services, increasing the amount to $114,00 for FY 2006-07, and

WHEREAS, Modesto's Wastewater Treatment Plant is rated as a Class V Facility and is required by the State to have a Chief Plant Operator (CPO) with a Class V certification on staff, and

WHEREAS, due to staffing changes in 2007, it was necessary to contract with Carollo to provide CPO services under the On-Call Engineering Agreement to ensure that the City was in compliance with the Grade V operator requirement, and

WHEREAS, on November 27, 2007, by Resolution No. 2007-705, the City Council approved a Second Amendment to the Agreement with Carollo in the amount of $78,000 for CPO services, increasing the amount to $122,000 for FY 2007-08, and

WHEREAS, on May 27, 2008, by Resolution No. 2008-308, the City Council approved the Third Amendment to the Agreement with Carollo in the amount of $75,000

for continued CPO services, increasing the amount to $197,000 for FY 2007-08, and

WHEREAS, it will be necessary to retain the CPO services of Carollo to maintain compliance with State requirements, and

WHEREAS, the proposed Fourth Amendment provides for continued CPO services through June 2009, increasing the annual agreement amount to $74,000 for FY 2008-09,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Fourth Amendment to the On-Call Engineering Services Agreement with Carollo Engineers in the amount of $30,000, for a total amount not to exceed $74,000 for FY 2008-09.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of January, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-051

A RESOLUTION DECLARING THE INTENTION OF THE CITY COUNCIL TO CONSIDER THE APPLICATIONS FOR NON-EXCLUSIVE NON-CONSENSUAL TOW FRANCHISES, GIVING NOTICE OF THE HEARING ON THE APPLICATIONS, AND DIRECTING THE CITY CLERK TO PUBLISH THE NOTICE, ALL IN ACCORDANCE WITH MODESTO MUNICIPAL CODE SECTION 11-2.01 ET SEQ

WHEREAS, non-consensual tows include, but are not limited to: vehicles towed pursuant to arrest, for investigation of a crime, suspended driver's license, no driver's license, expired registration and violations of various other California Vehicle Code and Modesto Municipal Code sections, and

WHEREAS, in April 2004, Modesto Police Department (MPD) staff began work to improve the non-consensual tow program with several objectives: 1) provide more responsive service; 2) reduce officer and citizen complaints; and 3) offset the growing cost of the program, and

WHEREAS, the Police Department has encountered many problems with the current towing system including safety violations, thefts of personal items in towed/stored vehicles, overcharging, lien sale violations, auto theft, drug arrests, poor service, and rude and inappropriate behavior, and

WHEREAS, the current agreement for tow services has not adequately addressed the needs of the City, and

WHEREAS, establishing a new non-exclusive, non-consensual Franchise Tow Agreement with specific requirements, including tow driver permits and tow truck inspections for which a fee has been established by City Council Resolution No. 2008-

406, will help ensure safe, prompt, reliable and professional service for the Police Department and the citizens of Modesto, and

WHEREAS, California Vehicle Code Section 12110 allows a public entity to charge a fee in connection with the award of a franchise for towing vehicles on behalf of that public entity, in an amount not to exceed actual and reasonable costs incurred in connection with the towing program, and

WHEREAS, as proposed, the franchise tow fee will allow for partial reimbursement of expenses incurred by the Modesto Police Department in connection with the non-consensual towing program,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby declares its intention to consider the applications for Non-Exclusive, Non-Consensual Tow Franchises, giving notice of the hearing on the applications, and directing the City Clerk to publish the notice, all in accordance with Modesto Municipal Code Section 11-2.01, et. seq.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of January, 2009, by Councilmember Marsh, 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:	Hawn, Keating, Lopez, Marsh, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	O'Bryant

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-052

A RESOLUTION APPROVING AN AGREEMENT FOR PROGRAM MANAGEMENT SERVICES FOR THE BUS MAINTENANCE FACILITY WITH RBF CONSULTING IN THE AMOUNT OF $136,265 TO ASSIST IN THE COMPLETION OF DESIGN DOCUMENTS FOR THE PROJECT TITLED, "NEW BUS MAINTENANCE FACILITY," AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on March 28, 2000, the City Council, by Resolution No. 2000-144, approved the design concept of the new Bus Maintenance Facility, and

WHEREAS, on July 2, 2002, the City Council, by Resolution No. 2002-321, approved an agreement with Parsons Brinckerhoff Quade and Douglas, Inc. (PB) for the negotiated price of $610,280 (including fixed fee) to design the new Bus Maintenance Facility, prepare construction documents, and provide support services during bidding and construction, and

WHEREAS, on August 4, 2004, the City Council, by Resolution No. 2004-404, approved an Amendment to the Agreement which increased the total agreement amount to $707,238, and

WHEREAS, the amendment included the design of a canopy to cover eight of the 65 bus parking spaces, a land survey of the site, oversight of the demolition of the buildings on the property purchased for the project, and phasing of the project for construction in two segments, and

WHEREAS, the Transportation Policy Committee reviewed the preliminary design proposal in February 2003, to ensure that the maintenance building met the City's aesthetic requirements, and

WHEREAS, PB proposed horizontal deep rib siding to achieve the desired look, and the Committee approved this design attribute, and

WHEREAS, in 2005, staff conveyed concerns of late notification of change in project scope and increase in fees with PB, and

WHEREAS, these discussions resulted in PB agreeing to an agreement cost reduction, but still required a $350,000 Second Amendment to the Agreement to complete design, and

WHEREAS, in February 2006, Council decided that it was not in the City's best interest to complete the design with PB, and did not approve the Second Amendment to the Agreement, and

WHEREAS, a Request for Qualifications and Proposals was initiated to complete project design, and

WHEREAS, the Request for Qualifications was sent to two hundred (200) engineering and architectural firms, and

WHEREAS, there were three (3) firms that provided Qualification Statements and all three (3) were interviewed, and

WHEREAS, RBF Consulting was chosen as the most qualified since they have completed the design and construction management of various bus maintenance facilities in the area, and

WHEREAS, RBF Consulting has also provided design and construction management assistance for a similar PB designed bus maintenance structure built for the Valley Transit Authority in Santa Clara, California, and

WHEREAS, RBF Consulting is needed for their expertise in bus maintenance facility design and construction, Federal Transit Administration guidelines, and to keep the project moving as an extension of City staff, and

WHEREAS, using outside professional services will enable this project to be completed in a timely manner, and

WHEREAS, City staff recommends an agreement with RBF Consulting as the City does not have the staffing level or subject matter expertise to complete the program management services of the new Bus Maintenance Facility, 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 for Program Management Services of the Bus Maintenance Facility with RBF Consulting in the amount of $136,265, to assist in the completion of design documents for the project titled, "New Bus Maintenance Facility."

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 January, 2009, by Councilmember Hawn, 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: Hawn, Lopez, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: Keating

ABSENT: Councilmembers: O'Bryant

ATTEST: Stephanie Lopez
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SAWood
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-053

A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(589). (RENATA ENTERPRISES)

WHEREAS, a verified application for an amendment to Section 7-3-9 of the Zoning Map was filed by Renata Enterprises on July 14, 2008, to reclassify from General Commercial (C-2), Professional Office (P-O), and Planned Development, P-D(133), to a new Planned Development zone, P-D(589), to allow for a two-phase development consisting of a car wash in phase one, and three options (including professional offices, expansion of adjacent mini-storage, or RV storage) for a future phase two, the property located at 3619 Tully Road, described as follows:

C-2 to P-D(589)

All that certain real property situated in the City of Modesto, County of Stanislaus, State of California, being a portion of the Northeast quarter of Section 7, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, more particularly described as follows:

Commencing at the East quarter corner of Section 7, being also the intersection of the centerlines of Tully Road and Standiford Avenue; thence North 1°14`15" West along the east line of said Section 7, and the centerline of Tully Road, a distance of 567.74 feet to the Point of Beginning for this description; thence South 88°45`45" West, 228.8 feet; thence North 1°14`15" West, 180.0 feet to the north line of Parcel "A" as shown on the map filed in Volume 3 of Parcel Maps at Page 64, Stanislaus County Records; thence North 88°45`45" East along said north line, a distance of 228.8 feet to the centerline of Tully Road; thence returning South 1°14`15" East, along said centerline, a distance of 180.0 feet to the Point of Beginning.

P-O to P-D(589)

All that certain real property situated in the City of Modesto, County of Stanislaus, State of California, being a portion of the Northeast quarter of Section 7, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, more particularly described as follows:

Commencing at the East quarter corner of Section 7, being also the intersection of the centerlines of Tully Road and Standiford Avenue; thence

North 1°14'15" West along the east line of said Section 7, and the centerline of Tully Road, a distance of 497.74 feet to the easterly prolongation of the south line of Parcel "A" as shown on the map filed in Volume 3 of Parcel Maps at Page 64, Stanislaus County Records; thence South 88°45'45" West along said prolongation and said south line of Parcel "A", a distance of 228.8 feet to the Point of Beginning for this description; thence continuing South 88°45'45" West along said south line, a distance of 279.7 feet to the southwest corner thereof; thence North 0°24'59" West along the west line of said Parcel "A" a distance of 250.03 feet to the northwest corner thereof; thence North 88°45'45" East along the north line of said Parcel "A", a distance of 276.12 feet; thence returning South 1°14'15" East, a distance of 250 feet to the Point of Beginning.

P-D(133) to P-D(589)

All that certain real property situated in the City of Modesto, County of Stanislaus, State of California, being a portion of the Northeast quarter of Section 7, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, more particularly described as follows:

Commencing at the East quarter corner of Section 7, being also the intersection of the centerlines of Tully Road and Standiford Avenue; thence North 1°14'15" West along the east line of said Section 7, and the centerline of Tully Road, a distance of 497.74 feet to the easterly prolongation of the south line of Parcel "A" as shown on the map filed in Volume 3 of Parcel Maps at Page 64, Stanislaus County Records, also being the Point of Beginning for this description; thence South 88°45'45" West along said prolongation and south line, 228.8 feet; thence North 1°14'15" West, 70.03 feet; thence North 88°45'45" East, 228.8 feet to the centerline of Tully road; thence returning South 1°14'15" East, along said centerline, a distance of 70.03 feet to the point of Beginning.

WHEREAS, after a public hearing held on December 1, 2008, 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. 2008-47, that rezoning the portion of the property at 3619 Tully Road currently zoned Professional Office (P-O) to a new Planned Development (P-D) Zone is not appropriate at this time without a definite development plan for phase two, and that the rezoning should be limited to the portions of the property at 3619 Tully Road currently zoned General Commercial (C-2) and Planned Development, P-D(133), and

WHEREAS, said matter was set for a public hearing of the City Council to be held on January 27, 2009, 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 Renata Enterprises for a Planned Development Zone should be granted for the entire property as described above, provided that only one of the three options for phase two development be allowed, subject to staff review of the development plan, and that the option allowed shall be RV storage, and the Council also found and determined that the rezone should be granted as consonant with public necessity, convenience, and general welfare for the following reasons:

1. The proposed rezone will eliminate having more than one zoning designation on a single parcel in this location, and it will amend the zoning map such that the boundaries of the existing P-D(133) will correspond to existing property lines; and

2. The proposed rezone will not allow an increase in the intensity of use or development beyond that which is already allowed by the existing zoning of the site; and

3. The recommended Conditions of Approval will ensure the proposed project will comply with all appropriate development standards and be compatible with surrounding land uses.

WHEREAS, the Council has introduced Ordinance No. 3502-C.S. on the 27th day of January, 2009, reclassifying the above-described property at 3619 Tully Road from General Commercial (C-2), Professional Office (P-O), and Planned Development, P-D(133), to Planned Development Zone, P-D(589),

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

1. All development for Phase 1 and Phase 2 shall conform to the plan titled "Development Plan for Renata Plaza" showing the RV storage option for Phase 2, as amended in red and stamped approved by the City Council, provided that prior to issuance of a building permit for any Phase 2 construction, the developer shall submit the necessary plans to obtain Development Plan Review approval of Phase 2 in accordance with Article 30 of the Modesto Municipal Code, Title 10, and all development for Phase 2 shall conform to this subsequent approval.

2. All Phase 1 construction of the carwash, as well as façade improvements to the existing O'Brian's Tavern, also shall conform to the plans and elevations titled "Sparkles Car Wash #2" as amended in red and stamped approved by the City Council.

3. Prior to issuance of a building permit, the developer shall provide, to the satisfaction of the City Attorney and the City Engineer, an Irrevocable Offer of Dedication (IOD) of right-of-way to the City of Modesto for the future widening of Tully Road as shown on the approved plans.

4. Prior to issuance of a building permit, the developer shall, in a manner approved by the City Attorney, provide for a vehicular accessway across the southern property line, as shown in red on the approved plan.

5. Prior to issuance of a building permit, Landscape and Irrigation plans shall be submitted for review and approval by the Parks, Recreation and Neighborhoods Department Director or designee. The approved plans shall provide for each of the following requirements:

    a. Landscape and Irrigation plans shall conform to MMC requirements for parking lot shading (one shade tree per eight stalls for 50% shading in ten years).

    b. Landscape and Irrigation plans shall include appropriate landscaping sufficient to screen the vacuum islands from view from the street to a minimum height of three feet.

6. Prior to Certificate of Occupancy, the landscaping and irrigation system shall be installed in accordance with the approved plans.

7. Prior to issuance of a building permit, the plans shall include decorative lighting fixtures at the vacuum islands equivalent to those provided at the other Sparkles carwash facility at 3941 Coffee Road to the satisfaction of the C&ED Director or designee.

8. Prior to issuance of a building permit, all parking areas shall be designed to incorporate the required 2½ feet of vehicle overhang into the adjacent

landscape/hardscape areas at the head of parking spaces, instead of using separate individual wheel stops, wherever possible.

9. Prior to issuance of a building permit, the improvement plans shall provide for each of the following requirements:

   a. Trash enclosures for the project shall be elevated or bermed to prevent stormwater run-on and graded to drain to adjacent landscape areas.

   b. The pet wash area and self-service carwash bays shall be elevated to prevent run-on of stormwater, and covered and plumbed to sanitary sewer through an approved grease interceptor.

   c. Identified proprietary sand/oil or Fats/Oil/Grease generating waste streams within the development should be plumbed separate, with individual accessible monitoring points, prior to a single connection into the City's wastewater system, to accommodate pretreatment requirements and to provide for suitable monitoring and capture of potential wastewater discharges that impact the system.

10. Prior to issuance of a building permit, the developer shall obtain coverage for the project under the General Construction Activity Storm Water Permit (General Permit) issued by the State Water Resources Control Board (SWRCB), as follows:

   a. To obtain coverage under the General Permit, a Notice of Intent (NOI) shall be filed with the SWRCB. Submit one copy of the NOI to Land Development Engineering (LDE), Stormwater, when filed.

   b. Upon receipt of the NOI, the SWRCB will issue a Waste Discharge Identification (WDID) number to the construction project. Submit one copy of the WDID number to LDE, Stormwater.

   c. The General Permit requires the developer to prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) for the project. Submit one copy of the SWPPP to LDE, Stormwater, for review.

11. Prior to issuance of a grading or building permit, developer shall provide an owner-signed and notarized Stormwater Treatment Device Access and Maintenance Agreement to LDE, Stormwater, for recording.

12. Prior to issuance of a grading or building permit, development plans shall provide for permanent, post-construction treatment (Stormfilters by Contech) to remove pollutants from the first ½" of stormwater run-off from the site, with calculations for sizing of Stormfilters submitted to Land Development Engineering (LDE) for review and approval.

13. Prior to issuance of a building permit, the proposed drainage pond shall be designed to meet the requirements in the City of Modesto Guidance Manual for New Development Stormwater Quality Control Measures.

14. Prior to issuance of a building permit, on-site storm drainage facilities shall be designed to contain the volume of a 100-year, 24-hour storm event (R=2.88") completely on site and percolated within 48 hours. (Project is located within a rockwell area of the City of Modesto)

15. Prior to issuance of a building permit, developer shall pay any applicable water/sewer and plan-check fees to the City of Modesto.

16. Prior to any work within the public right-of-way, the developer shall obtain an Encroachment Permit.

17. Prior to issuance of a building permit or an encroachment permit, the improvement plans shall be designed to current City of Modesto Standard Specifications and prepared, stamped and signed by a California Registered Civil Engineer, acceptable to the City Engineer.

18. Prior to issuance of a building permit or encroachment permit, the southern driveway shall be designed to the satisfaction of the City Engineer, Traffic Engineer, and Fire Marshall. The design of the southern driveway shall not interfere in any way with the use of the easement area established by and for the purpose set forth in the "Reciprocal Easement for Access Agreement", recorded September 30, 2003, as Instrument No. 2003-0167266-00, Official Records of Stanislaus County.

19. Prior to issuance of an encroachment permit, the northern driveway shall be designed as drop-curb type with a minimum width of 30 feet at the property line after street right-of-way dedication.

20. Prior to the City Engineer signing the improvement plans, all required easements, dedications, and Irrevocable Offers of Dedication (IOD) to the City of Modesto shall be recorded to the satisfaction of the City Engineer.

21. Prior to issuance of a building permit, the developer shall dedicate public utility easements as required by the utility companies, Modesto Irrigation District (MID), and the City Engineer or designee. The approved improvement plans shall provide for the following requirements:

    a. All existing underground and aboveground utilities, irrigation and electrical lines shall be removed, relocated, or protected as required by the respective utility company, Modesto Irrigation District (MID), and/or the City Engineer or designee.

    b. If any construction activity is proposed along the rear (west) property line of the subject property, the relevant improvement plans shall be submitted to the MID Irrigation Engineering Dept for review, and if deemed necessary in conjunction with any such

work, the existing abandoned-in-place concrete irrigation pipeline which is located along this property line (as noted on 28-PM-6) shall be sand slurry filled or removed to the satisfaction of the Modesto Irrigation District and the City Engineer.

22. Prior to the issuance of a building permit, all existing and proposed fire hydrants, Fire Department Connections (FDC), check-valves, and the size and location of underground fire mains shall be shown on the plans. Approved plans shall provide for the following requirements:

    a. An approved automatic fire sprinkler system shall be required for all new construction exceeding 5,000 SF of floor area under one roof.

    b. Fire hydrant spacing and distribution for these projects is 300 feet on center.

    c. FDC shall be accessible from a fire access roadway or public street and located within 90 feet of a fire hydrant.

    d. Fire Department access lanes shall be 20 feet unobstructed width and shall afford a minimum inside turning radius of 25 feet with an outside radius of 45 feet.

23. Prior to Certificate of Occupancy, all required fire lanes shall be identified and marked as follows:

    a. With approved signs posted along roadways every 25 feet, or

    b. Curbs shall be painted red and the words, in 6-inch high block letters, "FIRE LANE, NO PARKING" shall be stenciled in white every 25 feet.

24. Prior to certificate of occupancy, all damaged or deteriorated curb, gutter, sidewalk, and other existing public improvements at the project site shall be repaired or replaced as required for the public health and safety as determined by the City Engineer or designee in accordance with City of Modesto Standard Specifications.

25. Prior to certificate of occupancy, all exterior lighting shall be shielded from adjacent residential properties as required by the City Engineer.

26. Signs shall be allowed in accordance with the requirements of the C-3 zone, subject to compliance with the Design Guidelines for Commercial and Industrial Development, adopted September 12, 2006.

27. All landscaping, irrigation systems, fences and walls shall be maintained, and the premises shall be kept free of weeds, trash, and other debris, and all exposed wall surfaces shall be kept free of graffiti.

28. The property owner and developer shall, at their sole expense, defend, indemnify and hold harmless the City of Modesto, its agents, officers,

directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of attorneys' fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include but is not limited to any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Modesto shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense.

In addition, the following recommended Conditions of Approval are mitigation measures from the Modesto Urban Area General Plan Master Environmental Impact Report that should be applied to the project:

29. 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.

30. 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.

31. Within urban areas, track-out shall be immediately removed when it extends 50 feet or more from the site and at the end of each workday.

32. The developer shall implement measures to prevent carryout or trackout that may otherwise occur in conjunction with construction activities.

33. 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.

34. 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.

35. Following the addition of materials to, or the removal of materials from, the surface of any outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.

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

engine." Construction equipment and vehicles should be equipped with properly operating mufflers according to manufacturers recommendation. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

37. The noise ordinance prohibits also the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (or before 9:00 a.m. or after 9:00 p.m. on Saturdays and Sundays and State or Federal holidays):

a. A hammer or any other device or implement used to pound or strike an object.

b. An impact wrench or any other tool or equipment powered by compressed air.

c. A hand-powered saw.

d. Any tool or piece of equipment powered by an internal combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.

e. Any electrically powered (whether by alternating current or direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.

f. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, backhoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

g. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.

h. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment

should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

38. If archeological resources are discovered at any time during construction, all activity shall cease until the site is surveyed by a qualified archeologist. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria presented in Appendix K of the MEIR.

39. The developer shall implement pre- and post-construction best management practices (BMPs) to minimize pollutants entering the storm system.

SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(589):

Phase 1: construction to begin on or before two years from the date of approval, and completion to be not later than three years from the date of approval.

Phase 2: construction to begin on or before three years from the date of approval, and completion to be not later than four years from the date of approval.

SECTION 3. CHANGES IN DEVELOPMENT PLAN. Any changes in the above approved development plan shall be made in accordance with the provisions of Section 10-2.1709 of the Modesto Municipal Code.

SECTION 4. COMPLIANCE WITH CODE PROVISIONS, ETC. In all other respects said planned development shall be accomplished in accordance with and in strict adherence to the provisions of Article 17 of Title 10 of the Modesto Municipal Code relating to Planned Development Zones and other applicable City laws, rules, regulations and procedures.

SECTION 5. EFFECTIVE DATE. This resolution shall not become effective unless and until the ordinance reclassifying the above-described property to Planned Development Zone, P-D(589), becomes effective.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of January, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

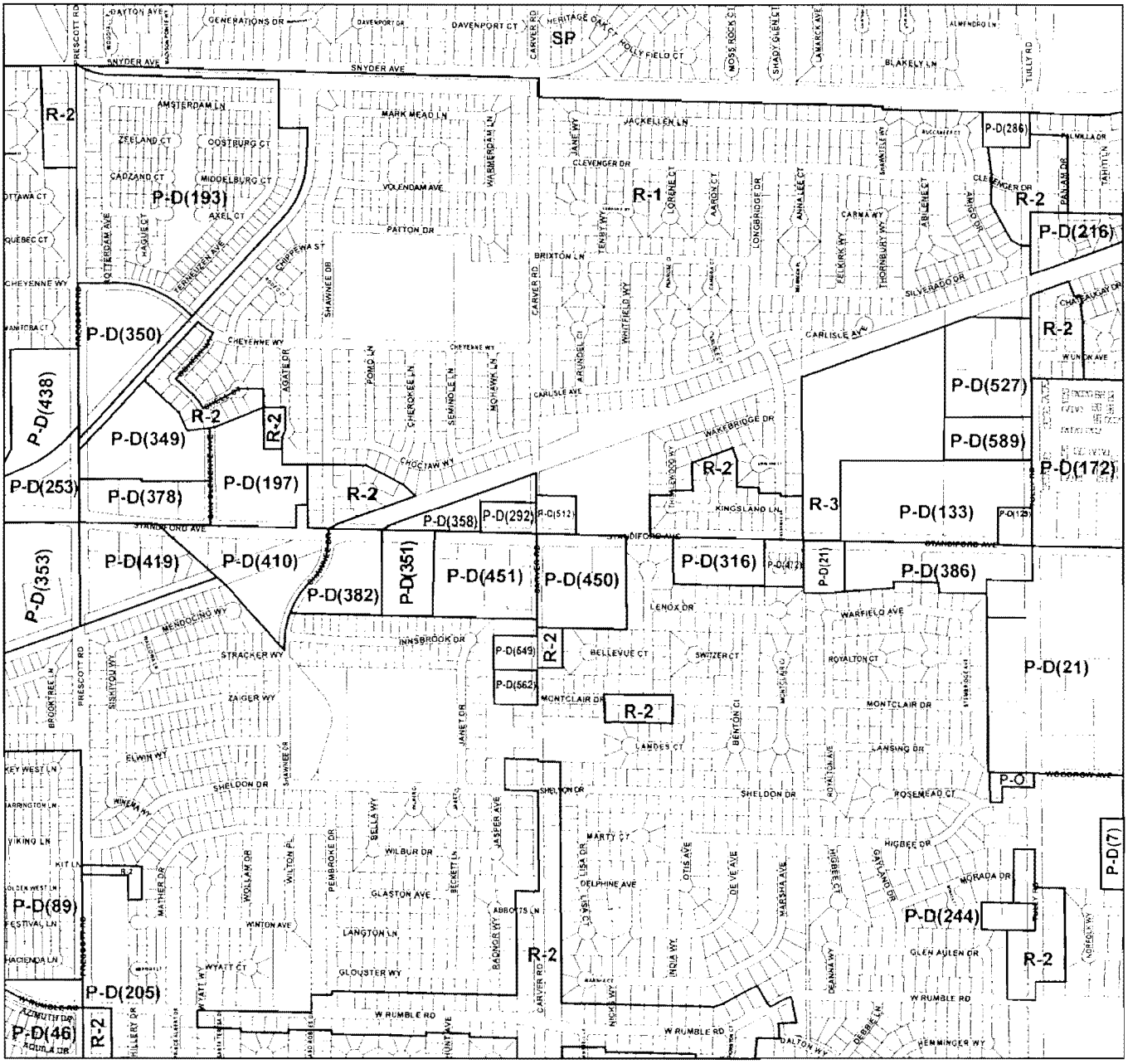
(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO LEGAL DESCRIPTION

By Steve Mitchell for PK
Community & Economic Development Department
Planning Division



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February 13, 2009

City of Modesto Zoning Map

7-3-9

Ordinance No. 3502-C.S.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-054

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 2007072023): AMENDING SECTION 7-3-9 OF THE ZONING MAP TO REZONE FROM GENERAL COMMERCIAL, C-2, PROFESSIONAL OFFICE, P-O, AND PLANNED DEVELOPMENT, P-D(133), TO PLANNED DEVELOPMENT ZONE, P-D(589), PROPERTY LOCATED AT 3619 TULLY ROAD. (RENATA ENTERPRISES)

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, Renata Enterprises has proposed that the zoning designation for the property located at 3619 Tully Road be amended to rezone from General Commercial Zone, C-2, Professional Office Zone, P-O, and Planned Development Zone, P-D(133), to Planned Development Zone, P-D(589), and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for a Master EIR, states that the lead agency shall prepare an Initial Study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the master environmental impact report and whether the subsequent project was described in the master environmental impact report as being within the scope of the project, and

WHEREAS, the City's Community & Economic Development Department by Environmental Assessment Initial Study EA/C&ED 2008-40 ("Initial Study") reviewed the proposed amendment to the Zoning Map and Planned Development to determine whether the project is within the scope of the project covered by the Modesto Urban Area

General Plan Master EIR ("Master EIR"), and concluded that the proposed project is within the scope of the Master EIR and will have no additional significant effect on the environment that was not identified in the Master EIR, and further, that no new additional mitigation measures or alternatives are required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines, beginning on January 7, 2009 the City caused to be published a 20-day notice of the City's intent to make a finding that the proposed project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on January 27, 2009, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed rezone to Planned Development Zone, P-D(589), a copy of which is **attached** hereto as **Exhibit "A"**, and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. That the proposed project is contemplated and described in the Master EIR (SCH No. 2007072023) as being within the scope of the Master EIR.

2. That the project will have no new significant effects on the environment not identified or examined in the Master EIR, and no new or additional mitigation measures are required.

3. That, as per Section 21157.1 of the Public Resources Code, no new environmental document or findings are required by the California Environmental Quality Act (CEQA).

4. That there are no specific features which are unique to the proposed project that require project specific mitigation measures. Accordingly, the certified mitigation measures identified in the Master EIR will be sufficient for this project.

5. That all feasible mitigation measures set forth in the Master EIR which are appropriate to the project shall be incorporated in the project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of January, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

Initial Study

EA/C&ED 2008-40

City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study Environmental Checklist C&ED No. 2008-40

For the proposed:

Planned Development

Application No. PDZ-08-003
(Renata Enterprises, applicant)

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

November 4, 2008

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 **Planned Development PDZ-08-003** 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: Planned Development, P-PDZ-08-003

B. Address or Location: 3619 Tully Road, Modesto, CA

C. Applicant: Renee Ellis, Renata Enterprises, 3719 Tully Road, Modesto, CA

D. City Contact Person: Philip Reed, Associate Planner

Project Manager: Philip Reed, Associate Planner
Department: Community & Economic Development Department
E-mail address: preed@modestogov.com
Phone Number: 209-577-5267

E. Current General Plan Designation(s): Mixed Use (MU)

F. Current Zoning Classification(s): C-2, P-O, and P-D(133)

G. Surrounding Land Uses:

North:	P-D(527)	— Self-storage mini-warehouse complex
South:	P-D(133)	— Retail commercial center, "Frontier Town"
East:	P-D(172)	— Residential, condominium development
West:	R-3 zone	— Residential, mobile home park

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 consists of rezoning to a new Planned Development (P-D) zone to allow a two-phase development on 2.62 acres. Phase 1 consists of a self-serve car wash to be developed on the front half of the property. An existing restaurant/bar on the site will be retained and incorporated into the Phase 1 development plan. Phase 2 consists of three options for future development on the rear half of the property: a professional office development of approximately 18,000 square feet in three buildings; an expansion of the adjacent existing self-storage facility from the north, with approximately 26,000 square feet in two buildings; or an RV storage facility, possibly only as an interim use.

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.

Signed, Orignal copy on file in CEDD

Project Manager	Title	Date

4. Within the Scope Analysis of this Document:

The Master EIR permits projects to be found within the scope of the MEIR if certain criteria are met. 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.	☒	☐
(2)	City policies which reduce, avoid, or mitigate environmental effects will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template.	☒	☐
(3)	Federal, State, regional, and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (that is, would not offer the same level of protection assumed under the MEIR).	☒	☐
(4)	No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	☒	☐
(5)	The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.	☒	☐
(6)	Development within the project will comply with all appropriate mitigation measures contained and enumerated in the General Plan Master EIR.	☒	☐

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed sections 1 through 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 discussed.

		YES	NO
(1)	Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.	☒	☐
(2)	This project 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.	☒	☐
(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.	☒	☐
(c)	Policies remain in place that require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development.	☒	☐

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, 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 MEIR.

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 MEIR.

The environmental impact analysis in the MEIR 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 MEIR. 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 identified the following significant and unavoidable traffic and circulation impacts:

Effect: Increased traffic will result in certain roadway segments operating at LOS D or worse.

Effect: The Substantial increase in traffic relative to the existing load and capacity of the street system will cause, violation, either individually or cumulatively, of an LOS standard established by the County CMP for designated roads and highways.

Effect: Creation of need for Capacity-enhancing modifications to existing facilities.

Effect: Increase in energy consumption associated with the operation of highway projects, rail improvements, and aviation facilities.

Effect: Severe contrast with existing neighborhood or area character caused by highway and transit projects.

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

Traffic and Circulation mitigation measures that are pertinent to this project are found on MEIR pages V-1-15 through V-1-21. All feasible measures appropriate to the project – including any new measures - will be incorporated into or made conditions of approval of this project and will be listed in Section V, Mitigation Measures Applied to Project.

Discussion:

The appropriate mitigation to be applied to this project includes none from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

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

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

		YES	NO
(1)	The project exceeds the Master EIR's traffic generation assumptions for this site and City Engineering and Transportation staff has determined that the project would have additional project-specific effects that are not avoided or reduced by the Master EIR's program of mitigation measures.	☐	☒
(2)	Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).	☐	☒
(3)	Result in inadequate emergency access.	☐	☒
(4)	Result in inadequate parking capacity.	☐	☒

Discussion:

(1) Traffic Engineering staff has reviewed the project and determined that the project is within the scope of the Master EIR and that no further traffic study is required.

(2) The project will not substantially increase hazards due to a design feature (for example, sharp curves or dangerous intersections) or incompatible uses.

(3) Police and Fire staff have reviewed this proposal. The project will not result in, cause, or provide inadequate emergency access.

(4) The project has been evaluated for compliance to the City of Modesto Parking regulations. The project will provide all required parking on site in compliance with both City standards and ADA (Americans with Disability Act) standards.

2. DEGRADATION OF AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to air quality:

Effect: Projected traffic levels will result in increased ambient carbon monoxide (CO) levels in the project area. This is a significant and unavoidable impact.

Effect: Projected traffic levels will result in increased ROG and NOX levels in the project area. This is a significant and unavoidable impact.

These are also cumulative impacts on air quality.

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

Air Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-2-11 through V-2-18 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes AQ-17 from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-2.B of the MEIR provides analysis of Air Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) adopted CEQA Guidelines.	☐	☒
(2)	The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD.	☐	☒
(3)	The project does not comply with the air quality policies of the Modesto Urban Area General Plan.	☐	☒
(4)	The project would expose sensitive receptors to substantial pollutant concentrations.	☐	☒
(5)	The proposed project would create objectionable odors affecting a substantial number of people.	☐	☒

Discussion:

(1) The project was referred to the San Joaquin Valley Unified Air Pollution Control District who determined that the project would not exceed their Thresholds of Significance for these emissions.

(2) This project incorporates the best management practices for PM10 reduction established by the SJVUAPD (see mitigation measures above).

(3) Applicable General Plan Policies will be applied to the project; therefore, project-specific effects will be less than significant for this impact (see mitigation measures above).

(4) The 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) The proposed project will not produce objectionable odors.

3. GENERATION OF NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable environmental impacts relative to noise:

Effect: Traffic noise levels for future conditions in the plan area have the potential to result in exceedances of the City's Noise Significance Standards (see Table 3-3 of the MEIR).

Effect: Noise level projections based on the traffic levels anticipated in the General Plan indicate that noise will exceed the City's General Plan and noise ordinance standards.

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

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-10 through V-3-15 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. and any new measures are listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes N-4, N-5, N-6, and N-9 from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-3.B of the MEIR provides analysis of noise impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	☐	☒
(2)	The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.	☐	☒

(3) The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? ☐ ☒

(4) The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project. ☐ ☒

Discussion:

(1) The City's noise policy is incorporated into conditions of approval as mitigations.

(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 identified the following significant environmental impacts relative to agricultural lands:

Effect: Development within the urbanized Baseline Developed Area and Redevelopment Area will have a less-than-significant impact on agricultural lands.

Effect: Conversion of agricultural land will occur as available developable land is occupied within the City. This is a significant and unavoidable impact.

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County. This is a significant and unavoidable cumulative impact.

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

Agricultural Land mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-4-7 and V-4-8 of the MEIR. All feasible measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes none from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-4.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project will directly result in the development of land outside the March 2003 planning area boundaries.	☐	☒
(3)	The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract.	☐	☒
(4)	The project will Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use.	☐	☒

Discussion:

(1) The proposed project is consistent with the City of Modesto Urban Area General Plan, because the project site is located within a Mixed Use area which accommodates the type of development proposed, and it does not represent an increase in intensity of use or development beyond that which is already allowed by the existing zoning of the site.

(2) The project is located 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 located within the Baseline Developed Area and is completely surrounded by developed urban area.

5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to water supply:

Effect: Urban Area General Plan policies are established to limit groundwater extractions to the safe yield of the aquifer and thereby avoid aquifer over drafting. In addition, the UWMP

requires that new urban development would proceed in conjunction with the availability of water supplies and distribution facilities. It is assumed that increased entitlement of surface water supplies such as a water transfer from another water purveyor would undergo independent environmental review pursuant to CEQA. This is a less-than-significant impact.

Effect: Development to the future projected City population would require expansion of the MRWTP to its full 60 mgd capacity, development of additional groundwater wells, and construction of additional water distribution and treatment facilities. Construction of some of the required facilities would most likely require site-specific environmental impact assessments to be conducted under CEQA. Consequently, the potential environmental impacts of the Urban Area General Plan are considered less than significant.

Effect: During drought years, despite available options, significant water shortages are forecast for the San Joaquin River basin by the year 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions. This is a significant and unavoidable cumulative impact.

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

Water Supply mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-5-7 through V-5-8 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes none from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-5.B of the MEIR provides analysis of Water Supply impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed.	☐	☒

Discussion:

(1) The proposed project is consistent with the City of Modesto Urban Area General Plan, because the project site is located within a Mixed Use area which accommodates the type of development proposed, and it does not represent an increase in intensity of use or development beyond that which is already allowed by the existing zoning of the site.

(2) The project is within the scope of the Modesto Urban Area General Plan and will not generate demands beyond that already anticipated for the area. Public Works staff evaluated the project and determined that adequate capacity exists to serve the project.

6. INCREASED DEMAND FOR SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sanitary sewer services:

Effect: The City has already begun to implement the provisions of the Wastewater Master Plan (WMP) to meet future demand for sanitary sewer services. As City wastewater treatment facilities are expanded to meet the needs of the Baseline Developed, Redevelopment, and Planned Urbanizing Areas, the City will obtain the necessary wastewater discharge and NPDES permits from the Central Valley RWQCB, as required under Urban Area General Plan Policy V-D.2(a). Implementing the WMP, requirement of Best Management Practices for post-construction activities, as well as the Urban Area General Plan policy cited above, will avoid violation of wastewater discharge requirements. As a result, this impact would be less than significant.

Effect: The City has adopted the WMP specifically to ensure that sewer capacity will match the level of growth projected by the Urban Area General Plan. Development within the Baseline Developed and the Planned Urbanizing Areas that is consistent with the Urban Area General Plan will not have a significant effect on capacity. Urban Area General Plan Policy III-D.1(d) will ensure that development in the Planned Urbanizing Area will fund the necessary improvements. This is a less-than-significant impact.

Note on the WMP Master EIR. The WMP Master EIR identified a number of impacts and mitigation measures. Its mitigation measures have been adopted by the City and are being implemented by the City under the WMP. Those impacts are being independently addressed under that Master EIR and do not need to be considered under this Initial Study. Refer to the WMP Master EIR for details.

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

Sewer Service mitigation measure(s) pertinent to the project being analyzed in this Initial Study. are found on pages V-6-4 through V-6-7 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes none from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-6.B of the MEIR provides analysis of Sanitary Sewer Service impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	☐	☒

Discussion:

(1) The proposed project is consistent with the City of Modesto Urban Area General Plan, because the project site is located within a Mixed Use area which accommodates the type of development proposed, and it does not represent an increase in intensity of use or development beyond that which is already allowed by the existing zoning of the site.

(2) The project is within the scope of the Modesto Urban Area General Plan and will not generate demands beyond that already anticipated for the area. Public Works staff evaluated the project and determined that adequate pipe capacity and wastewater treatment plant capacity exists to serve the project.

7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sensitive wildlife and plant habitat:

Effect: Although many sensitive species live in riparian habitats within the planning area, the policies of the plan will ensure that impacts of the Urban Area General Plan will be less than significant.

Effect: Requiring higher residential density than the suburban norm and a compact pattern of growth within the designated planning area to the year 2025 will minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

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

Wildlife and Plant Habitat mitigation measure pertinent to the project being analyzed in this Initial Study are found on pages V-7-19 through V-7-21. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes none from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-7.B of the MEIR provides analysis of Wildlife and Plant Habitat impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species.	☐	☒
(3)	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	☐	☒

Discussion:

(1) The proposed project is consistent with the City of Modesto Urban Area General Plan, because the project site is located within a Mixed Use area which accommodates the type of development proposed, and it does not represent an increase in intensity of use or development beyond that which is already allowed by the existing zoning of the site.

(2) 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 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 identified the following significant environmental impacts relative to archaeological or historical sites:

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.

Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

Effect: The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions

such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. This would be a less-than-significant impact with the imposition of new mitigation measure Cultural-1.

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

Archaeological or Historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-13 and V-8-14 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes AH-9 and AH-12 from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-8.B of the MEIR provides analysis of Archaeological/Historical impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site.	☐	☒

Discussion:

(1) The proposed project is consistent with the City of Modesto Urban Area General Plan, because the project site is located within a Mixed Use area which accommodates the type of development proposed, and it does not represent an increase in intensity of use or development beyond that which is already allowed by the existing zoning of the site.

(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.

9. INCREASED DEMAND FOR STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to storm drainage:

Effect: The potential impacts on storm water drainage that could occur from the project were qualitatively evaluated with respect to several factors including: extent of the projected increase in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions; regulatory criteria and guidelines; and professional judgment. Because the Urban Area General Plan includes policies that require new development in all three sections of the planning area to install approved drainage facilities, the potential impacts of the Urban Area General Plan on storm water drainage are considered less than significant.

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

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

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes SD-7 from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-9.B of the MEIR provides analysis of Storm Drainage impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite.	☐	☒
(3)	Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	☒

Discussion:

(1) The proposed project is consistent with the City of Modesto Urban Area General Plan, because the project site is located within a Mixed Use area which accommodates the type of development proposed, and it does not represent an increase in intensity of use or development beyond that which is already allowed by the existing zoning of the site.

(2) The project proposes to increase the impervious surface. However, it will be designed to 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. With the application of the appropriate mitigation, the effect will be less than significant.

(3) The project will contribute additional water runoff. However, with the application of the mitigation measures called for in the conditions of approval for the project, the effect will be less than significant.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to flooding and water quality:

Effect: Increased runoff can accelerate soil erosion, stream channel scouring, and sedimentation of channels, and also increase pollutant transport to waterways. The potential impacts of the project on flooding are considered less than significant because the Urban Area General Plan Update includes policies to restrict development in the floodplain and therefore would avoid exposing persons and property to flood hazards. In addition, new development under the Urban Area General Plan is required to install storm water drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions.

Effect: The potential impacts of the project on surface-water quality are considered less than significant because the City policies and capital improvement projects for storm water drainage facilities would minimize discharges of urban pollutants to natural waterways. The City drainage program policies require new development to prepare drainage plans and implement urban runoff control measures; larger Specific Plan developments must have storm drainage systems designed to control pollutant runoff. The City's implementation policies for the municipal NPDES storm water permit require new development to implement an appropriate selection of permanent pollution control measures. Permanent erosion control measures such as seeding and planting vegetation for new cut-and-fill slopes, directing runoff through vegetation, or otherwise reducing the offsite discharge of particulates and sediment are the most effective method of controlling offsite discharges of urban pollutants.

Effect: The City's future development will contribute to cumulative water quality effects. EPA regulations for NPDES storm water permits and new proposed regulatory additions to the rules have become much more comprehensive in recent years and are being implemented to reduce pollutant runoff from both large- and small-scale activities. Implementation of NPDES-permitting programs throughout the county will reduce potential water-quality impacts to a less-than-significant level.

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

Flooding and Water Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-10-7 through V-10-10 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes FWQ-14 from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

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

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	☐	☒
(3)	The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures.	☐	☒
(4)	The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	☒

Discussion:

(1) The proposed project is consistent with the City of Modesto Urban Area General Plan, because the project site is located within a Mixed Use area which accommodates the type of development proposed, and it does not represent an increase in intensity of use or development beyond that which is already allowed by the existing zoning of the site.

(2) The proposed project would comply with the Federal Clean Water Act and the Porter Cologne Act requirements.

(3) Mitigation Measures called for by FWQ-14 will be applied to the proposed project so that it will comply with the Guidance Manual for New Development Storm Water Quality Control Measures.

(4) The project would not create or contribute to runoff water in excess of the capacity of existing or planned storm water drainage systems or provide additional sources of polluted runoff. The appropriate mitigation measures will be applied to the project.

11. INCREASED DEMAND FOR PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to parks and open space:

Effect: Within the Baseline Developed and Redevelopment Areas, the Urban Area General Plan does not propose any elimination of existing park and/or open space land. Impacts on parks and open space will be less than significant.

Effect: The projected population of the Planned Urbanizing Area is 148,600, requiring 149 acres of neighborhood parks and 298 acres of community parks. The required minimum acreages can be met through the application of existing policies and regulations, including Government Code Section 66474, which require developers to pay Parks Capital Facilities Fees to fund the acquisition of appropriate parkland acreage. This impact is less than significant.

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

Parks and Open Space Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-11-4 through V-11-19 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project. are listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes none from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-11.B of the MEIR provides analysis of Parks and Recreation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒

Discussion:

(1) The proposed project is consistent with the City of Modesto Urban Area General Plan, because the project site is located within a Mixed Use area which accommodates the type of development proposed, and it does not represent an increase in intensity of use or development beyond that which is already allowed by the existing zoning of the site.

12. INCREASED DEMAND FOR SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to schools:

Effect: The estimated increase in population over 1994/1995 would generate an additional 29,200 elementary school students, 7,330 middle school students, and 14,640 high school students above those enrollments. Assuming that existing facilities cannot sufficiently accommodate this increase and that all of the new students would require new school facilities, build out of the General Plan would result in the need for approximately 37 elementary schools, 8 middle schools, and 7 high schools beyond 1994/1995 levels. This would result in a significant impact on schools in that it would exceed current capacity. By statute, this impact is considered to be mitigated below a level of significance by payment of school impact fees and exercise of any or all of the financing options set out in Government Code Section 65997.

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan.). As long as all anticipated subsequent projects apply these policies, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995). The proposed additional school policy will address the situation that would arise should AB 50 be repealed. It will authorize impact fees or other methods to finance additional school facilities.

The following schools mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See pages V-12-4 through V-12-7 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes none from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-12.B of the MEIR provides analysis of Schools impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which provide that compliance results in less-than-significant impacts on schools.	☐	☒

Discussion:

(1) The proposed project is consistent with the City of Modesto Urban Area General Plan, because the project site is located within a Mixed Use area which accommodates the type of development proposed, and it does not represent an increase in intensity of use or development beyond that which is already allowed by the existing zoning of the site.

(2) The project was referred to Modesto City Schools who indicated no opposition to the project. The project includes no residential student-gathering component.

13. INCREASED DEMAND FOR POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to police services:

Effect: The 1995 Master EIR identified two impacts on the demand for police services; however, it concluded that no significant impact, based on the mitigation measures identified in the 1995 Master EIR, would occur. Those mitigation measures are now policies of the Urban Area General Plan. The impact is less than significant.

Effect: Within the Planned Urbanizing Area, complying with the Urban Area General Plan policies, particularly the policy that requires a long-range financing strategy for each Comprehensive Plan Area, will allow the City to provide the resources necessary to extend service to the newly growing Planned Urbanizing areas. These policies reduce the impact to a less-than-significant level.

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

Police Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-13-3 and V-13-4 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes none from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-13.B of the MEIR provides analysis of police services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	☒

Discussion:

(1) The proposed project is consistent with the City of Modesto Urban Area General Plan, because the project site is located within a Mixed Use area which accommodates the type of development proposed, and it does not represent an increase in intensity of use or development beyond that which is already allowed by the existing zoning of the site.

(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 identified the following significant environmental impacts relative to fire services:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. Impacts on fire services of development in these areas will be less than significant.

Effect: In the Planned Urbanizing Area, the Urban Area General Plan would result in the need for additional fire protection services due to increases in the number of employees, permanent population, and associated improvements. City policy requires that fire protection be in place concurrent with construction in the Planned Urbanizing Area. This policy will be implemented with the adoption of future Comprehensive Plans in the Planned Urbanizing Area. This impact would be less than significant.

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-3 through V-14-5 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project. are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes none from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-14.B of the MEIR provides analysis of fire services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	☒

Discussion:

(1) The proposed project is consistent with the City of Modesto Urban Area General Plan, because the project site is located within a Mixed Use area which accommodates the type of development proposed, and it does not represent an increase in intensity of use or development beyond that which is already allowed by the existing zoning of the site.

(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 identified the following significant environmental impacts relative to solid waste:

Effect: It is projected that by 2025, the City will have generated and disposed of 1.5 million tons of solid waste in a landfill. Stanislaus County and its other cities are projected to generate another 3.3 million tons by 2025, for a total of 4.8 million tons requiring disposal. This total takes into consideration current diversion rates and use of the Stanislaus Resource Recovery Facility (SRRF) waste-to-energy facility for the majority of solid waste that is not source reduced, recycled, or composted. At the current loading rate, the Fink Road Landfill has a remaining life of 41 years. This landfill's remaining capacity of 6 million tons can accommodate the projected cumulative total of 4.8 million tons, and some of this total may go to other landfills. Since continued development under the Urban Area General Plan would not exceed the existing landfill capacity, and a 129-acre future expansion of the landfill has been approved, the General Plan's potential impact on solid waste disposal is considered less than significant.

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

Solid Waste Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study. are found on pages V-15-5 and V-15-6 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes none from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-15.B of the MEIR provides analysis of solid waste impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity.	☐	☒

Discussion:

(1) The proposed project is consistent with the City of Modesto Urban Area General Plan, because the project site is located within a Mixed Use area which accommodates the type of development proposed, and it does not represent an increase in intensity of use or development beyond that which is already allowed by the existing zoning of the site.

(2) The proposed project was referred to the City's Solid Waste Division and the County for review, and there was no indication of a problem in serving the project.

16. GENERATION OF HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to hazardous materials:

Effect: The impacts of the project relative to hazardous materials are less than significant, based on the existing regulatory framework. New development will be required to comply with regulations monitoring and controlling the handling and use of hazardous and toxic materials.

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under federal, state and county policies and regulations, and the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Hazardous Materials Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-16-9 through V-16-12 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes none from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-16.B of the MEIR provides analysis of hazardous materials impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The 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.	☐	☒
(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.	☐	☒
(4)	The proposed project would be constructed on a contaminated site not known to the State of California as of March 2008.	☐	☒

Discussion:

(1) The proposed project is consistent with the City of Modesto Urban Area General Plan, because the project site is located within a Mixed Use area which accommodates the type of development proposed, and it does not represent an increase in intensity of use or development beyond that which is already allowed by the existing zoning of the site.

(2) The proposed project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.

(3) 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.

(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 identified the following significant environmental impacts relative to landslides and seismic activity:

Effect: There are areas of known sand and gravel resources within the Baseline Developed Area and Redevelopment Area. Future development will be subject to SMARA requirements, therefore, the project impact will be less than significant.

Effect: There are areas of known sand and gravel resources within the Planned Urbanizing Area. Future development will be subject to SMARA requirements, therefore, the project impact will be less than significant.

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Landslide and Seismic Activity Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-17-6 and V-17-7 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes none from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-17.B of the MEIR provides analysis of landslides and seismic impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.	☐	☒

Discussion:

(1) The proposed project is consistent with the City of Modesto Urban Area General Plan, because the project site is located within a Mixed Use area which accommodates the type of development proposed, and it does not represent an increase in intensity of use or development beyond that which is already allowed by the existing zoning of the site.

(2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to energy:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less than significant.

Effect: Build out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kilowatt hours (kwh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation, which ensures that the project will not exceed local, state, and federal energy standards. The impact is less than significant.

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

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes none from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-18.B of the MEIR provides analysis of energy impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒

Discussion:

(1) The proposed project is consistent with the City of Modesto Urban Area General Plan, because the project site is located within a Mixed Use area which accommodates the type of development proposed, and it does not represent an increase in intensity of use or development beyond that which is already allowed by the existing zoning of the site.

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:

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.

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 MEIR, and no new or additional mitigation measures or alternatives are required.

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:

		YES	NO
(1)	The proposed project is inconsistent with policies relating to visual resources in the Urban Area General Plan.	☐	☒
(2)	The proposed project would degrade views from riverside areas and parks to a greater degree than assumed in the Urban Area General Plan.	☐	☒
(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.	☐	☒

Discussion:

(1) The proposed project is not inconsistent with policies relating to visual resources in the Urban Area General Plan.

(2) The proposed project is not located within view from any riverside areas or parks.

(3) The proposed project is not located where it could affect the view of any riverside areas or parks from public 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:

Effect: No residual significant direct or 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 MEIR, and no new or additional mitigation measures or alternatives are required.

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:

		YES	NO
(1)	The proposed project is inconsistent with land use and planning policies in the Urban Area General Plan.	☐	☒
(2)	The proposed project would physically divide an established community in a way not assumed in the Urban Area General Plan.	☐	☒
(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.	☐	☒
(4)	The proposed project conflicts with an applicable habitat conservation plan or natural community conservation plan.	☐	☒

Discussion:

(1) The proposed project is consistent with the City of Modesto Urban Area General Plan, because the project site is located within a Mixed Use area which accommodates the type of development proposed, and it does not represent an increase in intensity of use or development beyond that which is already allowed by the existing zoning of the site.

(2) The project is infill development which will not divide an established community.

(3) The proposed project 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 project 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:

The appropriate mitigation to be applied to this project includes CL-4 from the MEIR, and no new or additional mitigation measures or alternatives are required.

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:

		YES	NO
(1)	The proposed project is inconsistent with policies relating to climate change in the Urban Area General Plan.	☐	☒
(2)	The proposed project would result in average automobile trip lengths or CO_2 emissions higher than those assumed in the Master EIR.	☐	☒
(3)	The proposed project would conflict with the Sustainable Communities Strategy that the Air Resources Board has agreed will achieve the goals of AB 32.	☐	☒

Discussion:

(1) The proposed project is not inconsistent with policies relating to climate change in the Urban Area General Plan.

(2) The proposed project would not result in average automobile trip lengths or CO_2 emissions higher than those assumed in the MEIR.

(3) The proposed project would not conflict with the Sustainable Communities Strategy that the Air Resources Board has agreed will achieve the goals of AB 32.

V. MITIGATION MEASURES APPLIED TO THE PROJECT

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

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to CEQA Section 21157.1(c), in order for a Finding of Conformance to be made, all feasible measures from the Master EIR appropriate to the project shall be incorporated into the project. The following adopted General Plan Policies and Master EIR Mitigation Measures shall be made part of the project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan:

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

Traffic and Circulation:

N/A

Degradation of Air Quality:

1. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

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

3. Within urban areas, track-out shall be immediately removed when it extends 50 feet or more from the site and at the end of each workday.

4. All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions. Use of blower devices is expressly forbidden.

5. 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.

6. 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.

Generation of Noise:

7. The City's noise ordinance (Modesto Municipal Code Section 4-9.101) prohibits "loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine." Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

8. The noise ordinance prohibits also the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (or before 9:00 a.m. or after 9:00 p.m. on Saturdays and Sundays and State or federal holidays):

    a. A hammer, or any other device or implement used to pound or strike an object.

    b. An impact wrench, or other tool or equipment powered by compressed air.

    c. A hand-powered saw.

    d. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.

    e. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.

    f. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to tamper, pneumatic hammer, pavement breaker, or compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, hot kettle pump, and concrete truck.

    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.

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:

9. If archaeological resources are discovered at any time during construction, all activity shall cease until a qualified archaeologist surveys the site. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria presented in Appendix K of the CEQA Guidelines.

Increased Demand for Storm Drainage:

10. The developer shall implement pre- and post-construction best management practices (BMPs) to minimize pollutants entering the storm system.

Flooding and Water Quality:

11. The developer shall implement pre- and post-construction best management practices (BMPs) to minimize pollutants entering the storm system.

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:

12. The developer shall provide shade trees as required by Modesto Municipal Code.

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 applicable categories in this Initial Study. The following additional project-specific mitigation measures are necessary to reduce the identified new significant effect: ***none***.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-055

RESOLUTION APPROVING THE WELL LEASE TERMINATION AGREEMENT BETWEEN THE CITY OF MODESTO AND FMC CORPORATION FOR WELL SITE LOCATED AT 1200 GRAPHICS DRIVE, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE SAID AGREEMENT AND ANY RELATED DOCUMENTS

WHEREAS, beginning in 2002, the Redevelopment Agency of the City of Modesto (the "Agency") has partnered with FMC Corporation ("FMC") in the development of a business park on FMC's site located on three (3) parcels along the east side of Graphics Drive, east of State Route 99 and more specifically identified as Stanislaus County Assessors Parcel Numbers: 029-013013; 029-013012; 029-014010 with a total acreage of 45.04 Acres located within the Agency Project Area (Location: 1200 Graphics Drive - the "Project Site"), and

WHEREAS, the Agency and FMC are contemplating entering into a property acquisition agreement wherein FMC will sell the Project Site to the Agency, and

WHEREAS, on May 26, 1992, the City of Modesto (the "City") entered into a Well Lease Agreement with FMC for a portion of said Project Site containing an existing deep water well which leased well site is approximately 1,765 square feet and which domestic well has been in use by the City as a municipal well for approximately 16 years ("Well No. 56"), and

WHEREAS, as part of said property acquisition between the Agency and FMC, the Well Lease between the City and FMC for said Well No. 56 site must terminate as of the date of the close of escrow between the Agency and FMC, and

WHEREAS, subsequent to the close of escrow for said Project Site sale, the Well No. 56 site will belong to the Agency and the Agency will then negotiate with the City to

convey the Well No. 56 site to the City, and

WHEREAS, the City and FMC have prepared a Well Lease Termination Agreement to provide for the termination of said Well Lease prior to said property sale which Agreement is **attached** hereto as "**Exhibit A**" and made a part hereof by this reference,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that the Well Lease Termination Agreement by and between the City of Modesto and FMC Corporation, Inc. is hereby approved.

BE IT FURTHER RESOLVED that the City Council does hereby authorize and direct its City Manager, or his designee, to execute on behalf of the City said Well Lease Termination Agreement, and any other related documents with FMC for termination of the Well Lease between the City of Modesto and FMC Corporation for a well site located at 1200 Graphics Drive.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Modesto held on the 27th day of January, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Stephanie Lopez
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

LEASE TRANSFER AND TERMINATION AGREEMENT

This LEASE TRANSFER AND TERMINATION AGREEMENT ("Agreement") is dated as of _____, 2009 ("Effective Date") and is entered into by and between FMC CORPORATION, a Delaware corporation ("FMC"), and the CITY OF MODESTO, a public body, corporate and politic ("City").

RECITALS

A. FMC is the owner of certain real property located at 1200 Graphics Drive in Modesto, California ("Property"). Two water wells, known as FMC Water Well No. 5 and FMC Water Well No. 6, together with pumps, piping, equipment and machinery owned by FMC and located on the Property and used or formerly used by FMC in the operation and maintenance of such water wells (collectively, the "Water Wells"), currently exist on the Property. FMC and the City entered into that certain Lease Agreement dated May 26, 1992 ("Lease") for the lease by the City of a portion of the Property consisting of a well site containing approximately 1,765 square feet and referred to in the Lease as "FMC Production Well No. 5." In connection with the Lease, the City recorded a Memorandum of Lease on _____, 1992 as Document No. _____ in the Official Records of Stanislaus County, California ("Memorandum").

B. Concurrently with the execution of this Agreement, FMC is conveying the Property to the Redevelopment Development Agency of the City of Modesto ("Agency"). In connection with FMC's conveyance of the Property to the Agency, FMC and the City desire to terminate the Lease and FMC desires to convey the Water Wells to the City, subject to the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing recitals, the terms and mutual covenants contained herein, and for other consideration, the sufficiency of which is hereby acknowledged, FMC and the City hereby agree as follows:

AGREEMENT

1. Termination of Lease. FMC and the City hereby agree that the Lease shall terminate as of the Effective Date set forth above. As of the Effective Date, FMC and the City each hereby waive any and all of their respective rights and obligations under the Lease, whether such rights and obligations have accrued prior to or arise after the termination of the Lease, and further agree that all such rights and obligations shall cease and be of no further force and effect from and after the Effective Date.

2. Termination of Memorandum. Concurrently with the execution of this Agreement, FMC and the City shall execute, acknowledge and cause to be recorded in the Official Records of Stanislaus County, California, a Termination of Memorandum of Lease in the form attached as Exhibit A hereto to remove the Memorandum from title to the Property.

3. Conveyance of Wells. FMC hereby sells, transfers and conveys the Water Wells to the City.

4. As-Is Conveyance. THE CITY ACKNOWLEDGES THAT THE CITY HAS MADE ITS OWN INSPECTION OF THE WATER WELLS. THE CITY FURTHER ACKNOWLEDGES THAT FMC IS SELLING AND THE CITY IS PURCHASING THE WATER WELLS ON AN "AS IS WITH ALL FAULTS" BASIS, THAT THE CITY IS RELYING ON ITS OWN INSPECTION OF THE WATER WELLS AND THAT THE CITY IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM FMC, ITS AGENTS, OR BROKERS AS TO ANY MATTERS CONCERNING THE WATER WELLS, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

5. Closure of Water Wells. The City covenants to FMC to promptly undertake, upon the permanent cessation of use of the Water Wells, all actions that may be necessary for the proper closure of the Water Wells in accordance with all applicable federal, state and local laws, statutes, ordinances and regulations, including the sealing and filling of the Water Wells with appropriate material. The City shall indemnify, defend and hold FMC harmless from any and all loss, cost, damage, liability, judgments or expenses, including consultants' and attorneys' fees, arising out of or in any way connected with (i) the use and operation of the Water Wells after the Effective Date, and (ii) the closure of such Water Wells upon permanent cessation of use thereof in accordance with all then-applicable laws, statutes, ordinances and regulations. The foregoing covenant and indemnity obligation of the City shall survive the conveyance of the Water Wells.

6. Miscellaneous. This Agreement shall be governed by and construed in accordance with the laws of the State of California. This Agreement will be binding upon and inure to the benefit of FMC and the City and their respective successors and assigns. This Agreement constitutes the entire agreement of the parties hereto with respect to the specific subject matter hereof, and supersedes and replaces any and all prior negotiations and agreements between the parties, whether written or oral, as well as any contemporaneous oral negotiations and agreements. This Agreement may only be amended by a written agreement executed by both parties. Any waiver of any portion of this Agreement must be in writing executed by the waiving party. This Agreement may be executed in counterpart originals, each of which, and all of which together, shall constitute one and the same agreement.

IN WITNESS WHEREOF, FMC and City have executed this Agreement on the date first written above.

"FMC"

FMC CORPORATION,
a Delaware corporation

By: _____
Name: _____
Title: _____

"CITY"

CITY OF MODESTO, a public body, corporate and politic

By: _____

_____

_____

Approved as to form:

_____

_____

City Attorney

ATTEST:

_____

_____

_____

EXHIBIT A

RECORDING REQUESTED BY

WHEN RECORDED MAIL TO

City of Modesto
1010 Tenth Street, Suite ___
Modesto, CA 95354
Attn: _____

SPACE ABOVE THIS LINE FOR RECORDER'S USE

THIS DOCUMENT IS RECORDED FOR THE BENEFIT OF THE CITY OF MODESTO AND IS ENTITLED TO BE RECORDED FREE OF CHARGE IN ACCORDANCE WITH SECTION 6103 AND 27383 OF THE GOVERNMENT CODE

APN 29-13-13

TERMINATION OF MEMORANDUM OF LEASE

1. This Termination of Memorandum of Lease (Memorandum") is entered into by the City of Modesto, a public body, corporate and politic ("City") and FMC Corporation, a Delaware corporation ("FMC") as of this ___ day of _____, 2009.

2. On _____, 1992, City and FMC caused to be recorded as document number _____ in the Official Records of Stanislaus County, California, a Memorandum of Lease (the "Original Memorandum") in connection with the City's lease from FMC of certain real property located in Modesto, California and more particularly described on Exhibit "A" attached hereto. The Lease Agreement in the Original Memorandum has been terminated by the City and FMC pursuant to that certain Lease Termination Agreement dated as of _____ (the "Termination Agreement"), the terms and conditions of which are made a part of this Memorandum by this reference.

3. This Memorandum is prepared for the purpose of recordation, and it in no way modifies the provisions of the Termination Agreement referenced in Section 2 of this Memorandum above.

Executed on the date set forth below.

Dated: _____

"FMC"

FMC CORPORATION,
a Delaware corporation

By: _____
Name: _____
Title: _____

"CITY"

CITY OF MODESTO, a public body, corporate and politic

By: _____

Approved as to form:

_____
City Attorney

ATTEST:

_____

EXHIBIT A

LEGAL DESCRIPTION

Real property in the City of Modesto, County of Stanislaus, State of California, described as follows:

PARCEL NO. 1:

BEGINNING AT A POINT IN THE WEST LINE OF THE PARCEL OF LAND DESCRIBED IN THE DEED FROM D-V-O PRODUCTS, INC. TO THE CENTRAL PACIFIC RAILWAY COMPANY DATED NOVEMBER 5, 1925 AND FILED FOR RECORD JULY 29, 1926 IN VOLUME 180 OF OFFICIAL RECORDS OF SAID COUNTY OF STANISLAUS AT PAGE 462, DISTANT SOUTH, 7.02 FEET THEREON FROM THE MOST NORTHERLY CORNER OF SAID PARCEL OF LAND; THENCE SOUTHERLY FROM A TANGENT THAT BEARS SOUTH 25° 44' 57" EAST ALONG A CURVE TO THE RIGHT OF A RADIUS OF 562.22 FEET, A DISTANCE OF 467.40 FEET; THENCE SOUTH 21° 53' WEST, 41.07 FEET TO THE SOUTHERLY END OF THAT PORTION OF THE EAST LINE OF THE LAND OF BARIUM PRODUCTS, LTD. THAT BEARS NORTH AND SOUTH; THENCE NORTH ALONG THE EAST LINE OF THE LANDS OF BARIUM PRODUCTS, LTD., 491.90 FEET TO THE POINT OF BEGINNING.

PARCEL NO. 2:

BEGINNING AT THE MOST SOUTHERLY CORNER OF THE ABOVE DESCRIBED PARCEL NO. 1; THENCE SOUTH 21° 53' WEST, 93.98 FEET; THENCE SOUTHERLY FROM A TANGENT THAT BEARS SOUTH 21° 53' WEST ALONG A CURVE TO THE LEFT OF A RADIUS OF 583.14 FEET, A DISTANCE OF 222.72 FEET; THENCE SOUTH, TANGENT TO SAID CURVE, 484.27 FEET; THENCE SOUTH 8° 10' WEST, 98.55 FEET; THENCE WEST, 113.00 FEET TO THE EAST LINE OF MICHIGAN AVENUE; THENCE NORTH ALONG SAID EAST LINE, 800.00 FEET TO THE SOUTH LINE OF THE LAND OF BARIUM PRODUCTS, LTD.; THENCE EAST, ALONG SAID SOUTH LINE, 151.70 FEET TO THE SOUTHEASTERLY LINE OF THE LAND OF BARIUM PRODUCTS, LTD.; THENCE NORTH 31° 13' EAST THEREON, 101.00 FEET TO THE POINT OF BEGINNING.

PARCEL NO. 3:

BEGINNING AT THE SOUTHWEST CORNER OF THE LAND OF D-V-O PRODUCTS, INS., A CORPORATION, AT A POINT IN THE EAST LINE OF MICHIGAN AVENUE, SAID POINT BEING DISTANT 20 FEET AT RIGHT ANGLES EAST FROM THE CENTER LINE OF SAID AVENUE AND 1840 FEET, MORE OR LESS, NORTHERLY FROM THE EAST AND WEST QUARTER SECTION LINE OF SAID SECTION 30; THENCE EAST 205.0 FEET ALONG THE SOUTH LINE OF SAID D-V-O PRODUCTS, INC., PROPERTY TO A POINT; THENCE SOUTH 215.82 FEET TO A POINT; THENCE SOUTH 31° 13' WEST 101.0 FEET TO A POINT; THENCE WEST 152.66 FEET TO A POINT IN THE SAID EAST LINE OF MICHIGAN AVENUE; THENCE NORTH ALONG THE SAID EAST LINE OF MICHIGAN AVENUE, A DISTANCE OF 302.2 FEET TO THE POINT OF BEGINNING.

PARCEL NO. 4:

BEGINNING A POINT BEARING EAST 14.69 CHAINS FROM A POINT IN THE NORTH AND SOUTH QUARTER SECTION LINE, WHICH POINT BEARS NORTH 27. 88 CHAINS FROM THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 30; THENCE NORTH 524.70 FEET AND PART ALONG THE CENTER OF A ROAD TO THE WESTERLY RIGHT OF WAY LINE OF THE SOUTHERN PACIFIC RAILROAD; THENCE SOUTH 42°38' EAST 716.95 FEET AND ALONG SAID RIGHT OF WAY LINE; THENCE WEST 488.70 FEET TO THE POINT OF BEGINNING, AND LAST

MENTIONED COURSE IS ALSO AT RIGHT ANGLES FROM THE FIRST MENTIONED COURSE.

EXCEPTING THEREFROM THE WEST TWENTY (20) FEET.

ALSO EXCEPTING THEREFROM THE FOLLOWING:

ALL THAT PORTION OF THE EAST HALF OF SECTION 30, IN TOWNSHIP 3 SOUTH, RANGE 9 EAST, MOUNT DIABLO BASE AND MERIDIAN, BOUNDED AND PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTHWESTERLY BOUNDARY LINE OF THE CENTRAL PACIFIC RAILWAY COMPANY'S RIGHT OF WAY, SAID POINT BEING DISTANT 330.0 FEET, MEASURED SOUTH 42° 58' EAST ALONG SAID SOUTHWESTERLY BOUNDARY LINE FROM ITS INTERSECTION WITH THE CENTER LINE OF A ROAD AS LAID OUT ALONG THE WEST SIDE OF THE PROPERTY OF THE D-V-O PRODUCTS, INC.; THENCE SOUTH 42°58'EAST 386.90 FEET ALONG SAID BOUNDARY LINE; THENCE WEST 263.70 FEET; THENCE AT RIGHT ANGLES NORTH 283.10 FEET TO THE POINT OF BEGINNING.

PARCEL NO. 5:

BEGINNING AT A POINT MARKING THE NORTHWEST CORNER OF THE 1.002 ACRE PARCEL OF LAND DESCRIBED IN THE DEED TO THE STATE OF CALIFORNIA DATED AUGUST 23, 1955 AND RECORDED SEPTEMBER 29, 1955 IN VOLUME 1318 OF OFFICIAL RECORDS, AT PAGE 461, AS INSTRUMENT NO. 29114, SAID CORNER LYING ON THE EAST LINE OF BENNETT ROAD (ALSO KNOWN AS MICHIGAN AVENUE, AND BEING 40 FEET IN WIDTH); THENCE ALONG THE NORTH LINE OF SAID 1.002 ACRE PARCEL, SOUTH 89° 47' EAST 113.67 FEET TO THE MOST NORTHEASTERLY CORNER OF SAID PARCEL; THENCE ALONG THE EASTERLY BOUNDARY OF SAID PARCEL THE FOLLOWING COURSES: SOUTH 0° 11' 40" EAST, 20.04 FEET; SOUTH 89° 47' EAST, 14.07 FEET; AND SOUTH 0° 11' 40" EAST, 231.60 FEET; THENCE LEAVING SAID EASTERLY BOUNDARY NORTH 49° 22' 30" WEST, 140.20 FEET; THENCE NORTH 37° 24' 39" WEST, 35.78 FEET TO THE WESTERLY LINE OF SAID 1.002 ACRE PARCEL (ALSO BEING THE EASTERLY LINE OF SAID BENNETT ROAD); THENCE ALONG SAID WESTERLY LINE NORTH 0° 11" 40" WEST, 132.41 FEET TO THE POINT OF BEGINNING.

RESERVING THEREFROM SUCH INTEREST IN THAT PORTION OF THE EAST 15.00 THEREOF, AS WAS RESERVED FOR RAILROAD PURPOSES IN THE DEED FROM CENTRAL PACIFIC RAILROAD COMPANY AND SOUTHERN PACIFIC COMPANY, DATED AUGUST 21, 1947 AND RECORDED OCTOBER 22, 1947 IN VOLUME 910 OF OFFICIAL RECORDS, AT PAGE 406, AS INSTRUMENT NO. 27554, STANISLAUS COUNTY RECORDS.

ALSO EXCEPTING AND RESERVING THEREFROM ALL PETROLEUM, OIL, NATURAL GAS AND PRODUCTS DERIVED THEREFROM, WITHIN OR UNDERLYING THE SAID LAND OR THAT MAY BE PRODUCED THEREFROM, AND ALL RIGHTS THERETO, AS RESERVED IN THE DEED FROM CENTRAL PACIFIC RAILWAY COMPANY AND SOUTHERN PACIFIC COMPANY, DATED AUGUST 21, 1947 AND RECORDED OCTOBER 22, 1947 IN VOLUME 910 OF OFFICIAL RECORDS, AT PAGE 406, AS INSTRUMENT NO. 27554, STANISLAUS COUNTY RECORDS. SAID RIGHTS SHALL NOT INCLUDE USE OF THE SURFACE OF SAID LAND.

PARCEL NO. 6:

LOTS 1 TO 9, INCLUSIVE, IN BLOCK 5072 OF THE GRANGE TRACT, ACCORDING TO THE OFFICIAL MAP THEREOF, FILED SEPTEMBER 14, 1940 IN THE OFFICE OF THE COUNTY RECORDER OF STANISLAUS COUNTY, CALIFORNIA IN VOLUME 14 OF MAPS AT PAGE 5.

RECORDS.

ALSO EXCEPTING THEREFROM THAT CERTAIN LAND DESCRIBED AS PARCEL NO. 2 IN THE DEED FROM FRANK J. MITCHELL, ET UX, AND FRED SAMPSON, ET UX, TO THE STATE OF CALIFORNIA, RECORDED SEPTEMBER 12, 1958 IN VOLUME 1502 OF OFFICIAL RECORDS, AT PAGE 446, AS INSTRUMENT NO. 22893, STANISLAUS COUNTY RECORDS.

ALSO EXCEPTING FROM THE ABOVE PARCEL NOS. 6,7,8,9, AND 10, ALL THOSE PORTIONS OF LAND CONVEYED TO THE COUNTY OF STANISLAUS IN DEEDS RECORDED DECEMBER 4, 1951 IN BOOK 1059 OF OFFICIAL RECORDS, PAGE 480 AND RECORDED JANUARY 25, 1952 IN BOOK 1067 OF OFFICIAL RECORDS PAGE 598.

ALSO EXCEPTING FROM THE ABOVE PARCEL NOS. 9 AND 10, ALL THAT PORTION LYING SOUTHWESTERLY OF THE NORTHEASTERLY LINES OF LAND CONVEYED TO STATE OF CALIFORNIA IN DEED RECORDED DECEMBER 28, 1961 IN BOOK 1731 OF OFFICIAL RECORDS, PAGE 691.

PARCEL NO. 11:

BEGINNING AT A POINT IN THE NORTHERLY LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED AS PARCEL NO. 2 IN THE DEED TO THE STATE OF CALIFORNIA DATED JUNE 25, 1958 AND RECORDED SEPTEMBER 12, 1958 IN VOLUME 1502 OF OFFICIAL RECORDS, AT PAGE 446, STANISLAUS COUNTY RECORDS, SAID POINT LYING SOUTH 89° 47' EAST, 99.73 FEET ALONG SAID NORTHERLY LINE FROM THE NORTHWEST CORNER OF SAID PARCEL; THENCE SOUTH 43° 07' 30" EAST, 27.93 FEET TO A POINT IN THE SOUTHERLY LINE OF SAID PARCEL; THENCE ALONG SAID SOUTHERLY LINE, SOUTH 89° 47' EAST, 282.23 FEET TO THE WESTERLY LINE OF BENNETT ROAD (ALSO KNOWN AS MICHIGAN AVENUE, AND BEING 40 FEET IN WIDTH); THENCE NORTH ALONG SAID WESTERLY LINE, 20.31 FEET; THENCE ALONG SAID NORTHERLY LINE OF SAID PARCEL DESCRIBED IN SAID DEED DATED JUNE 25, 1958, NORTH 89° 47' WEST, 301.25 FEET TO THE POINT OF BEGINNING.

PARCEL NO. 12:

BEGINNING AT A POINT IN THE NORTHERLY LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED AS PARCEL NO. 1 IN THE DEED TO THE STATE OF CALIFORNIA DATED JUNE 25, 1958 AND RECORDED SEPTEMBER 12, 1958 IN VOLUME 1502 OF OFFICIAL RECORDS, AT PAGE 446, STANISLAUS COUNTY RECORDS, SAID POINT LYING SOUTH 89° 47' EAST, 118.75 FEET ALONG SAID NORTH LINE FROM THE NORTHWEST CORNER OF SAID PARCEL NO. 1; THENCE ALONG SAID NORTH LINE, SOUTH 89° 47' EAST, 282.33 FEET TO A POINT IN THE WESTERLY LINE OF BENNETT ROAD (ALSO KNOWN AS MICHIGAN AVENUE AND BEING 40 FEET IN WIDTH); THENCE SOUTH ALONG SAID WESTERLY LINE, 243.08 FEET; THENCE NORTH 89° 47' 15" WEST, 49.26 FEET; THENCE FROM A TANGENT THAT BEARS NORTH 46° 42' 51" WEST, ALONG A CURVE CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 1972 FEET, THROUGH AN ANGLE OF 3° 35' 21" A DISTANCE OF 123.53 FEET; THENCE NORTH 43° 07' 30" WEST, 214.42 FEET TO THE POINT OF BEGINNING.

PARCEL NO. 13:

BEGINNING AT THE POINT OF INTERSECTION OF THE SOUTHERLY LINE OF CALDWELL AVENUE, FORMERLY WOODLAND AVENUE, WITH THE SOUTHWESTERLY LINE OF THE LAND DESCRIBED IN DEED DATED MARCH 7, 1873 FROM JOHN T. MAZE TO CENTRAL PACIFIC RAILROAD COMPANY, RECORDED MAY 5, 1873 IN BOOK 10 OF DEEDS, AT PAGE 342, STANISLAUS COUNTY RECORDS; THENCE SOUTH 42° 53' 30" EAST ALONG SAID SOUTHWESTERLY LINE OF SAID LAND, 392.96 FEET TO A POINT IN THE EASTERLY LINE OF

THE 2.09 ACRE PARCEL OF LAND DESCRIBED IN DEED DATED JUNE 20, 1924 FROM WILLIAM DAGGS, SR. AND LOUISE DAGGS, HIS WIFE TO CENTRAL PACIFIC RAILWAY COMPANY, RECORDED JULY 17, 1924 IN VOLUME 74 OF OFFICIAL RECORDS AT PAGE 134, STANISLAUS COUNTY RECORDS; THENCE SOUTH ALONG SAID EASTERLY LINE, 1406.01 FEET TO A POINT; THENCE WEST, AT RIGHT ANGLES FROM SAID EASTERLY LINE, 40.00 FEET TO A POINT IN THE WESTERLY LINE OF SAID 2.09 ACRE PARCEL OF LAND; THENCE NORTH ALONG SAID WESTERLY LINE 1390.30 FEET TO A POINT IN A LINE PARALLEL WITH AND DISTANT SOUTHWESTERLY, 40.00 FEET, MEASURED AT RIGHT ANGLES FROM SAID SOUTHWESTERLY LINE OF SAID LAND DESCRIBED IN SAID DEED DATED MARCH 7, 1873; THENCE NORTH 42° 53' 30" WEST ALONG SAID PARALLEL LINE, 415.45 FEET TO A POINT IN THE SOUTHERLY LINE OF SAID CALDWELL AVENUE; THENCE SOUTH 89° 12' 30" EAST, ALONG THE SOUTHERLY LINE OF CALDWELL AVENUE, 55.31 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL OF LAND BEING A PORTION OF BENNETT AVENUE (SOMETIMES KNOWN AS MICHIGAN AVENUE), ABANDONED BY THE STANISLAUS COUNTY BOARD OF SUPERVISORS BY SUPERVISOR'S ORDER RECORDED JULY 11, 1951 IN VOLUME 1039 OF OFFICIAL RECORDS, AT PAGE 97, STANISLAUS COUNTY RECORDS AS INSTRUMENT NO. 16289.

EXCEPTING AND RESERVING THEREFROM ALL MINERALS AND MINERAL ORES OF EVERY KIND AND CHARACTER NOW KNOWN TO EXIST OR HEREAFTER DISCOVERED UPON, WITHIN OR UNDERLYING SAID LAND OR THAT MAY BE PRODUCED THEREFROM INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ALL PETROLEUM, OIL, NATURAL GAS AND OTHER HYDROCARBON SUBSTANCES AND PRODUCTS DERIVED THEREFROM, TOGETHER WITH THE EXCLUSIVE AND PERPETUAL RIGHT OF INGRESS AND EGRESS BENEATH THE SURFACE OF SAID LAND TO EXPLORE FOR, EXTRACT, MINE AND REMOVE THE SAME, AS RESERVED IN THE INDENTURE BY CENTRAL PACIFIC RAILWAY COMPANY AND SOUTHERN PACIFIC COMPANY, DATED NOVEMBER 8, 1951 AND RECORDED NOVEMBER 14, 1951 IN VOLUME 1056 OF OFFICIAL RECORDS, AT PAGE 445, STANISLAUS COUNTY RECORDS.

PARCEL NO. 14:

BEGINNING AT THE NORTHWEST CORNER OF THE 5.55 ACRE PARCEL OF LAND DESCRIBED IN INDENTURE DATED APRIL 5, 1961 FROM SOUTHERN PACIFIC COMPANY TO THE STATE OF CALIFORNIA, RECORDED MARCH 19, 1962 IN VOLUME 1750 OF OFFICIAL RECORDS, AT PAGE 445, AS INSTRUMENT NO. 10483, STANISLAUS COUNTY RECORDS; SAID NORTHWEST CORNER ALSO BEING A POINT ON THE WEST LINE OF LAND DESCRIBED IN INDENTURE DATED JUNE 20, 1924 FROM WILLIAM DAGGS, SR., AND LOUISE DAGGS TO CENTRAL PACIFIC RAILWAY COMPANY AND RECORDED JULY 17, 1924 IN VOLUME 74 OF OFFICIAL RECORDS, AT PAGE 134, AND RE-RECORDED AUGUST 11, 1924 IN VOLUME 77 OF OFFICIAL RECORDS, AT PAGE 256, STANISLAUS COUNTY RECORDS; THENCE NORTH ALONG SAID WEST LINE 243.08 FEET TO A POINT IN THE MOST SOUTHERLY LINE OF THE 1.655 ACRE PARCEL OF LAND DESCRIBED IN INDENTURE DATED NOVEMBER 8, 1951 FROM CENTRAL PACIFIC RAILWAY COMPANY AND SOUTHERN PACIFIC COMPANY TO BARIUM PRODUCTS, LTD., RECORDED NOVEMBER 14, 1951 IN VOLUME 1056 OF OFFICIAL RECORDS, AT PAGE 445, AS INSTRUMENT NO. 26538; THENCE EAST, ALONG LAST SAID LINE, 40.0 FEET TO A POINT IN THE EAST LINE OF LAND DESCRIBED IN SAID INDENTURE DATED JUNE 20, 1924; THENCE SOUTH, ALONG SAID EAST LINE, 243.08 FEET TO A POINT ON THE NORTHERLY LINE OF LAND DESCRIBED IN SAID INDENTURE DATED APRIL 5, 1961; THENCE NORTH 89° 35' 35" WEST, ALONG SAID NORTHERLY LINE, A DISTANCE OF 40.00 FEET TO THE POINT OF BEGINNING.

EXCEPTING AND RESERVING THEREFROM ALL OF THE MINERALS AND MINERAL ORES OF EVER KIND AND CHARACTER NOW KNOWN TO EXIST OR HEREAFTER DISCOVERED UPON, WITHIN OR UNDERLYING SAID LAND OR THAT MAY BE PRODUCED THEREFROM, INCLUDING, WITHOUT

LIMITING THE GENERALITY OF THE FOREGOING, ALL PETROLEUM, OIL, NATURAL GAS AND OTHER HYDROCARBON SUBSTANCES AND PRODUCTS DERIVED THEREFROM, TOGETHER WITH THE EXCLUSIVE AND PERPETUAL RIGHT OF INGRESS AND EGRESS BENEATH THE SURFACE OF SAID LAND TO EXPLORE FOR, EXTRACT, MINE AND REMOVE THE SAME, AS RESERVED IN THE DEED FROM SOUTHERN PACIFIC COMPANY, A CORPORATION, DATED OCTOBER 21, 1965 AND RECORDED NOVEMBER 26, 1965 IN VOLUME 2071 OF OFFICIAL RECORDS, AT PAGE 75, AS INSTRUMENT NO. 46197, STANISLAUS COUNTY RECORDS.

PARCEL NO. 15:

ALL THAT PORTION OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 3 SOUTH, RANGE 9 EAST, MOUNT DIABLO BASE AND MERIDIAN, AS PER THE APPROVED U.S. GOVERNMENT SURVEY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST NORTHERLY CORNER OF LAND DESCRIBED IN INDENTURE DATED NOVEMBER 5, 1925 FROM D-V-O PRODUCTS, INC. TO CENTRAL PACIFIC RAILWAY COMPANY (NOW SOUTHERN PACIFIC COMPANY), RECORDED JULY 29, 1926, IN VOLUME 180, AT PAGE 462, OFFICIAL RECORDS OF SAID COUNTY; THENCE SOUTH 42° 53' 30" EAST, ALONG THE NORTHEASTERLY LINE OF LAND DESCRIBED IN SAID INDENTURE, PARALLEL WITH AND DISTANT 50.0 FEET SOUTHWESTERLY, MEASURED AT RIGHT ANGLES, FROM THE ORIGINAL LOCATED CENTER LINE OF SOUTHERN PACIFIC COMPANY'S MAIN TRACK (LATHROP TO FRESNO), 378.50 FEET; THENCE SOUTHERLY ON A CURVE TO THE RIGHT HAVING A RADIUS OF 372.25 FEET, THROUGH A CENTRAL ANGLE TO 22° 29' 08" (CHORD OF SAID CURVE BEARS SOUTH 11° 14' 34" EAST, 145.15 FEET), AN ARC DISTANCE OF 146.09 FEET; THENCE SOUTH, TANGENT TO SAID CURVE, 985.59 FEET TO THE NORTHEAST CORNER OF THE 107,836 SQUARE FOOT PARCEL OF LAND DESCRIBED AS PARCEL 2 IN INDENTURE DATED AUGUST 21, 1947, FROM CENTRAL PACIFIC RAILWAY COMPANY AND SOUTHERN PACIFIC COMPANY TO MODESTO PRODUCE PACKING COMPANY, RECORDED OCTOBER 22, 1947, IN BOOK 910, AT PAGE 406, OFFICIAL RECORDS OF SAID COUNTY, AS INSTRUMENT NO. 27554; THENCE WEST, ALONG THE NORTHERLY LINE OF SAID LAST MENTIONED LAND, 329.00 FEET TO THE NORTHWEST CORNER THEREOF; THENCE SOUTH, ALONG THE WESTERLY LINE OF LAND DESCRIBED AS PARCEL 2, IN SAID INDENTURE DATED AUGUST 21, 1947, A DISTANCE OF 260.08 FEET TO A POINT ON THE NORTHEASTERLY LINE OF 0.116 ACRE PARCEL OF LAND DESCRIBED AS PARCEL NO. 2 IN INDENTURE DATED APRIL 5, 1961, FROM SOUTHERN PACIFIC COMPANY TO THE STATE OF CALIFORNIA, RECORDED SEPTEMBER 12, 1961, IN VOLUME 1707, AT PAGE 496, OFFICIAL RECORDS OF SAID COUNTY, AS INSTRUMENT NO. 28718; THENCE NORTH 49° 10' 50" WEST ALONG LAST SAID NORTHEASTERLY LINE 44.93 FEET TO A POINT ON EASTERLY LINE OF THE 43,654 SQUARE FOOT PARCEL OF LAND DESCRIBED AS PARCEL NO. 1 IN SAID INDENTURE DATED AUGUST 21, 1947; THENCE ALONG SAID EASTERLY LINE, THE FOLLOWING COURSES AND DISTANCES: NORTH 230.71 FEET; WEST, 14.00 FEET; AND NORTH, 20.00 FEET; THENCE ALONG THE EASTERLY LINE OF THE 2.404 ACRE PARCEL OF LAND DESCRIBED AS PARCEL NO. 2 IN INDENTURE DATED MARCH 15, 1943, FROM CENTRAL PACIFIC RAILWAY COMPANY AND SOUTHERN PACIFIC COMPANY TO BARIUM PRODUCTS, LTD., RECORDED JULY 20, 1943, IN BOOK 776, AT PAGE 91, OFFICIAL RECORDS OF SAID COUNTY, AS INSTRUMENT NO. 10746, THE FOLLOWING COURSES AND DISTANCES: NORTH 8° 10' EAST, 98.55 FEET; NORTH 484.21 FEET; NORTHERLY, ON A CURVE TO THE RIGHT HAVING A RADIUS OF 583.14 FEET, THROUGH A CENTRAL ANGLE OF 21° 53' (CHORD OF LAST SAID CURVE BEARS NORTH 10° 56' 30" EAST, 221.37 FEET), AN ARC DISTANCE OF 222.72 FEET; AND NORTH 21° 53' EAST, TANGENT TO LAST SAID CURVE, 93.98 FEET TO THE NORTHEAST CORNER OF SAID 2.404 ACRE PARCEL OF LAND, LAST SAID NORTHEAST CORNER ALSO BEING THE MOST SOUTHERLY CORNER OF THE 0.422 ACRE PARCEL OF LAND DESCRIBED AS PARCEL NO. 1 IN SAID INDENTURE DATED MARCH 15, 1943; THENCE ALONG THE EASTERLY LINE OF SAID 0.422 ACRE PARCEL OF LAND, THE FOLLOWING COURSES AND DISTANCES: NORTH 21° 53' EAST, 41.07 FEET; AND NORTHERLY, ON A CURVE TO THE LEFT HAVING A RADIUS OF 562.22 FEET,

THROUGH A CENTRAL ANGEL OF 47° 37' 57" (CHORD OF LAST SAID CURVE BEARS NORTH 1° 55' 59" WEST, 454.05 FEET), AN ARC DISTANCE OF 467.40 FEET TO A POINT IN THE WEST LINE OF LAND DESCRIBED IN SAID INDENTURE DATED NOVEMBER 5, 1925; THENCE NORTH, ALONG LAST SAID LINE, 7.02 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL OF THE MINERALS AND MINERAL ORES OF EVERY KIND AND CHARACTER NOW KNOWN TO EXIST OR HEREAFTER DISCOVERED UPON, WITHIN OR UNDERLYING SAID LAND OR THAT MAY BE PRODUCED THEREFROM, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ALL PETROLEUM, OIL, NATURAL GAS AND OTHER HYDROCARBON SUBSTANCES AND PRODUCTS DERIVED THEREFROM, TOGETHER WITH THE EXCLUSIVE AND PERPETUAL RIGHT OF INGRESS AND EGRESS BENEATH THE SURFACE OF SAID LAND TO EXPLORE FOR, EXTRACT, MINE AND REMOVE THE SAME, AS EXPECTED AND RESERVED IN THE DEED FROM SOUTHERN PACIFIC COMPANY, A CORPORATION, RECORDED NOVEMBER 26, 1965 IN VOLUME 2071 OF OFFICIAL RECORDS, AT PAGE 75, STANISLAUS COUNTY RECORDS.

PARCEL NO. 16:

ALL THAT PORTION OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE DEED TO THE STATE OF CALIFORNIA DATED AUGUST 29, 1958 AND RECORDED OCTOBER 31, 1958 IN VOLUME 1511 OF OFFICIAL RECORDS, AT PAGE 12, AS INSTRUMENT NO. 27377, AND LOCATED IN THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 3 SOUTH, RANGE 9 EAST, MOUNT DIABLO BASE AND MERIDIAN, AS PER THE APPROVED U.S. GOVERNMENT SURVEY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EASTERLY LINE OF SAID PARCEL OF LAND DESCRIBED IN SAID DEED, SAID POINT LYING NORTH 0° 11' 45" WEST, 135.20 FEET FROM THE SOUTHEAST CORNER OF SAID PARCEL OF LAND; THENCE NORTH 49° 22' 30" WEST, 436.91 FEET TO A POINT ON THE WESTERLY BOUNDARY OF SAID PARCEL; THENCE ALONG SAID WESTERLY BOUNDARY, NORTH 0° 11' 40" WEST, 260.77 FEET TO THE NORTHWEST CORNER OF SAID PARCEL; THENCE ALONG THE NORTHERLY LINE OF SAID PARCEL, SOUTH 89° 47' EAST, 330.65 FEET TO THE NORTHEAST CORNER OF SAID PARCEL; THENCE ALONG THE AFORESAID EASTERLY LINE, SOUTH 0° 11'45" EAST, 544.00 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL PETROLEUM, OIL, NATURAL GAS AND PRODUCTS DERIVED THEREFROM, WITHIN OR UNDERLYING SAID LAND OR THAT MAY BE PRODUCED THEREFROM, AND ALL RIGHTS THERETO, PROVIDED THE GRANTOR, THEIR SUCCESSORS OR ASSIGNS, SHALL NOT USE THE SURFACE OF SAID LAND IN THE EXERCISE OF ANY OF SAID RIGHTS, AS EXCEPTED AND RESERVED IN THE DEEDS FROM CENTRAL PACIFIC RAILWAY COMPANY, A CORPORATION, AND SOUTHERN PACIFIC COMPANY, A CORPORATION, RECORDED SEPTEMBER 13, 1946 OF VOLUME 865 OF OFFICIAL RECORDS, AT PAGE 141, AS INSTRUMENT NO. 25760, AND RECORDED OCTOBER 22, 1947 IN VOLUME 910 OF OFFICIAL RECORDS, AT PAGE 406, AS INSTRUMENT NO. 27554, STANISLAUS COUNTY RECORDS.

ALSO EXCEPTING THEREFROM THAT PORTION OF THE EASTERLY 15 FEET THEREOF WHICH LIES SOUTH OF THE NORTH 327.77 FEET, AS EXCEPTED AND RESERVED FOR THE CONSTRUCTION, RECONSTRUCTION, MAINTENANCE AND OPERATION OF RAILROAD TRACKS AND APPURTENANCES THEREON, IN SAID DEED RECORDED SEPTEMBER 13, 1946 IN VOLUME 865 OF OFFICIAL RECORDS, AT PAGE 141, AS INSTRUMENT NO. 25760, STANISLAUS COUNTY RECORDS.

ALSO EXCEPTING THEREFROM SUCH INTEREST IN THE WEST 15 FEET OF THE NORTH 327.77 FEET OF SAID PARCEL NO. 2, LESS THE NORTH 20 FEET THEREOF, AND EXCEPTING THEREFROM SUCH INTEREST IN THE EAST 15 FEET OF THE NORTH 327.77 FEET OF SAID

PARCEL NO. 2, LESS THE NORTH 20 FEET THEREOF, RESERVED FOR RAILROAD PURPOSES IN THE SAID DEED RECORDED OCTOBER 22, 1947 IN VOLUME 910 OF OFFICIAL RECORDS, AT PAGE 406, AS INSTRUMENT NO. 27554, STANISLAUS COUNTY RECORDS.

APN: 029-13-12-690 and 029-13-13-660 and 029-14-10-340

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-056

RESOLUTION APPROVING THE WASTEWATER DISCHARGE AGREEMENT BETWEEN THE CITY OF MODESTO AND FMC CORPORATION FOR ACCEPTANCE OF THE CONTINUED DISCHARGE OF WASTEWATER GENERATED FROM GROUNDWATER TREATMENT FACILITIES LOCATED AT 1200 GRAPHICS DRIVE, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE SAID AGREEMENT AND ANY RELATED DOCUMENTS

WHEREAS, beginning in 2002, the Redevelopment Agency of the City of Modesto (the "Agency") has partnered with FMC Corporation ("FMC") in the development of a business park on FMC's site located on three (3) parcels along the east side of Graphics Drive, east of State Route 99 and more specifically identified as Stanislaus County Assessors Parcel Numbers: 029-013013; 029-013012; 029-014010 with a total acreage of 45.04 Acres located within the Agency Project Area (the "Project Site"), and

WHEREAS, said Project Site is a "brownfield" which is a site where the soil and groundwater have been contaminated as a result of the previous industrial use by FMC, and

WHEREAS, said Project Site development includes the remediation of both the soil and groundwater contamination, and

WHEREAS, the Agency and the City of Modesto (the "City") have identified said Project Site as having a high potential for development which will achieve multiple objectives, including: (1) Developing a vacant and blighted brownfield site within the Project Area, (2) Increasing the amount of annual tax increment from the Project Site, (3) Creating new jobs in a blighted area, and (4) Redeveloping a one-half mile frontage along State Route 99, and

WHEREAS, beginning in 1996, FMC operated a groundwater extraction and treatment system (the "Treatment System") for remediation of the Project Site's groundwater contamination which includes the extraction of groundwater from the contaminated underground aquifer, treatment per a hydrogen peroxide oxidation process and discharge into the City's wastewater treatment system, and

WHEREAS, a key feature of said Treatment System is the chemical conversion of sulfides found in the extracted groundwater into sulfates before discharging to the City's wastewater system at acceptable levels, which sulfates are commonly measured as "salts" or "electrical conductivity", and

WHEREAS, FMC operates said Treatment System under an approved City industrial waste permit which permit is issued by the City under its authority as the Publicly Owned Treatment Works (the "POTW"), and

WHEREAS, as the POTW, the City's wastewater system must meet State- and Federally-mandated limits on many constituents including the Total Maximum Daily Load (the "TMDL") which measures salts in various forms, including measurement of electrical conductivity in the wastewater discharge, and

WHEREAS, FMC's Treatment System is in place in order to slowly diminish the TMDL levels in the remediated discharge over many years, and

WHEREAS, the long-term TMDL treatment of the wastewater discharge is an integral part of the Project Site development and is critical to the long-term operation and maintenance of the remediation process, and

WHEREAS, in order to continue operating said Treatment System, the State of California Regional Water Quality Control Board (the "Regional Board") mandates that

FMC provide a guaranteed discharge plan that will ensure the discharge of the treated groundwater into the POTW for the duration of the groundwater remediation process which could be 40-50 years, and

WHEREAS, the City has determined that the State will likely continue to reduce the allowable TMDL levels for the POTW's system-wide discharge permit into the future and the City will be required to meet these lower TMDL levels, and

WHEREAS, the City has determined that the acceptance of the discharge from FMC's Treatment System will not have a measurable effect on the TMDL levels for the entire POTW, which effect has been thoroughly reviewed by the City as it relates to the potential long-term risks, costs and liability resulting from the processing of this long-term discharge and,

WHEREAS, while there is no reasonable means of assessing the precise risk for 40-50 years, the City has performed a reasonable risk analysis of the potential long-term effect of accepting FMC's TMDL levels based on FMC's industrial waste permit in effect as of March 1, 2008, and the potential for increased discharge volumes by FMC on the entire wastewater system, and

WHEREAS, based on said risk analysis, the City has determined if the Agency acquires the Project Site, the continued acceptance of FMC's wastewater discharge, based on the TMDL levels permitted as of March 1, 2008 and in accordance with the proposed Discharge Agreement, into the City's wastewater treatment system is an acceptable risk, and

WHEREAS, FMC has not been willing to sell the Project Site to the Agency unless it could be assured that the City would continue to accept FMC's wastewater

discharge after conveyance of the Project Site; and

WHEREAS, in order to facilitate said business park development and to guarantee a wastewater discharge plan to said Regional Board, the City and FMC have mutually agreed to enter into a Wastewater Discharge Agreement (the "Discharge Agreement") which is **attached** hereto as "**Exhibit A**" and made a part hereof by this reference, and

WHEREAS, the approval of said Discharge Agreement qualifies as a Class 1 Categorical Exemption EA/CED No. 2008-17 pursuant to the California Environmental Quality Act Section 15301 – Existing Facilities because it is a continuation of an existing activity and industrial waste permit and does not have a significant effect on the environment.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that the Wastewater Discharge Agreement by and between the City of Modesto and FMC Corporation, Inc. is hereby approved; and

BE IT FURTHER RESOLVED that the City Council does hereby authorize and direct its City Manager to execute on behalf of the City, as a condition for the purchase of the Project Site by the Agency, said Wastewater Discharge Agreement, and any other related documents with FMC for acceptance of FMC's wastewater discharge from properties located at 1200 Graphics Drive.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Modesto held on the 27th day of January, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

DISCHARGE AGREEMENT

This DISCHARGE AGREEMENT (the "Agreement") is dated for reference purposes only as of this _____ day of _____, 2009, by and between FMC CORPORATION, a Delaware corporation ("FMC") and THE CITY OF MODESTO, a public body, corporate and politic ("City").

RECITALS

A. Until the Effective Date, FMC was the owner of that certain real property located at 1200 Graphics Drive in the City of Modesto, Stanislaus County, California, and more particularly described in Exhibit "A" attached hereto and made a part hereof (the "Property").

B. As a result of former operations on the Property by FMC and its predecessors, groundwater beneath the Property has been contaminated by, among other materials, total dissolved solids, particularly sulfates. Certain chemicals are present in the groundwater of the Property as more particularly described in the Environmental Reports listed on Exhibit B attached hereto and made a part hereof. The Property is currently subject to Cleanup and Abatement Order No. 98-274 adopted on June 26, 1998 ("Order") by the California Regional Water Quality Control Board, Central Valley Region ("Water Board"). The Order requires FMC to operate, and FMC currently operates, a groundwater remediation system on the Property including monitoring and extraction wells and a treatment facility (the "Remediation System"). The Remediation System extracts groundwater from extraction wells and conveys the groundwater to a treatment facility which treats the groundwater. Following treatment, the treated groundwater ("Wastewater") is discharged into the City's publicly-owned wastewater treatment works ("POTW") under a Conditional and Revocable Permit, No. GW-96-2, issued to FMC by the City of Modesto, Public Works Department, Environmental Compliance Section ("Permit"). The current Permit was effective January 1, 2007 and expires December 31, 2009.

C. Since 2001, the Redevelopment Agency of the City of Modesto ("RDA") has been negotiating with FMC for the purchase of the Property. The RDA desires to purchase the Property to facilitate its redevelopment as the Kansas-Woodland Business Park ("Business Park"). The RDA believes the redevelopment of the Property will benefit the economy of Modesto and will stimulate job creation and economic growth in the Modesto area. The City concurs in this belief.

D. FMC has not been willing to sell the Property until the final remedial measures for groundwater remediation have been determined. FMC is concerned that additional requirements could be imposed upon FMC by the Water Board, the California Department of Toxic Substances Control or another Environmental Agency, or that pending or future state and federal Total Maximum Daily Load regulations imposed on the City's POTW, could require (i) alterations or modifications to FMC's Remediation System, (ii) new or additional remediation measures or (iii) the installation of new remediation equipment that would require the use of additional portions of the Property. Although FMC will continue to operate the Remediation System in accordance with the RAP and the Order (both as defined below) and will be granted the Remediation Facilities Easement, as described in the Purchase Agreement (defined below)

between the RDA and FMC, once FMC sells the Property to the RDA, FMC will not have available land for any modifications or alterations that could be required to be made to the Remediation System or for the installation of new or supplemental remediation equipment that might be necessary to comply with such additional requirements or regulations. As a result, in order to comply with the Order, FMC will become dependent on its ability to continually discharge the Wastewater from the Remediation System to the City's POTW without the ability to modify the Remediation System to comply with any such additional requirements or regulations. Under these circumstances, FMC has not been willing to sell the Property to the RDA unless FMC receives adequate assurances from the City that it would continue to have the ability to discharge Wastewater from the Remediation System to the POTW in order to comply with the RAP and the Order.

E. As of the Effective Date, the RDA is acquiring the Property from FMC pursuant to that certain Purchase and Sale Agreement dated _____, 2009 between FMC and the RDA ("Purchase Agreement"). FMC's agreement to sell the Property to the RDA pursuant to the Purchase Agreement is conditioned upon the City entering into this Agreement on the terms and conditions contained herein concurrently with FMC's conveyance of the Property to the RDA. City is willing to enter into this Agreement with FMC so that the RDA can acquire the Property from FMC for redevelopment into the Business Park.

F. FMC and the City desire to set forth in this Agreement the terms and conditions on which FMC may continue to discharge Wastewater from the Remediation System to the City's POTW and the rights, responsibilities and obligations of the parties with respect to any future regulations that adversely affect FMC's ability to discharge the Wastewater into the POTW during the term of this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and other consideration, the receipt and sufficiency of which are hereby acknowledged, City and FMC hereby agree as follows:

1. Definitions. The following terms, as used herein, shall be defined as follows:

(a) "Business Park" shall mean the Kansas-Woodland Business Park to be constructed on the Property and adjacent property subsequent to the acquisition of the Property by the RDA.

(b) "CERCLA" shall mean the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. section 9601, et seq., as amended in effect as of the Effective Date.

(c) "DTSC" shall mean the State of California Environmental Protection Agency, Department of Toxic Substances Control, or any successor agency thereto.

(d) "Effective Date" shall mean the date on which the RDA acquires fee title to the Property pursuant to the Purchase Agreement, which shall also be the date that this Discharge Agreement becomes effective.

(e) "Environmental Agency" shall mean the Water Board, DTSC and/or any other federal, state, or local governmental agency charged with enforcing Hazardous Materials Laws and having jurisdiction with respect to the Property.

(f) "Environmental Reports" shall mean the documents describing the Groundwater Contamination listed on Exhibit "B" attached hereto.

(g) "Groundwater Contamination" shall mean those certain chemicals in the groundwater at the Property as of the Effective Date as more particularly described in the Environmental Reports.

(h) "Hazardous Materials" shall mean any substance, material or waste which is (1) defined as a "hazardous waste," "hazardous material," "hazardous substance," "extremely hazardous waste," or "restricted hazardous waste" under any provision of California law; (2) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. Section 1251 et seq. (33 U.S.C. Section 1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. Section 1317); (3) defined as a "hazardous waste" pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq. (42 U.S.C. Section 6903) or its implementing regulations; (4) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601 et seq. (42 U.S.C. Section 9601); or (5) determined by DTSC, RWQCB or any other California, federal or local governmental authority (other than the City or the RDA) to be capable of posing a risk of injury to health, safety or property.

(i) "Hazardous Materials Laws" shall mean CERCLA, RCRA, or any other federal, state, or local law governing (i) Hazardous Materials, (ii) any Remedial Work obligation imposed upon FMC by an Environmental Agency, or (iii) the release of Hazardous Materials into the soil or groundwater.

(j) "Land Use Covenant" shall mean that certain Covenant to Restrict Use Environmental Restriction approved by the DTSC and the Water Board and recorded against the Property prior to conveyance of the Property to the RDA, as required by the RAP.

(k) "New Regulations" shall mean any regulations, standards, requirements, amendments, laws, statutes or ordinances enacted, promulgated or imposed on or after, or becoming effective after, March 1, 2008, by any federal, state, regional or local governmental entity having jurisdiction with respect to the Property, including any Environmental Agency, and the City acting under its power to regulate health and safety, that establishes additional limits, terms or conditions based on or to implement TMDL requirements regarding the discharge to or from the POTW, including regulations, standards or requirements imposed by the City with respect to the wastewater discharged to the POTW to allow the City to meet TMDL requirements at the POTW.

(l) "Operation and Maintenance Agreement" or "OMA" shall mean that certain agreement entered into by and between the RDA, FMC, DTSC and the Water Board and which shall become effective on the Effective Date relative to the operation and maintenance of

the infrastructure for the final remedial action(s) approved under the RAP, both with respect to soil and groundwater conditions, and including monitoring, inspection and reporting obligations.

(m) "Operation and Maintenance Plans" or "OMPs" shall mean the separate plans for soil and groundwater that are developed by FMC in accordance with the Purchase Agreement and approved by the DTSC and the Water Board prior to the Effective Date for the long-term operation and maintenance of the final remedial action(s) approved under the RAP.

(n) "Order" shall mean that certain Cleanup and Abatement Order No. 98-724 adopted on June 26, 1998 by the Water Board.

(o) "Permit" shall mean that certain Conditional and Revocable Groundwater Discharge Permit No. GW-96-2 effective January 1, 2007, issued to FMC by the City of Modesto, Public Works Department, Environmental Compliance Section.

(p) "POTW" shall mean the publicly-owned wastewater treatment works operated by the City.

(q) "Prior Orders" shall mean those certain Cleanup and Abatement Orders Nos. 93-202 and 96-063 adopted by the Water Board.

(r) "RAP" shall mean the Remedial Action Plan submitted by FMC to the DTSC and the Water Board under the VCA and the Order and approved by the DTSC and the Water Board on _____, 2009.

(s) "RCRA" shall mean the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §6901 et seq., as amended, in effect as of the date of this Agreement.

(t) "RDA" shall mean the Redevelopment Agency of the City of Modesto, a public body, corporate and politic.

(u) "Regulatory Documents" shall mean the Land Use Covenant, the Operation and Maintenance Agreement, the Operation and Maintenance Plans and the Soil Management Plan, all of which are referenced in the RAP and which will be developed by FMC in accordance with the Purchase Agreement and approved by the DTSC and/or RWQCB prior to the Effective Date.

(v) "Remedial Work" shall mean any and all investigation, remediation, mitigation, monitoring, reporting, and other obligations required or which may be required of FMC by the DTSC pursuant to the VCA, the RAP, the Operation and Maintenance Agreement, the Operation and Maintenance Plan for groundwater or by the Water Board pursuant to the Order or the Prior Orders, as the VCA, the RAP, the Operation and Maintenance Agreement, the Operation and Maintenance Plan for groundwater, the Order or the Prior Orders may be amended or supplemented from time to time, or pursuant to any other order of the DTSC, Water Board or another Environmental Agency which imposes obligations on FMC with respect to groundwater conditions relative to the Property or the Groundwater Contamination consistent with the cleanup and use of the Property for commercial/industrial purposes.

(w) "Remediation System" shall mean the groundwater extraction and treatment system located on the Property as of the Effective Date, consisting of monitoring and extraction wells, conveyance piping and a treatment facility, together with any additional remediation facilities hereafter required to be located on the Property and electric, domestic water and storm drain utility lines from the utility supplier to such system. A description of the existing Remediation System is attached hereto as Exhibit C and incorporated herein by reference.

(x) "Remediation Facilities Easement" shall mean that portion of the Property on which an easement shall be granted by the RDA to FMC under the Right of Entry Agreement for the purposes specified in the Right of Entry Agreement.

(y) "Right of Entry Agreement" shall mean the Right of Entry Agreement, Easement and Environmental Restriction between the RDA and FMC to be recorded against the Property upon conveyance of the Property to the RDA, as set forth in the Purchase Agreement, pursuant to which Right of Entry Agreement the RDA shall grant FMC the Remediation Facilities Easement and a right of entry to perform Remedial Work.

(z) "TMDL" shall mean the Total Maximum Daily Load established by the Water Board in implementation of the federal Clean Water Act and the California Porter-Cologne Water Quality Control Act, to control pollutants and achieve certain water quality standards in the wastewater discharge from point sources as it relates to the operation of the POTW owned and operated by the City.

(aa) "VCA" shall mean the Voluntary Cleanup Agreement effective as of July 8, 2002, by and between FMC and DTSC, as amended or supplemented from time to time.

(bb) "Wastewater" shall mean the treated groundwater discharged to the POTW from the Remediation System.

(cc) "Water Board" shall mean the State of California Regional Water Quality Control Board, Central Valley Region, or any successor agency thereto.

All other defined terms used in this Agreement shall be defined where first appearing in this Agreement.

2. Consideration. The City acknowledges that the RDA desires to acquire the Property for redevelopment into the Business Park in order to benefit the economy of Modesto and to stimulate job creation and economic growth in the City of Modesto. FMC has not been willing to sell the Property to the RDA until the final remedial measures for the Groundwater Remediation have been determined because, upon FMC's conveyance of the Property, FMC will not be able to make any modifications or alterations to the Remediation System or to install new or supplemental remediation equipment that requires the use of additional land to comply with New Regulations. The City further acknowledges that FMC is not willing to sell the Property to the RDA unless FMC receives contractual assurances from the City that, after conveyance, FMC would continue to have the right to discharge the Wastewater into the POTW even if such discharge to the POTW does not comply with the New Regulations and that the City will assume the obligation to comply with any New Regulations on FMC's behalf. The Purchase Agreement

provides that FMC is to receive as consideration for the sale of the Property (i) a cash payment from the RDA which is significantly below the market value of the Property; and (ii) an agreement with the City to permit FMC to continue to discharge the Wastewater to the POTW, subject to the terms and conditions contained herein, and under which the City would assume the obligation to comply with any New Regulations on FMC's behalf with respect to FMC's discharge of the Wastewater to the POTW. City acknowledges that FMC is not obligated to sell the Property to the RDA unless the foregoing conditions are satisfied. City further acknowledges that FMC is relying upon the City's performance of the contractual obligations undertaken by the City pursuant to this Agreement in consummating the sale of the Property to the RDA and that FMC has not agreed to consummate such sale, and would not consummate such sale, without the City undertaking its contractual agreements under this Agreement.

City acknowledges and agrees that even though the City will not obtain title to the Property, the RDA's acquisition of the Property for redevelopment into the Business Park will benefit the City by providing economic benefits to the City in the form of new businesses, new jobs, increased tax revenue, redevelopment of unused property into productive use and increased economic activity for existing businesses in the City of Modesto. City further acknowledges that FMC is receiving the value of the Property through the rights and benefits granted to FMC and the obligations undertaken by the City pursuant to this Agreement, and that the City is providing the major portion of the consideration to FMC for the sale of the Property to the RDA. City further acknowledges that the above-described economic benefits made possible by FMC's conveyance of the Property to the RDA for redevelopment into the Business Park is fair and adequate consideration for the rights and benefits granted by the City to FMC under this Agreement.

3. Groundwater Condition. FMC and its predecessors in interest in the Property variously operated manufacturing facilities on the Property for the production of barium and strontium chemicals. These operations included the use from the early 1950's to the late 1970's of on-site evaporation ponds to manage residual solids from the ore processing units and air pollution control equipment which solids were slurried with water and discharged to the ponds. These ponds were closed by removal of residue material and backfilling during 1979-81. The operation of the ponds resulted in contamination of the groundwater, including in particular with total dissolved solids, including sulfates. In addition, the soils under the former pond areas are impacted with sulfates and related compounds that continue to migrate into the upper groundwater aquifer. The Property is currently subject to the Order and the Prior Orders. Starting in the early 1960's, FMC installed a number of groundwater monitoring wells, both on and off the Property, and has routinely reported on the results of samples from these wells to the Water Board under the terms of the Order and the Prior Orders. Under the Order and associated Monitoring and Reporting Program (No. 98-805, adopted by the Water Board on June 26, 1998), FMC currently samples and reports sampling results for some 33 monitoring wells, located both on and off the Property. Since 1996, FMC has operated the Remediation System on the Property, which Remediation System discharges to the City's POTW under the terms of discharge permits issued by the City. The current Permit was issued by the City on January 1, 2007 and is effective until December 31, 2009. Pursuant to the Order, the RAP, the Operation and Maintenance Agreement and the Operation and Maintenance Plan for groundwater, FMC will be required to perform groundwater remediation and to maintain and operate the

Remediation System on the Property for an indefinite period of time anticipated to run a number of years after December 31, 2009.

The Water Board and the DTSC have approved the RAP which, among other things, requires the continued operation of the Remediation System to address groundwater conditions at the Property. FMC acknowledges that, pursuant to the RAP, it has prepared the Operation and Maintenance Plan for groundwater and entered into the Operation and Maintenance Agreement with the RDA, DTSC and the Water Board, which describes, among other things, FMC's ongoing responsibilities for the operation and maintenance of the Remediation System. In addition, pursuant to the RAP, FMC recorded the Land Use Covenant against the Property that, among other things, restricts the use of the Property to commercial and industrial purposes, imposes notification requirements and restrictions with respect to activities that would result in exposure to soils and restricts the use of groundwater and the disturbance of certain covered areas of the Property.

4. Discharge Permit.

(a) Compliance with Discharge Permit. During the term of this Agreement, FMC shall continue to comply with all of the terms, conditions and requirements imposed upon FMC and in effect under the existing Permit as of March 1, 2008 with respect to the discharge of the Wastewater to the POTW, except as otherwise provided in this Agreement. To the extent that New Regulations are imposed on the discharge of Wastewater upon renewal of the Permit or prior thereto with respect to terms and conditions contained in the existing Permit, but made effective after March 1, 2008, then compliance with such New Regulations shall be subject to Section 7 below.

(b) Permit Renewal. So long as this Agreement is in effect, and FMC needs to discharge Wastewater to the POTW, FMC will make timely application to the City for the renewal of the Permit. FMC shall pay the customary permit fees imposed by the City upon users of the POTW for the same type of waste as FMC discharges in its Wastewater from the Remediation System, as such fees are established by City ordinance on a non-discriminatory basis.

5. Total Maximum Daily Load Regulations. During the term of this Agreement, FMC and the City anticipate that the Water Board will adopt, and from time to time modify, New Regulations that will limit or restrict the discharge of certain chemicals or constituents from the City's POTW. Specifically, as of the Effective Date, FMC and the City anticipate that the Water Board will impose New Regulations that will limit or restrict the quantity (either in terms of mass or concentration) of sulfates and other dissolved solids or salts that may be discharged from the POTW. In the future, additional New Regulations might limit or prohibit the quantity of other chemicals or constituents that can be discharged from the POTW. Further, FMC understands that to satisfy these New Regulations, the City may have to impose new and more stringent limits on the discharge of certain chemicals or constituents to the POTW. FMC is concerned that the amount of sulfates and other dissolved solids or salts in FMC's Wastewater discharged to the POTW might exceed the amount of sulfates and other dissolved solids or salts permitted by New Regulations to meet the TMDL governing salinity management (i.e., the Central Valley Salinity Alternatives for Long-Term Sustainability ("CV-SALTS"). In addition,

the quantity of other chemicals or constituents in the Wastewater might exceed limits imposed by New Regulations to meet other future TMDL requirements. Based on information available to FMC as of the Effective Date, FMC believes that in order to comply with the anticipated and/or future New Regulations relating to the TMDL imposed upon the City's POTW, FMC might need to either substantially alter the Remediation System or develop an alternative method of remediating the Groundwater Contamination. Either course of action would require FMC to make more extensive use of the Property for the location and/or installation of supplemental and/or new remediation facilities. Once FMC sells the Property to the RDA, FMC will not be able to use any additional land for alterations to the existing Remediation System or the development of an alternative remediation system, and therefore would not be able to comply with any New Regulations imposed by the Water Board or another Environmental Agency and/or the City to the requirements of the New Regulations. To the extent that FMC's inability to comply with the New Regulations would limit or prohibit the discharge of the Wastewater from the Remediation System to the POTW, FMC could be in violation of the orders or directives issued by the Environmental Agencies, including the Order, the RAP and the Operation and Maintenance Agreement and the Operation and Maintenance Plan for groundwater. Therefore, the City hereby agrees that, during the term of this Agreement, and except as provided below, the City will continue to accept the discharge of the Wastewater to the POTW based on the same terms and conditions of the Permit in effect as of March 1, 2008 (and including an increased volume of Wastewater as described in Section 6 below), notwithstanding that the quantity of chemicals or constituents contained in FMC's Wastewater discharged to the POTW may exceed the levels set forth in the New Regulations with respect to the discharge from the POTW. The City hereby assumes the responsibility to take such action as may be necessary to treat FMC's Wastewater at the POTW for sulfates and other dissolved solids or salts or other chemicals or constituents which are restricted or limited by New Regulations relative to the discharge from the City's POTW. Notwithstanding the foregoing, if the Water Board and/or the DTSC has issued a cease and desist order, cleanup and abatement order and/or order for corrective action based on a finding of imminent and substantial endangerment in connection with any Remedial Work obligation where such order impacts the Wastewater discharged to the POTW (such order is hereafter referred to as a "Violation Order"), then the City may temporarily suspend the acceptance of the Wastewater until such time as FMC has performed or commenced to perform and is diligently prosecuting to completion the Remedial Work obligation that is the subject of the Violation Order, but only if: (i) the enforcement of the Violation Order has not been stayed by the order of a reviewing administrative agency or a court of competent jurisdiction; (ii) FMC is not appealing the judgment of a court of competent jurisdiction sustaining the enforcement of the Violation Order; and (iii) the Water Board and/or the DTSC have not used the financial assurances provided by FMC pursuant to the Operation and Maintenance Agreement to perform the Remedial Work obligation that is the subject of the Violation Order on FMC's behalf. The City shall again accept FMC's discharge of Wastewater to the POTW upon receipt of written notice from FMC that it is performing the Remedial Work obligation that is the subject of the Violation Order, and shall continue to accept such Wastewater unless notified by FMC or the Environmental Agency that issued the Violation Order that FMC has ceased to perform this obligation prior to completion. In no event shall the City revoke the Permit due to the issuance of a Violation Order.

6. Increased Wastewater Volume. The City acknowledges that, during the term of this Agreement, additional Remedial Work obligations may be imposed on FMC or the Property

pursuant to the VCA, the RAP or the Order with respect to the Groundwater Contamination. Such obligations could include increased extraction and/or treatment of groundwater through the Remediation System which could result in a volume of Wastewater being discharged by FMC to the POTW in excess of the daily and monthly discharge limits set forth in the existing Permit. At least thirty (30) days prior to discharging any such increased volume to the POTW in excess of the daily and monthly discharge limits, FMC shall notify the City in writing that the Wastewater discharge shall exceed the volume limits set forth in the Permit and provide the City with a copy of the letter or other written directive from the Water Board, DTSC or another Environmental Agency setting forth the additional Remedial Work obligation requiring the additional volume discharge. City agrees that it shall accept into the POTW any increased volume of Wastewater resulting from FMC's compliance with such additional Remedial Work obligation, even if the increased volume of Wastewater exceeds the daily and monthly discharge limits set forth in the Permit. Any discharge of any increased volume of Wastewater shall be subject to the terms and conditions of the Permit in effect as of March 1, 2008, except for any daily or monthly discharge limits on volume. FMC shall not discharge a volume of Wastewater to the POTW in excess of the daily and monthly discharge limits set forth in the Permit unless such discharge is required for FMC to comply with an additional Remedial Work obligation imposed on FMC or the Property pursuant to the VCA, the RAP or the Order with respect to the Groundwater Contamination.

7. New Regulations. FMC and the City acknowledge that the imposition of New Regulations during the term of this Agreement could affect FMC's ability to discharge Wastewater from the Remediation System to the POTW in the manner permitted under the Permit as of March 1, 2008. By way of example only, the New Regulations could require (i) a reduction or limitation in the quantity of a constituent of the Wastewater, (ii) additional treatment to reduce or limit the quantity or concentration of one or more constituents in the Wastewater or (iii) a reduction in the volume of Wastewater FMC is permitted to discharge to the POTW. FMC shall give written notice to the City of any New Regulation that adversely affects FMC's ability to discharge Wastewater from the Remediation System to the POTW in the manner permitted under the Permit as of March 1, 2008 ("FMC Notice"). The FMC Notice shall specify how FMC's discharge of the Wastewater is affected by the New Regulation. Within thirty (30) days after receipt of the FMC Notice, or on such later date that the New Regulation becomes effective, the City shall take such actions as may be necessary at the POTW to comply with the New Regulations on behalf of FMC at the City's sole cost and expense. In such event, FMC may continue to discharge the Wastewater to the POTW in the manner permitted by the Permit as of March 1, 2008. Notwithstanding the foregoing, FMC shall be responsible, at FMC's sole cost and expense, for complying with any other regulations, orders, requirements, laws, statutes or ordinances adopted, enacted or imposed after March 1, 2008 by any federal, state, regional or local governmental entity, including any Environmental Agency and the City, acting under its power to regulate health and safety, and having jurisdiction with respect to the discharge of the Wastewater to the POTW that do not relate to TMDL; provided, however, that any such new regulations imposed by the City on discharge to the POTW shall be regulations of general application to all users similarly situated.

8. Inability to Discharge. If FMC cannot discharge Wastewater from the Remediation System to the POTW in the manner permitted under the Permit as of March 1, 2008 for any of the following reasons:

(a) FMC is unable to renew the Permit due to the imposition of New Regulations and the City fails or is unable to comply with the New Regulations on behalf of FMC pursuant to this Agreement in a manner that will allow for the renewal of the Permit;

(b) The Water Board, the DTSC or another Environmental Agency imposes an additional Remedial Work obligation upon FMC that requires an increase in the volume of Wastewater discharged by FMC to the POTW, as set forth in Section 6 hereof, and the City is unable or declines to accept such increased volume of Wastewater; or

(c) The City fails or is unable to accept FMC's Wastewater in the manner permitted under the Permit as of March 1, 2008 due to any New Regulations imposed on the City's discharge from the POTW and the City is unable or fails to comply on behalf of FMC with any New Regulations at the POTW that would allow the City to accept FMC's Wastewater;

and the Water Board, the DTSC or other applicable Environmental Agency requires FMC to provide an alternative method for remediation of the Groundwater Contamination in order to comply with the Order or applicable Remedial Work obligation imposed by such Environmental Agency, then the City shall indemnify and hold FMC harmless from any and all costs incurred by FMC for the development, construction, operation and maintenance of an alternative remediation system that will allow FMC to continue to remediate the Groundwater Contamination and comply with the Order.

Under any of the circumstances described in subsections (a) through (c) of this Section 8, FMC shall give the City copies of any written notice from the Water Board, the DTSC or another Environmental Agency requiring FMC to develop an alternative remediation system for the Groundwater Remediation. The City acknowledges that, as of the Effective Date, the feasibility, location and technology for an alternative remediation system are unknown. FMC contemplates that in order to develop an alternative remediation system, it could be necessary for FMC to acquire real property and/or other real property interests for the location of the alternative remediation system. In such event, City agrees it shall cooperate with FMC in acquiring such real property and/or other real property interests, including any real property interest owned or controlled by the City or the RDA. Such cooperation shall include paying deposits, the purchase price, acquisition costs and closing costs in any transaction in which FMC acquires real property or a real property interest for the location and operation of such alternative remediation system. In addition, FMC would need to perform engineering studies and tests including, as appropriate, modeling to determine the design, operation and effectiveness of the alternative remediation system. Further, FMC would need plans and specifications to be prepared for the alternative remediation system for submittal to the Water Board or other applicable Environmental Agency for approval. FMC may also need to obtain a building permit and other approvals from applicable governmental authorities. Prior to commencement of construction of such alternative remediation system, FMC shall cause to be prepared and submitted to the City, a detailed cost estimate for all costs associated with the development and construction of such alternative remediation system and provide periodic updates of the actual costs of development and construction incurred by FMC. Upon receipt of approval of plans and specifications from the Water Board or other applicable Environmental Agency, and upon receipt of a building permit and all other applicable approvals, FMC shall commence and thereafter diligently prosecute the construction of the alternative remediation system to completion. Upon completion of

construction of the alternative remediation system, FMC shall present the City with a detailed invoice showing all costs actually incurred and paid by FMC to third parties for the development and construction of the alternative remediation system. Such costs shall include all consultant, engineering and legal fees incurred for acquisition of real property or real property interests for the location and operation of the alternative remediation system, the costs of tests, studies and modeling, the cost of obtaining approval of the alternative remediation system by the Water Board or other applicable Environmental Agency, the costs of building permits or other governmental approvals, the costs of plans and specifications and any revisions or change orders thereto, construction costs and any increased costs of operation and maintenance of the alternative remediation system in excess of similar costs paid for the operation and maintenance of the Remediation System. FMC shall provide the City with copies of actual invoices, bills, receipts, statements, contract disbursement requests, bids, purchase orders and other written evidence showing all actual costs incurred by FMC and paid to third parties for the development and construction of the alternative remediation system. To the extent not previously paid, City shall pay all such costs shown on FMC's statement within thirty (30) days after FMC delivers such statement to the City. If City fails to pay the costs shown on FMC's statement within said thirty (30) day period, then FMC shall have all rights and remedies available at law or equity to enforce the City's payment of the amounts due to FMC.

9. City's Representations and Warranties. The City hereby makes the following representations and warranties to FMC, all of which are being relied upon by FMC as a material inducement to enter into this Agreement:

(a) The City has the full power and authority to enter into this Agreement and to perform the obligations of City hereunder.

(b) The execution and delivery of this Agreement has been duly approved by all requisite action of the City Council of the City.

(c) The execution and delivery of this Agreement by the City, and the performance of the obligations of the City hereunder, do not violate any applicable law, statute, ordinance, code or regulation of any federal, state or local governmental authority to which the City is subject, including the Municipal Code of the City of Modesto and any City ordinances.

(d) The performance of its obligations hereunder does not prohibit the City from exercising its constitutional powers to protect and regulate the health and safety of the citizens of the City, including the regulation of the POTW.

10. Assumption of Risk. City acknowledges that the extent of the obligations to be undertaken by the City pursuant to this Agreement and the costs that may be incurred to perform such obligations are unknown as of the Effective Date and the actual extent of such obligations and the costs incurred by the City in performing such obligations under this Agreement may be much greater than anticipated as of the Effective Date. Notwithstanding the foregoing, the City hereby freely enters into this Agreement and assumes the risk that the obligations it incurs under this Agreement may be greater than the benefits received by the City as a result of the sale of the Property and redevelopment of the Property into the Business Park.

11. Duration of Agreement. The rights and obligations of FMC and the City hereunder shall terminate upon the date that is sixty (60) days after the date that the last Environmental Agency requiring FMC to perform Remedial Work with respect to the Groundwater Contamination provides FMC with written notice that no further Remedial Work obligation shall be required with respect to the Groundwater Contamination. Each covenant, agreement and obligation contained in this Agreement shall remain effective until such date.

12. Attorneys' Fees. In the event of a judicial or administrative proceeding or action by one party against the other party with respect to the interpretation or enforcement of this Agreement, the prevailing party shall be entitled to recover reasonable costs and expenses, including attorneys fees and expenses, whether at the investigative, pretrial, trial or appellate level. The prevailing party shall be determined by the court based upon an assessment of which party's major arguments or position prevailed.

13. Notices. All notices, demands, requests and other communications required hereunder shall be in writing, shall be deemed to be duly given if mailed by United States registered or certified mail, with return receipt requested, postage prepaid, or by United States Express Mail, or if sent by a national courier service or if personally served, and the same is sent to a party at its address set forth below:

If to FMC:	FMC Corporation 1735 Market Street Philadelphia, PA 19103 Attn: Real Estate Manager
With a copy to:	FMC Corporation 1735 Market Street Philadelphia, PA 19103 Attention: General Counsel FMC Corporation 1735 Market Street Philadelphia, PA 19103 Attention: Director, Environment
To City:	City of Modesto 1010 Tenth Street, Suite _____ Modesto, CA 95354 Attn: _____
With a copy to:	City of Modesto 1010 Tenth Street, Suite _____ Modesto, CA 95354 Attn: City Attorney

Notices will be effectively served upon personal delivery, or if mailed or sent by courier, upon receipt or refusal to accept delivery. Any party may designate a change of address by written

notice to the others given at least ten (10) days before such change of address is to become effective.

14. Severability. The parties hereto intend and believe that each provision in this Agreement comports with all applicable federal, state and local laws and judicial decisions. If, however, any provision of this Agreement is found by a court of law to be in violation of any applicable federal, state or local law, ordinance, statute, administrative or judicial decision, or public policy, or if in any other respect such a court declares any such provision to be illegal, invalid, unlawful, void or unenforceable as written, then it is the intent of all parties hereto that, consistent with and with a view towards preserving the economic and legal arrangements among the parties hereto as expressed in this Agreement, such provision shall be given force and effect to the fullest possible extent, and that the remainder of this Agreement shall be construed as if such illegal, invalid, unlawful, void or unenforceable provision were not contained herein, and that the rights, obligations and interests of the parties under the remainder of this Agreement shall continue in full force and effect.

15. Modification. This Agreement may not be modified, amended or otherwise changed in any manner, except by a written amendment executed by both City and FMC.

16. Successors and Assigns. All provisions, covenants, conditions and obligations contained in this Agreement shall be binding upon and inure to the benefit of the parties hereto, and to their respective heirs, successors (by merger, consolidation, or otherwise) and assigns.

17. Controlling Laws. This Agreement shall be governed by, and construed in accordance with, the laws of the State of California.

18. Effect on Third Parties. The rights, benefits and obligations conferred hereunder are for the benefit of the parties hereto and not for the benefit of any third party.

19. Entire Agreement. This Agreement constitutes the entire agreement of the parties with respect to the specific subject matter hereof, and all prior negotiations, agreements and understandings between FMC and City with respect to the specific subject matter hereof are merged into this Agreement.

20. Counterparts. This Agreement may be executed in counterparts, all of which together constitute one and the same agreement.

IN WITNESS WHEREOF, FMC and the City have executed this Discharge Agreement as of the date first above written.

"FMC"

FMC CORPORATION,
a Delaware corporation

By: _____
Name: _____
Title: _____

"CITY"

CITY OF MODESTO, a public body, corporate and politic

By: _____

Approved as to form:

_____
City Attorney

ATTEST:

_____

EXHIBIT "A"

LEGAL DESCRIPTION

Real property in the City of Modesto, County of Stanislaus, State of California, described as follows:

PARCEL NO. 1:

BEGINNING AT A POINT IN THE WEST LINE OF THE PARCEL OF LAND DESCRIBED IN THE DEED FROM D-V-O PRODUCTS, INC. TO THE CENTRAL PACIFIC RAILWAY COMPANY DATED NOVEMBER 5, 1925 AND FILED FOR RECORD JULY 29, 1926 IN VOLUME 180 OF OFFICIAL RECORDS OF SAID COUNTY OF STANISLAUS AT PAGE 462, DISTANT SOUTH, 7.02 FEET THEREON FROM THE MOST NORTHERLY CORNER OF SAID PARCEL OF LAND; THENCE SOUTHERLY FROM A TANGENT THAT BEARS SOUTH 25° 44' 57" EAST ALONG A CURVE TO THE RIGHT OF A RADIUS OF 562.22 FEET, A DISTANCE OF 467.40 FEET; THENCE SOUTH 21° 53' WEST, 41.07 FEET TO THE SOUTHERLY END OF THAT PORTION OF THE EAST LINE OF THE LAND OF BARIUM PRODUCTS, LTD. THAT BEARS NORTH AND SOUTH; THENCE NORTH ALONG THE EAST LINE OF THE LANDS OF BARIUM PRODUCTS, LTD., 491.90 FEET TO THE POINT OF BEGINNING.

PARCEL NO. 2:

BEGINNING AT THE MOST SOUTHERLY CORNER OF THE ABOVE DESCRIBED PARCEL NO. 1; THENCE SOUTH 21° 53' WEST, 93.98 FEET; THENCE SOUTHERLY FROM A TANGENT THAT BEARS SOUTH 21° 53' WEST ALONG A CURVE TO THE LEFT OF A RADIUS OF 583.14 FEET, A DISTANCE OF 222.72 FEET; THENCE SOUTH, TANGENT TO SAID CURVE, 484.27 FEET; THENCE SOUTH 8° 10' WEST, 98.55 FEET; THENCE WEST, 113.00 FEET TO THE EAST LINE OF MICHIGAN AVENUE; THENCE NORTH ALONG SAID EAST LINE, 800.00 FEET TO THE SOUTH LINE OF THE LAND OF BARIUM PRODUCTS, LTD.; THENCE EAST, ALONG SAID SOUTH LINE, 151.70 FEET TO THE SOUTHEASTERLY LINE OF THE LAND OF BARIUM PRODUCTS, LTD.; THENCE NORTH 31° 13' EAST THEREON, 101.00 FEET TO THE POINT OF BEGINNING.

PARCEL NO. 3:

BEGINNING AT THE SOUTHWEST CORNER OF THE LAND OF D-V-O PRODUCTS, INS., A CORPORATION, AT A POINT IN THE EAST LINE OF MICHIGAN AVENUE, SAID POINT BEING DISTANT 20 FEET AT RIGHT ANGLES EAST FROM THE CENTER LINE OF SAID AVENUE AND 1840 FEET, MORE OR LESS, NORTHERLY FROM THE EAST AND WEST QUARTER SECTION LINE OF SAID SECTION 30; THENCE EAST 205.0 FEET ALONG THE SOUTH LINE OF SAID D-V-O PRODUCTS, INC., PROPERTY TO A POINT; THENCE SOUTH 215.82 FEET TO A POINT; THENCE SOUTH 31° 13' WEST 101.0 FEET TO A POINT; THENCE WEST 152.66 FEET TO A POINT IN THE SAID EAST LINE OF MICHIGAN AVENUE; THENCE NORTH ALONG THE SAID EAST LINE OF MICHIGAN AVENUE, A DISTANCE OF 302.2 FEET TO THE POINT OF BEGINNING.

PARCEL NO. 4:

BEGINNING A POINT BEARING EAST 14.69 CHAINS FROM A POINT IN THE NORTH AND SOUTH QUARTER SECTION LINE, WHICH POINT BEARS NORTH 27. 88 CHAINS FROM THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 30; THENCE NORTH 524.70 FEET AND PART ALONG THE CENTER OF A ROAD TO THE WESTERLY RIGHT OF WAY LINE OF THE SOUTHERN PACIFIC RAILROAD; THENCE SOUTH 42°38' EAST 716.95 FEET AND ALONG SAID RIGHT OF WAY LINE; THENCE WEST 488.70 FEET TO THE POINT OF BEGINNING, AND LAST

MENTIONED COURSE IS ALSO AT RIGHT ANGLES FROM THE FIRST MENTIONED COURSE.

EXCEPTING THEREFROM THE WEST TWENTY (20) FEET.

ALSO EXCEPTING THEREFROM THE FOLLOWING:

ALL THAT PORTION OF THE EAST HALF OF SECTION 30, IN TOWNSHIP 3 SOUTH, RANGE 9 EAST, MOUNT DIABLO BASE AND MERIDIAN, BOUNDED AND PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTHWESTERLY BOUNDARY LINE OF THE CENTRAL PACIFIC RAILWAY COMPANY'S RIGHT OF WAY, SAID POINT BEING DISTANT 330.0 FEET, MEASURED SOUTH 42° 58' EAST ALONG SAID SOUTHWESTERLY BOUNDARY LINE FROM ITS INTERSECTION WITH THE CENTER LINE OF A ROAD AS LAID OUT ALONG THE WEST SIDE OF THE PROPERTY OF THE D-V-O PRODUCTS, INC.; THENCE SOUTH 42°58'EAST 386.90 FEET ALONG SAID BOUNDARY LINE; THENCE WEST 263.70 FEET; THENCE AT RIGHT ANGLES NORTH 283.10 FEET TO THE POINT OF BEGINNING.

PARCEL NO. 5:

BEGINNING AT A POINT MARKING THE NORTHWEST CORNER OF THE 1.002 ACRE PARCEL OF LAND DESCRIBED IN THE DEED TO THE STATE OF CALIFORNIA DATED AUGUST 23, 1955 AND RECORDED SEPTEMBER 29, 1955 IN VOLUME 1318 OF OFFICIAL RECORDS, AT PAGE 461, AS INSTRUMENT NO. 29114, SAID CORNER LYING ON THE EAST LINE OF BENNETT ROAD (ALSO KNOWN AS MICHIGAN AVENUE, AND BEING 40 FEET IN WIDTH); THENCE ALONG THE NORTH LINE OF SAID 1.002 ACRE PARCEL, SOUTH 89° 47' EAST 113.67 FEET TO THE MOST NORTHEASTERLY CORNER OF SAID PARCEL; THENCE ALONG THE EASTERLY BOUNDARY OF SAID PARCEL THE FOLLOWING COURSES: SOUTH 0° 11' 40" EAST, 20.04 FEET; SOUTH 89° 47' EAST, 14.07 FEET; AND SOUTH 0° 11' 40" EAST, 231.60 FEET; THENCE LEAVING SAID EASTERLY BOUNDARY NORTH 49° 22' 30" WEST, 140.20 FEET; THENCE NORTH 37° 24' 39" WEST, 35.78 FEET TO THE WESTERLY LINE OF SAID 1.002 ACRE PARCEL (ALSO BEING THE EASTERLY LINE OF SAID BENNETT ROAD); THENCE ALONG SAID WESTERLY LINE NORTH 0° 11" 40" WEST, 132.41 FEET TO THE POINT OF BEGINNING.

RESERVING THEREFROM SUCH INTEREST IN THAT PORTION OF THE EAST 15.00 THEREOF, AS WAS RESERVED FOR RAILROAD PURPOSES IN THE DEED FROM CENTRAL PACIFIC RAILROAD COMPANY AND SOUTHERN PACIFIC COMPANY, DATED AUGUST 21, 1947 AND RECORDED OCTOBER 22, 1947 IN VOLUME 910 OF OFFICIAL RECORDS, AT PAGE 406, AS INSTRUMENT NO. 27554, STANISLAUS COUNTY RECORDS.

ALSO EXCEPTING AND RESERVING THEREFROM ALL PETROLEUM, OIL, NATURAL GAS AND PRODUCTS DERIVED THEREFROM, WITHIN OR UNDERLYING THE SAID LAND OR THAT MAY BE PRODUCED THEREFROM, AND ALL RIGHTS THERETO, AS RESERVED IN THE DEED FROM CENTRAL PACIFIC RAILWAY COMPANY AND SOUTHERN PACIFIC COMPANY, DATED AUGUST 21, 1947 AND RECORDED OCTOBER 22, 1947 IN VOLUME 910 OF OFFICIAL RECORDS, AT PAGE 406, AS INSTRUMENT NO. 27554, STANISLAUS COUNTY RECORDS. SAID RIGHTS SHALL NOT INCLUDE USE OF THE SURFACE OF SAID LAND.

PARCEL NO. 6:

LOTS 1 TO 9, INCLUSIVE, IN BLOCK 5072 OF THE GRANGE TRACT, ACCORDING TO THE OFFICIAL MAP THEREOF, FILED SEPTEMBER 14, 1940 IN THE OFFICE OF THE COUNTY RECORDER OF STANISLAUS COUNTY, CALIFORNIA IN VOLUME 14 OF MAPS AT PAGE 5.

ALSO, LOTS 1 TO 8, IN INCLUSIVE, IN BLOCK 5043 OF THE GRANGE TRACT, ACCORDING TO THE MAP HEREINABOVE REFERRED TO.

PARCEL NO. 7:

ALL OF ABANDONED DULUTH AVENUE, BEING A 60 FOOT STRIP OF LAND RUNNING EAST AND WEST, LYING WITHIN AND AS SHOWN ON THE MAP OF THE GRANGE TRACT FILED SEPTEMBER 14, 1940 VOLUME 14 OF MAPS, PAGE 5, IN THE OFFICE OF THE COUNTY RECORDER OF STANISLAUS COUNTY, CALIFORNIA.

PARCEL NO. 8:

BEGINNING AT A POINT ON THE NORTH AND SOUTH QUARTER SECTION LINE IN SAID SECTION 30, BEARING NORTH 29.32 CHAINS FROM THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION; AND BEING THE SOUTHWEST CORNER OF THAT CERTAIN TRACT OF LAND CONVEYED TO THE GRANGE COMPANY BY DEED RECORDED JUNE 26, 1923 IN VOLUME 23 OF OFFICIAL RECORDS, AT PAGE 331; RUN THENCE NORTH ALONG THE SAID QUARTER SECTION LINE 135 FEET; THENCE EAST 110 FEET; THENCE SOUTH 135 FEET TO SOUTH LINE OF LAND CONVEYED TO SAID GRANGE COMPANY; THENCE WEST ALONG SOUTH LINE OF SAID LAND SO CONVEYED TO THE GRANGE COMPANY 110 FEET TO THE POINT OF BEGINNING.

PARCEL NO. 9:

COMMENCE AT THE INTERIOR QUARTER CORNER OF SAID SECTION 30; THENCE NORTH 0° 33' 30" WEST ALONG THE NORTH AND SOUTH QUARTER SECTION LINE OF SAID SECTION 30, A DISTANCE OF 1604.26 FEET TO THE NORTHWEST CORNER OF THAT CERTAIN PARCEL OF LAND CONVEYED TO D. D. CAMPIN IN VOLUME 797 OF OFFICIAL RECORDS, AT PAGE 390, RECORDS OF STANISLAUS COUNTY RECORDER'S OFFICE AND THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE SOUTH 89° 46' 30" EAST ALONG THE NORTH LINE OF SAID LAND SO CONVEYED TO D. D. CAMPIN AND PARALLEL TO THE EAST AND WEST QUARTER SECTION LINE THROUGH SAID SECTION 30, A DISTANCE OF 950.97 FEET TO THE NORTHEAST CORNER OF SAID CAMPIN PARCEL, SAID CORNER BEING ON THE WEST LINE OF 40 FOOT ROAD KNOWN AS BENNETT AVENUE; THENCE NORTH 0° 42' 30" WEST ALONG THE WEST LINE OF SAID 40 FOOT ROAD, A DISTANCE OF 334.45 FEET TO THE SOUTHEAST CORNER OF THE GRANGE TRACT, ACCORDING TO THE OFFICIAL MAP THEREOF FILED FOR RECORD IN THE OFFICE OF THE COUNTY RECORDER OF STANISLAUS COUNTY IN VOLUME 14 OF MAPS, AT PAGE 5; THENCE NORTH 89° 55' 30" WEST, ALONG THE SOUTH LINE OF SAID GRANGE TRACT AND THE EXTENSION THEREOF, A DISTANCE OF 950.68 FEET TO THE SAID NORTH AND SOUTH ONE-QUARTER SECTION LINE; THENCE SOUTH 0° 33' 30" EAST AND ALONG THE NORTH AND SOUTH QUARTER SECTION LINE OF SAID SECTION 30, A DISTANCE OF 332.16 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION.

PARCEL NO. 10:

BEGINNING AT A POINT ON THE NORTH AND SOUTH QUARTER SECTION LINE AT A POINT BEARING NORTH 13.89 CHAINS FROM THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 30; THENCE NORTH ON SAID QUARTER SECTION LINE 10.417 CHAINS; THENCE EAST 14.40 CHAINS; THENCE SOUTH 10.417 CHAINS; THENCE WEST 14.40 CHAINS TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT CERTAIN LAND DESCRIBED IN THE DEED FROM BARIUM PRODUCTS, LTD., TO ELIZABETH B. RAVEN BAKER, RECORDED MAY 23, 1956 IN VOLUME 1365 OF OFFICIAL RECORDS, AT PAGE 658, AS INSTRUMENT NO. 14454, STANISLAUS COUNTY

RECORDS.

ALSO EXCEPTING THEREFROM THAT CERTAIN LAND DESCRIBED AS PARCEL NO. 2 IN THE DEED FROM FRANK J. MITCHELL, ET UX, AND FRED SAMPSON, ET UX, TO THE STATE OF CALIFORNIA, RECORDED SEPTEMBER 12, 1958 IN VOLUME 1502 OF OFFICIAL RECORDS, AT PAGE 446, AS INSTRUMENT NO. 22893, STANISLAUS COUNTY RECORDS.

ALSO EXCEPTING FROM THE ABOVE PARCEL NOS. 6,7,8,9, AND 10, ALL THOSE PORTIONS OF LAND CONVEYED TO THE COUNTY OF STANISLAUS IN DEEDS RECORDED DECEMBER 4, 1951 IN BOOK 1059 OF OFFICIAL RECORDS, PAGE 480 AND RECORDED JANUARY 25, 1952 IN BOOK 1067 OF OFFICIAL RECORDS PAGE 598.

ALSO EXCEPTING FROM THE ABOVE PARCEL NOS. 9 AND 10, ALL THAT PORTION LYING SOUTHWESTERLY OF THE NORTHEASTERLY LINES OF LAND CONVEYED TO STATE OF CALIFORNIA IN DEED RECORDED DECEMBER 28, 1961 IN BOOK 1731 OF OFFICIAL RECORDS, PAGE 691.

PARCEL NO. 11:

BEGINNING AT A POINT IN THE NORTHERLY LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED AS PARCEL NO. 2 IN THE DEED TO THE STATE OF CALIFORNIA DATED JUNE 25, 1958 AND RECORDED SEPTEMBER 12, 1958 IN VOLUME 1502 OF OFFICIAL RECORDS, AT PAGE 446, STANISLAUS COUNTY RECORDS, SAID POINT LYING SOUTH 89° 47' EAST, 99.73 FEET ALONG SAID NORTHERLY LINE FROM THE NORTHWEST CORNER OF SAID PARCEL; THENCE SOUTH 43° 07' 30" EAST, 27.93 FEET TO A POINT IN THE SOUTHERLY LINE OF SAID PARCEL; THENCE ALONG SAID SOUTHERLY LINE, SOUTH 89° 47' EAST, 282.23 FEET TO THE WESTERLY LINE OF BENNETT ROAD (ALSO KNOWN AS MICHIGAN AVENUE, AND BEING 40 FEET IN WIDTH); THENCE NORTH ALONG SAID WESTERLY LINE, 20.31 FEET; THENCE ALONG SAID NORTHERLY LINE OF SAID PARCEL DESCRIBED IN SAID DEED DATED JUNE 25, 1958, NORTH 89° 47' WEST, 301.25 FEET TO THE POINT OF BEGINNING.

PARCEL NO. 12:

BEGINNING AT A POINT IN THE NORTHERLY LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED AS PARCEL NO. 1 IN THE DEED TO THE STATE OF CALIFORNIA DATED JUNE 25, 1958 AND RECORDED SEPTEMBER 12, 1958 IN VOLUME 1502 OF OFFICIAL RECORDS, AT PAGE 446, STANISLAUS COUNTY RECORDS, SAID POINT LYING SOUTH 89° 47' EAST, 118.75 FEET ALONG SAID NORTH LINE FROM THE NORTHWEST CORNER OF SAID PARCEL NO. 1; THENCE ALONG SAID NORTH LINE, SOUTH 89° 47' EAST, 282.33 FEET TO A POINT IN THE WESTERLY LINE OF BENNETT ROAD (ALSO KNOWN AS MICHIGAN AVENUE AND BEING 40 FEET IN WIDTH); THENCE SOUTH ALONG SAID WESTERLY LINE, 243.08 FEET; THENCE NORTH 89° 47' 15" WEST, 49.26 FEET; THENCE FROM A TANGENT THAT BEARS NORTH 46° 42' 51" WEST, ALONG A CURVE CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 1972 FEET, THROUGH AN ANGLE OF 3° 35' 21" A DISTANCE OF 123.53 FEET; THENCE NORTH 43° 07' 30" WEST, 214.42 FEET TO THE POINT OF BEGINNING.

PARCEL NO. 13:

BEGINNING AT THE POINT OF INTERSECTION OF THE SOUTHERLY LINE OF CALDWELL AVENUE, FORMERLY WOODLAND AVENUE, WITH THE SOUTHWESTERLY LINE OF THE LAND DESCRIBED IN DEED DATED MARCH 7, 1873 FROM JOHN T. MAZE TO CENTRAL PACIFIC RAILROAD COMPANY, RECORDED MAY 5, 1873 IN BOOK 10 OF DEEDS, AT PAGE 342, STANISLAUS COUNTY RECORDS; THENCE SOUTH 42° 53' 30" EAST ALONG SAID SOUTHWESTERLY LINE OF SAID LAND, 392.96 FEET TO A POINT IN THE EASTERLY LINE OF

THE 2.09 ACRE PARCEL OF LAND DESCRIBED IN DEED DATED JUNE 20, 1924 FROM WILLIAM DAGGS, SR. AND LOUISE DAGGS, HIS WIFE TO CENTRAL PACIFIC RAILWAY COMPANY, RECORDED JULY 17, 1924 IN VOLUME 74 OF OFFICIAL RECORDS AT PAGE 134, STANISLAUS COUNTY RECORDS; THENCE SOUTH ALONG SAID EASTERLY LINE, 1406.01 FEET TO A POINT; THENCE WEST, AT RIGHT ANGLES FROM SAID EASTERLY LINE, 40.00 FEET TO A POINT IN THE WESTERLY LINE OF SAID 2.09 ACRE PARCEL OF LAND; THENCE NORTH ALONG SAID WESTERLY LINE 1390.30 FEET TO A POINT IN A LINE PARALLEL WITH AND DISTANT SOUTHWESTERLY, 40.00 FEET, MEASURED AT RIGHT ANGLES FROM SAID SOUTHWESTERLY LINE OF SAID LAND DESCRIBED IN SAID DEED DATED MARCH 7, 1873; THENCE NORTH 42° 53' 30" WEST ALONG SAID PARALLEL LINE, 415.45 FEET TO A POINT IN THE SOUTHERLY LINE OF SAID CALDWELL AVENUE; THENCE SOUTH 89° 12' 30" EAST, ALONG THE SOUTHERLY LINE OF CALDWELL AVENUE, 55.31 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL OF LAND BEING A PORTION OF BENNETT AVENUE (SOMETIMES KNOWN AS MICHIGAN AVENUE), ABANDONED BY THE STANISLAUS COUNTY BOARD OF SUPERVISORS BY SUPERVISOR'S ORDER RECORDED JULY 11, 1951 IN VOLUME 1039 OF OFFICIAL RECORDS, AT PAGE 97, STANISLAUS COUNTY RECORDS AS INSTRUMENT NO. 16289.

EXCEPTING AND RESERVING THEREFROM ALL MINERALS AND MINERAL ORES OF EVERY KIND AND CHARACTER NOW KNOWN TO EXIST OR HEREAFTER DISCOVERED UPON, WITHIN OR UNDERLYING SAID LAND OR THAT MAY BE PRODUCED THEREFROM INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ALL PETROLEUM, OIL, NATURAL GAS AND OTHER HYDROCARBON SUBSTANCES AND PRODUCTS DERIVED THEREFROM, TOGETHER WITH THE EXCLUSIVE AND PERPETUAL RIGHT OF INGRESS AND EGRESS BENEATH THE SURFACE OF SAID LAND TO EXPLORE FOR, EXTRACT, MINE AND REMOVE THE SAME, AS RESERVED IN THE INDENTURE BY CENTRAL PACIFIC RAILWAY COMPANY AND SOUTHERN PACIFIC COMPANY, DATED NOVEMBER 8, 1951 AND RECORDED NOVEMBER 14, 1951 IN VOLUME 1056 OF OFFICIAL RECORDS, AT PAGE 445, STANISLAUS COUNTY RECORDS.

PARCEL NO. 14:

BEGINNING AT THE NORTHWEST CORNER OF THE 5.55 ACRE PARCEL OF LAND DESCRIBED IN INDENTURE DATED APRIL 5, 1961 FROM SOUTHERN PACIFIC COMPANY TO THE STATE OF CALIFORNIA, RECORDED MARCH 19, 1962 IN VOLUME 1750 OF OFFICIAL RECORDS, AT PAGE 445, AS INSTRUMENT NO. 10483, STANISLAUS COUNTY RECORDS; SAID NORTHWEST CORNER ALSO BEING A POINT ON THE WEST LINE OF LAND DESCRIBED IN INDENTURE DATED JUNE 20, 1924 FROM WILLIAM DAGGS, SR., AND LOUISE DAGGS TO CENTRAL PACIFIC RAILWAY COMPANY AND RECORDED JULY 17, 1924 IN VOLUME 74 OF OFFICIAL RECORDS, AT PAGE 134, AND RE-RECORDED AUGUST 11, 1924 IN VOLUME 77 OF OFFICIAL RECORDS, AT PAGE 256, STANISLAUS COUNTY RECORDS; THENCE NORTH ALONG SAID WEST LINE 243.08 FEET TO A POINT IN THE MOST SOUTHERLY LINE OF THE 1.655 ACRE PARCEL OF LAND DESCRIBED IN INDENTURE DATED NOVEMBER 8, 1951 FROM CENTRAL PACIFIC RAILWAY COMPANY AND SOUTHERN PACIFIC COMPANY TO BARIUM PRODUCTS, LTD., RECORDED NOVEMBER 14, 1951 IN VOLUME 1056 OF OFFICIAL RECORDS, AT PAGE 445, AS INSTRUMENT NO. 26538; THENCE EAST, ALONG LAST SAID LINE, 40.0 FEET TO A POINT IN THE EAST LINE OF LAND DESCRIBED IN SAID INDENTURE DATED JUNE 20, 1924; THENCE SOUTH, ALONG SAID EAST LINE, 243.08 FEET TO A POINT ON THE NORTHERLY LINE OF LAND DESCRIBED IN SAID INDENTURE DATED APRIL 5, 1961; THENCE NORTH 89° 35' 35" WEST, ALONG SAID NORTHERLY LINE, A DISTANCE OF 40.00 FEET TO THE POINT OF BEGINNING.

EXCEPTING AND RESERVING THEREFROM ALL OF THE MINERALS AND MINERAL ORES OF EVER KIND AND CHARACTER NOW KNOWN TO EXIST OR HEREAFTER DISCOVERED UPON, WITHIN OR UNDERLYING SAID LAND OR THAT MAY BE PRODUCED THEREFROM, INCLUDING, WITHOUT

LIMITING THE GENERALITY OF THE FOREGOING, ALL PETROLEUM, OIL, NATURAL GAS AND OTHER HYDROCARBON SUBSTANCES AND PRODUCTS DERIVED THEREFROM, TOGETHER WITH THE EXCLUSIVE AND PERPETUAL RIGHT OF INGRESS AND EGRESS BENEATH THE SURFACE OF SAID LAND TO EXPLORE FOR, EXTRACT, MINE AND REMOVE THE SAME, AS RESERVED IN THE DEED FROM SOUTHERN PACIFIC COMPANY, A CORPORATION, DATED OCTOBER 21, 1965 AND RECORDED NOVEMBER 26, 1965 IN VOLUME 2071 OF OFFICIAL RECORDS, AT PAGE 75, AS INSTRUMENT NO. 46197, STANISLAUS COUNTY RECORDS.

PARCEL NO. 15:

ALL THAT PORTION OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 3 SOUTH, RANGE 9 EAST, MOUNT DIABLO BASE AND MERIDIAN, AS PER THE APPROVED U.S. GOVERNMENT SURVEY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST NORTHERLY CORNER OF LAND DESCRIBED IN INDENTURE DATED NOVEMBER 5, 1925 FROM D-V-O PRODUCTS, INC. TO CENTRAL PACIFIC RAILWAY COMPANY (NOW SOUTHERN PACIFIC COMPANY), RECORDED JULY 29, 1926, IN VOLUME 180, AT PAGE 462, OFFICIAL RECORDS OF SAID COUNTY; THENCE SOUTH 42° 53' 30" EAST, ALONG THE NORTHEASTERLY LINE OF LAND DESCRIBED IN SAID INDENTURE, PARALLEL WITH AND DISTANT 50.0 FEET SOUTHWESTERLY, MEASURED AT RIGHT ANGLES, FROM THE ORIGINAL LOCATED CENTER LINE OF SOUTHERN PACIFIC COMPANY'S MAIN TRACK (LATHROP TO FRESNO), 378.50 FEET; THENCE SOUTHERLY ON A CURVE TO THE RIGHT HAVING A RADIUS OF 372.25 FEET, THROUGH A CENTRAL ANGLE TO 22° 29' 08" (CHORD OF SAID CURVE BEARS SOUTH 11° 14' 34" EAST, 145.15 FEET), AN ARC DISTANCE OF 146.09 FEET; THENCE SOUTH, TANGENT TO SAID CURVE, 985.59 FEET TO THE NORTHEAST CORNER OF THE 107,836 SQUARE FOOT PARCEL OF LAND DESCRIBED AS PARCEL 2 IN INDENTURE DATED AUGUST 21, 1947, FROM CENTRAL PACIFIC RAILWAY COMPANY AND SOUTHERN PACIFIC COMPANY TO MODESTO PRODUCE PACKING COMPANY, RECORDED OCTOBER 22, 1947, IN BOOK 910, AT PAGE 406, OFFICIAL RECORDS OF SAID COUNTY, AS INSTRUMENT NO. 27554; THENCE WEST, ALONG THE NORTHERLY LINE OF SAID LAST MENTIONED LAND, 329.00 FEET TO THE NORTHWEST CORNER THEREOF; THENCE SOUTH, ALONG THE WESTERLY LINE OF LAND DESCRIBED AS PARCEL 2, IN SAID INDENTURE DATED AUGUST 21, 1947, A DISTANCE OF 260.08 FEET TO A POINT ON THE NORTHEASTERLY LINE OF 0.116 ACRE PARCEL OF LAND DESCRIBED AS PARCEL NO. 2 IN INDENTURE DATED APRIL 5, 1961, FROM SOUTHERN PACIFIC COMPANY TO THE STATE OF CALIFORNIA, RECORDED SEPTEMBER 12, 1961, IN VOLUME 1707, AT PAGE 496, OFFICIAL RECORDS OF SAID COUNTY, AS INSTRUMENT NO. 28718; THENCE NORTH 49° 10' 50" WEST ALONG LAST SAID NORTHEASTERLY LINE 44.93 FEET TO A POINT ON EASTERLY LINE OF THE 43,654 SQUARE FOOT PARCEL OF LAND DESCRIBED AS PARCEL NO. 1 IN SAID INDENTURE DATED AUGUST 21, 1947; THENCE ALONG SAID EASTERLY LINE, THE FOLLOWING COURSES AND DISTANCES: NORTH 230.71 FEET; WEST, 14.00 FEET; AND NORTH, 20.00 FEET; THENCE ALONG THE EASTERLY LINE OF THE 2.404 ACRE PARCEL OF LAND DESCRIBED AS PARCEL NO. 2 IN INDENTURE DATED MARCH 15, 1943, FROM CENTRAL PACIFIC RAILWAY COMPANY AND SOUTHERN PACIFIC COMPANY TO BARIUM PRODUCTS, LTD., RECORDED JULY 20, 1943, IN BOOK 776, AT PAGE 91, OFFICIAL RECORDS OF SAID COUNTY, AS INSTRUMENT NO. 10746, THE FOLLOWING COURSES AND DISTANCES: NORTH 8° 10' EAST, 98.55 FEET; NORTH 484.21 FEET; NORTHERLY, ON A CURVE TO THE RIGHT HAVING A RADIUS OF 583.14 FEET, THROUGH A CENTRAL ANGLE OF 21° 53' (CHORD OF LAST SAID CURVE BEARS NORTH 10° 56' 30" EAST, 221.37 FEET), AN ARC DISTANCE OF 222.72 FEET; AND NORTH 21° 53' EAST, TANGENT TO LAST SAID CURVE, 93.98 FEET TO THE NORTHEAST CORNER OF SAID 2.404 ACRE PARCEL OF LAND, LAST SAID NORTHEAST CORNER ALSO BEING THE MOST SOUTHERLY CORNER OF THE 0.422 ACRE PARCEL OF LAND DESCRIBED AS PARCEL NO. 1 IN SAID INDENTURE DATED MARCH 15, 1943; THENCE ALONG THE EASTERLY LINE OF SAID 0.422 ACRE PARCEL OF LAND, THE FOLLOWING COURSES AND DISTANCES: NORTH 21° 53' EAST, 41.07 FEET; AND NORTHERLY, ON A CURVE TO THE LEFT HAVING A RADIUS OF 562.22 FEET,

THROUGH A CENTRAL ANGEL OF 47° 37' 57" (CHORD OF LAST SAID CURVE BEARS NORTH 1° 55' 59" WEST, 454.05 FEET), AN ARC DISTANCE OF 467.40 FEET TO A POINT IN THE WEST LINE OF LAND DESCRIBED IN SAID INDENTURE DATED NOVEMBER 5, 1925; THENCE NORTH, ALONG LAST SAID LINE, 7.02 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL OF THE MINERALS AND MINERAL ORES OF EVERY KIND AND CHARACTER NOW KNOWN TO EXIST OR HEREAFTER DISCOVERED UPON, WITHIN OR UNDERLYING SAID LAND OR THAT MAY BE PRODUCED THEREFROM, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ALL PETROLEUM, OIL, NATURAL GAS AND OTHER HYDROCARBON SUBSTANCES AND PRODUCTS DERIVED THEREFROM, TOGETHER WITH THE EXCLUSIVE AND PERPETUAL RIGHT OF INGRESS AND EGRESS BENEATH THE SURFACE OF SAID LAND TO EXPLORE FOR, EXTRACT, MINE AND REMOVE THE SAME, AS EXPECTED AND RESERVED IN THE DEED FROM SOUTHERN PACIFIC COMPANY, A CORPORATION, RECORDED NOVEMBER 26, 1965 IN VOLUME 2071 OF OFFICIAL RECORDS, AT PAGE 75, STANISLAUS COUNTY RECORDS.

PARCEL NO. 16:

ALL THAT PORTION OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE DEED TO THE STATE OF CALIFORNIA DATED AUGUST 29, 1958 AND RECORDED OCTOBER 31, 1958 IN VOLUME 1511 OF OFFICIAL RECORDS, AT PAGE 12, AS INSTRUMENT NO. 27377, AND LOCATED IN THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 3 SOUTH, RANGE 9 EAST, MOUNT DIABLO BASE AND MERIDIAN, AS PER THE APPROVED U.S. GOVERNMENT SURVEY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EASTERLY LINE OF SAID PARCEL OF LAND DESCRIBED IN SAID DEED, SAID POINT LYING NORTH 0° 11' 45" WEST, 135.20 FEET FROM THE SOUTHEAST CORNER OF SAID PARCEL OF LAND; THENCE NORTH 49° 22' 30" WEST, 436.91 FEET TO A POINT ON THE WESTERLY BOUNDARY OF SAID PARCEL; THENCE ALONG SAID WESTERLY BOUNDARY, NORTH 0° 11' 40" WEST, 260.77 FEET TO THE NORTHWEST CORNER OF SAID PARCEL; THENCE ALONG THE NORTHERLY LINE OF SAID PARCEL, SOUTH 89° 47' EAST, 330.65 FEET TO THE NORTHEAST CORNER OF SAID PARCEL; THENCE ALONG THE AFORESAID EASTERLY LINE, SOUTH 0° 11'45" EAST, 544.00 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL PETROLEUM, OIL, NATURAL GAS AND PRODUCTS DERIVED THEREFROM, WITHIN OR UNDERLYING SAID LAND OR THAT MAY BE PRODUCED THEREFROM, AND ALL RIGHTS THERETO, PROVIDED THE GRANTOR, THEIR SUCCESSORS OR ASSIGNS, SHALL NOT USE THE SURFACE OF SAID LAND IN THE EXERCISE OF ANY OF SAID RIGHTS, AS EXCEPTED AND RESERVED IN THE DEEDS FROM CENTRAL PACIFIC RAILWAY COMPANY, A CORPORATION, AND SOUTHERN PACIFIC COMPANY, A CORPORATION, RECORDED SEPTEMBER 13, 1946 OF VOLUME 865 OF OFFICIAL RECORDS, AT PAGE 141, AS INSTRUMENT NO. 25760, AND RECORDED OCTOBER 22, 1947 IN VOLUME 910 OF OFFICIAL RECORDS, AT PAGE 406, AS INSTRUMENT NO. 27554, STANISLAUS COUNTY RECORDS.

ALSO EXCEPTING THEREFROM THAT PORTION OF THE EASTERLY 15 FEET THEREOF WHICH LIES SOUTH OF THE NORTH 327.77 FEET, AS EXCEPTED AND RESERVED FOR THE CONSTRUCTION, RECONSTRUCTION, MAINTENANCE AND OPERATION OF RAILROAD TRACKS AND APPURTENANCES THEREON, IN SAID DEED RECORDED SEPTEMBER 13, 1946 IN VOLUME 865 OF OFFICIAL RECORDS, AT PAGE 141, AS INSTRUMENT NO. 25760, STANISLAUS COUNTY RECORDS.

ALSO EXCEPTING THEREFROM SUCH INTEREST IN THE WEST 15 FEET OF THE NORTH 327.77 FEET OF SAID PARCEL NO. 2, LESS THE NORTH 20 FEET THEREOF, AND EXCEPTING THEREFROM SUCH INTEREST IN THE EAST 15 FEET OF THE NORTH 327.77 FEET OF SAID

PARCEL NO. 2, LESS THE NORTH 20 FEET THEREOF, RESERVED FOR RAILROAD PURPOSES IN THE SAID DEED RECORDED OCTOBER 22, 1947 IN VOLUME 910 OF OFFICIAL RECORDS, AT PAGE 406, AS INSTRUMENT NO. 27554, STANISLAUS COUNTY RECORDS.

APN: 029-13-12-690 and 029-13-13-660 and 029-14-10-340

EXHIBIT "B"

LIST OF ENVIRONMENTAL REPORTS [GROUNDWATER]

EXHIBIT "C"

DESCRIPTION OF REMEDIATION SYSTEM

Modesto Groundwater Remediation System

The groundwater Remediation System is designed to monitor groundwater quality and groundwater flow, extract and treat groundwater at the Site, and discharge treated groundwater to the City of Modesto POTW in accordance with the City of Modesto Conditional and Revocable Groundwater Discharge Permit No. GW 96-2. The Remediation System includes the groundwater extraction and treatment system located on the Site as of the Effective Date, consisting of extraction wells, conveyance piping and a treatment facility, as well as monitoring wells, and electric, domestic water and storm drain lines from the utility supplier to such system.

The groundwater extraction and treatment component of the Remediation System includes three groundwater extraction wells (E-1, E-2, and E-3), each of which has a submersible pump connected to a pressure pipeline that conveys water from the well to the treatment facility. The extraction wells may require and be fitted with anti-scalent systems at their wellheads to prevent scale accumulation.

Upon entering the treatment system, groundwater from the three extraction wells is treated with hydrogen peroxide to convert sulfides into sulfates. Treated groundwater is subsequently discharged to the City of Modesto POTW. A gravity flow discharge pipeline begins at the treatment facility and extends to a sewer manhole. A line extends from the manhole to the sewer main on Graphics Drive.

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MODESTO CITY COUNCIL
RESOLUTION NO. 2009-057

A RESOLUTION APPROVING THE RECOMMENDED CRITERIA FOR EVALUATING RECYCLED WATER PROPOSALS

WHEREAS, California is faced with unprecedented water shortages due to increased water demands and dry weather conditions, and

WHEREAS, the overall drought conditions coupled with judicial reductions in water exports from the San Joaquin Delta have resulted in significant water shortages for agricultural and municipal water users throughout the state, and in particular, on the "West Side" of the San Joaquin Valley, and

WHEREAS, the City of Modesto is currently in the initial stages of upgrading its wastewater treatment facilities to include tertiary treatment at its Jennings Road secondary wastewater treatment site, and

WHEREAS, the tertiary treatment process will produce high quality recycled water that can be used for a variety of municipal, industrial, and agricultural uses, and

WHEREAS, the City's Jennings Road site is located adjacent to the San Joaquin River and in close proximity to the West Side, and

WHEREAS, the program to upgrade the City's wastewater treatment facilities has generated interest in the use of recycled water, and

WHEREAS, Public Works has received a number of inquiries about the use of its recycled water, ranging from municipal irrigation use, industrial use, to possible agricultural uses where permitted, and

WHEREAS, given the interest in the City's recycled water, staff proposes to issue a Request for Proposals for possible recycled water use as the recycled water becomes available, and

WHEREAS, to facilitate the review of the proposals, staff developed criteria for evaluating proposals for the use of the City's recycled water, and

WHEREAS, this criteria would be used as a means to determine if a proposal warrants serious investigation, and perhaps the development of a use agreement that would be presented to Council for consideration, and

WHEREAS, the Council Finance Committee, at its October 27, 2008 meeting, recommended forwarding this item to Council for consideration.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto that it hereby approves the recommended criteria for evaluating recycled water proposals.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of January, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmemeber Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Stephanie Lopez
STEPHANIE LOPEZ, City Clerk

(SEAL)
APPROVED AS TO FORM:

By: SA Wood
SUSANA ALCALA WOOD, City Attorney

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MODESTO CITY COUNCIL
RESOLUTION NO. 2009-058

A RESOLUTION APPROVING A COOPERATIVE AGREEMENT BETWEEN THE CITY OF MODESTO AND THE CALIFORNIA STATE DEPARTMENT OF TRANSPORTATION (CALTRANS) FOR THE PREPARATION OF PLANS, SPECIFICATIONS AND ESTIMATES (PS&E) FOR 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, in an effort to accelerate the planning and construction of the interchange improvements, the City Council in their Fiscal Year 2005-06 Capital Improvement Program approved $1.3M, and subsequently approved staff's request to explore the City taking the lead on the State Route 99/Pelandale Avenue Interchange Improvements – Project Approval and Environmental Document (PA&ED), and

WHEREAS, in addition, both StanCOG and Caltrans have agreed to the City of Modesto assuming Lead Agency Status, and

WHEREAS, this Cooperative Agreement is required by Caltrans and formalizes the City's Lead Agency status and outlines the agreement between the agencies,

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 the preparation of plans, specifications and estimates (PS&E) for the State Route 99/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 3rd day of February, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

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MODESTO CITY COUNCIL
RESOLUTION NO. 2009-059

A RESOLUTION ACCEPTING THE PUBLIC IMPROVEMENTS FOR THE VILLAGE ONE TOWN CENTER HOMES SUBDIVISION IN THE VILLAGE ONE SPECIFIC PLAN AREA, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS

WHEREAS, the Housing Authority of the County of Stanislaus ("SUBDIVIDER"), is the subdivider of the VILLAGE ONE TOWN CENTER HOMES SUBDIVISION ("SUBDIVISION"), and

WHEREAS, SUBDIVIDER has filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amounts of $504,574, and $252,287, respectively, and

WHEREAS, SUBDIVIDER has filed a warranty bond in the amount of $50,457.40 to guarantee public improvements in the SUBDIVISION, and

WHEREAS, the Public Works Director, in a memorandum to Council, indicates that all work required by the Subdivision Agreement has been completed to the satisfaction of the Public Works Department, and

WHEREAS, the Public Works Director has indicated that it would be in order for the City Council to accept the public improvements in the SUBDIVISION as complete, authorize the City Clerk to file a Notice of Completion, release the securities upon expiration of the statutory periods.

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

1. The public improvements in the SUBDIVISION are hereby accepted, and the City Clerk is hereby authorized to file a Notice of Completion for the public improvements.

2. The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of $504,574 upon recordation of the Notice of Completion.

3. The City Clerk is hereby authorized to release the subdivision bond for labor and materials in the amount of $252,287 sixty (60) days after recordation of the Notice of Completion, provided no claim is made thereon.

4. The City Clerk is hereby authorized to release the warranty bond to guarantee SUBDIVISION improvements in the amount of $50,457.40 one year and one day after the effective date of this resolution, provided no claim is made thereon.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of February, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-060

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO AMENDING THE FISCAL YEAR 2008-2009 ANNUAL BUDGET

WHEREAS, a monthly financial analysis has been completed and it has been determined that certain adjustments are required to the Annual Budget of the City of Modesto for the Fiscal Year 2008-2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2008-2009 budget have been adjusted as shown on the Budget Request form(s).

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of February, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following votes:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)
APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-061

RESOLUTION AWARDING A CONTRACT FOR PERSONAL PROTECTIVE EQUIPMENT (PPE) CARE AND MAINTENANCE SERVICES FOR THE MODESTO FIRE DEPARTMENT TO SCOTT'S PPE RECON OF LODI, CA FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS FOR AN ESTIMATED ANNUAL COST OF $25,000

WHEREAS, firefighters are required to wear personal protective equipment (PPE), and

WHEREAS, PPE's minimize exposure to biological, chemical, and environmental contaminates, and

WHEREAS, these contaminates become trapped in fibers of PPE's, posing a health hazard to anyone in contact with them long after the incident has occurred, and

WHEREAS, these contaminates are considered hazardous until proper decontamination has been performed, and

WHEREAS, PPE's are damaged at times and require repairs, and

WHEREAS, repairs must be made by certified personnel using the same fabric, thread and stitch pattern used by the manufacturer, and

WHEREAS, the Modesto Fire Department, in an effort to meet current laws and regulations, wishes to create a care and maintenance program, and

WHEREAS, this will bring the Modesto Fire Department into compliance with current standards and keep our firefighters safe from hazards outside of their control, and

WHEREAS, in order to meet the requirements of the Municipal Code, bids were solicited for personal protective equipment maintenance and replacement from six (6) prospective facilities, none of which are local companies, and

WHEREAS, the Request for Bids (RFB) was posted on the City's web site and formally advertised by the City Clerk's office as required by law, and

WHEREAS, the RFB's were opened in the City Clerk's office on December 9, 2008, and

WHEREAS, three (3) companies responded with bids. Of the three companies that responded, Scott's PPE Recon submitted the lowest responsive and responsible bid.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the award of contract for personal protective equipment care and maintenance services for the Modesto Fire Department to Scott's PPE Recon of Lodi, CA for a two (2) year agreement, with three (3) one-year extension options, for an estimated annual cost of $25,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of February, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-062

CONSIDER ISSUING FORMAL REQUEST FOR BIDS (RFB) FOR PERSONAL PROTECTIVE EQUIPMENT (PPE) FOR THE MODESTO FIRE DEPARTMENT, FOR A TWO (2) YEAR AGREEMENT, WITH THREE (3), ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, AT AN ESTIMATED ANNUAL COST OF $100,000.00

WHEREAS, personal protective equipment (PPE) is paramount to the well-being of line personnel at the Modesto Fire Department, and

WHEREAS, PPE include turnout pants and jackets, structure boots, hoods, helmets, gloves, self-contained breather equipment, EMS gloves, etc., and

WHEREAS, the City provides PPE to line personnel at the time of hire, and

WHEREAS, PPE is replaced when it no longer meets safety standards,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the issuance of Request For Bids (RFB) for personal protective equipment (PPE) for the Modesto Fire Department, for a two (2) year agreement, , with three (3), one-year extension options at the sole discretion of the City, at 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 3rd day of February, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-063

A RESOLUTION AUTHORIZING THE AWARD OF BID AND APPROVING A TWO (2) YEAR AGREEMENT WITH AG TRANSMISSION FOR ALLISON TRANSMISSION REPAIRS, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF $20,000, AND A POTENTIAL FIVE (5) YEAR COST OF $100,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, as part of the Fire Department's budget reductions, the Department has reduced the mechanic staffing from two to one, and

WHEREAS, each year the fire engines and trucks used by the Fire Department experience mechanical problems, and

WHEREAS, the in-house mechanic does not have the time to mediate these problems or the problems require more advanced facilities and certifications, and

WHEREAS, due to the types of repairs involved and the timeliness of the repairs needed, it has not been prudent to solicit bids for the work needed at the time it has arisen, and

WHEREAS, in the past the apparatus have been sent to local repair shops that are the factory authorized repair centers for the type of transmission or engine in a particular piece of apparatus, and

WHEREAS, formal Request for Bids were issued to thirteen (13) vendors as well as posted on the City's website and legally advertised by the City Clerk's office, and

WHEREAS, eight (8) vendors responded, with AG Transmission submitting the lowest responsive and responsible bid for Allison Transmission Repairs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and approves a two (2) year Agreement with AG Transmission for Allison Transmission repairs, with three (3) one-year extension options, at the sole discretion of the City, for a estimated annual cost of $20,000, and potential five (5) year cost of $100,000.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of February, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-064

A RESOLUTION AUTHORIZING THE AWARD OF BID AND APPROVING A TWO (2) YEAR AGREEMENT WITH INTERSTATE TRUCK CENTER FOR INTERNATIONAL ENGINE REPAIRS, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF $20,000, AND A POTENTIAL FIVE (5) YEAR COST OF $100,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, as part of the Fire Department's budget reductions, the Department has reduced the mechanic staffing from two to one, and

WHEREAS, each year the fire engines and trucks used by the Fire Department experience mechanical problems, and

WHEREAS, the in-house mechanic does not have the time to mediate these problems, or the problems require more advanced facilities and certifications, and

WHEREAS, due to the types of repairs involved and the timeliness of the repairs needed, it has not been prudent to solicit bids for the work needed at the time it has arisen, and

WHEREAS, in the past the apparatus have been sent to local repair shops that are the factory authorized repair centers for the type of transmission or engine in a particular piece of apparatus, and

WHEREAS, Request for Bids were issued to thirteen (13) vendors as well as posted on the City's website and legally advertised by the City Clerk's office, and

WHEREAS, eight (8) vendors responded, with Interstate Truck Center submitting the lowest responsive and responsible bid for International Engine repairs.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and approves a two-year Agreement with Interstate Truck Center for International Engine repairs, with three (3) one-year extension options, at the sole discretion of the City, for an estimated annual cost of $20,000, and potential five (5) year cost of $100,000.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of February, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: Stephanie Lopez
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-065

A RESOLUTION AUTHORIZING THE AWARD OF BID AND APPROVING A TWO (2) YEAR AGREEMENT WITH R & L DIESEL FOR DETROIT DIESEL REPAIRS, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF $40,000, AND A POTENTIAL FIVE (5) YEAR COST OF $200,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, as part of the Fire Department's budget reductions, the Department has reduced the mechanic staffing from two to one, and

WHEREAS, each year the fire engines and trucks used by the Fire Department experience mechanical problems, and

WHEREAS, the in-house mechanic does not have the time to mediate these problems, or the problems require more advanced facilities and certifications, and

WHEREAS, due to the types of repairs involved and the timeliness of the repairs needed, it has not been prudent to solicit bids for the work needed at the time it has arisen, and

WHEREAS, in the past the apparatus have been sent to local repair shops that are the factory authorized repair centers for the type of transmission or engine in a particular piece of apparatus, and

WHEREAS, Request for Bids were issued to thirteen (13) vendors as well as posted on the City's website and legally advertised by the City Clerk's office, and

WHEREAS, eight (8) vendors responded, with R & L Diesel submitting the lowest responsive and responsible bid for Detroit Diesel repairs.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and approves a two-year Agreement with R & L Diesel for Detroit Diesel repairs, with three (3) one-year extension options, at the sole discretion of the City, for an estimated annual cost of $40,000, and potential five (5) year cost of $200,000.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of February, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-066

A RESOLUTION AUTHORIZING THE AWARD OF BID AND APPROVING A TWO (2) YEAR AGREEMENT WITH BURTON'S FIRE FOR PIERCE APPARATUS REPAIRS, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF $20,000 AND A POTENTIAL FIVE (5) YEAR COST OF $100,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, as part of the Fire Department's budget reductions, the Department has reduced the mechanic staffing from two to one, and

WHEREAS, each year the fire engines and trucks used by the Fire Department experience mechanical problems, and

WHEREAS, the in-house mechanic does not have the time to mediate these problems, or the problems require more advanced facilities and certifications, and

WHEREAS, due to the types of repairs involved and the timeliness of the repairs needed, it has not been prudent to solicit bids for the work needed at the time it has arisen, and

WHEREAS, in the past the apparatus have been sent to local repair shops that are the factory authorized repair centers for the type of transmission or engine in a particular piece of apparatus, and

WHEREAS, Request for Bids were issued to thirteen (13) vendors as well as posted on the City's website and legally advertised by the City Clerk's office, and

WHEREAS, eight (8) vendors responded, with Burton's Fire submitting the lowest responsive and responsible bid for Pierce Fire Apparatus repairs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and approves a two (2) year Agreement with Burton's Fire for Pierce Apparatus repairs, with three (3) one-year extension options, at the sole discretion of the City, for an estimated annual cost of $20,000, and potential five (5) year cost of $100,000.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of February, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-067

A RESOLUTION AUTHORIZING THE AWARD OF BID AND APPROVING A TWO (2) YEAR AGREEMENT WITH HI-TECH EMERGENCY VEHICLE SYSTEMS FOR WATEROUS WATER PUMP REPAIRS, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF $5,000, AND A POTENTIAL FIVE (5) YEAR COST OF $25,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, as part of the Fire Department's budget reductions, the Department has reduced the mechanic staffing from two to one, and

WHEREAS, each year the fire engines and trucks used by the Fire Department experience mechanical problems, and

WHEREAS, the in-house mechanic does not have the time to mediate these problems, or the problems require more advanced facilities and certifications, and

WHEREAS, due to the types of repairs involved and the timeliness of the repairs needed, it has not been prudent to solicit bids for the work needed at the time it has arisen, and

WHEREAS, in the past the apparatus have been sent to local repair shops that are the factory authorized repair centers for the type of transmission or engine in a particular piece of apparatus, and

WHEREAS, Request for Bids were issued to thirteen (13) vendors as well as posted on the City's website and legally advertised by the City Clerk's office, and

WHEREAS, eight (8) vendors responded, with Hi-Tech Emergency Vehicle Systems submitting the lowest responsive and responsible bid for Waterous Water Pump repairs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and approves a two (2) year Agreement with Hi-Tech Emergency Vehicle Systems for Waterous Water Pump repairs, with three (3) one-year extension options, at the sole discretion of the City, for an estimated annual cost of $5,000, and potential five (5) year cost of $25,000.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of February, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: Stephanie Lopez
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-068

A RESOLUTION AUTHORIZING THE AWARD OF BID AND APPROVING A TWO (2) YEAR AGREEMENT WITH HI-TECH EMERGENCY VEHICLE SYSTEMS FOR FOAMPRO SYSTEMS REPAIRS, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF $5,000, AND A POTENTIAL FIVE (5) YEAR COST OF $25,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, as part of the Fire Department's budget reductions, the Department has reduced the mechanic staffing from two to one, and

WHEREAS, each year the fire engines and trucks used by the Fire Department experience mechanical problems, and

WHEREAS, the in-house mechanic does not have the time to mediate these problems, or the problems require more advanced facilities and certifications, and

WHEREAS, due to the types of repairs involved and the timeliness of the repairs needed, it has not been prudent to solicit bids for the work needed at the time it has arisen, and

WHEREAS, in the past the apparatus have been sent to local repair shops that are the factory authorized repair centers for the type of transmission or engine in a particular piece of apparatus, and

WHEREAS, Request for Bids were issued to thirteen (13) vendors as well as posted on the City's website and legally advertised by the City Clerk's office, and

WHEREAS, eight (8) vendors responded, with Hi-Tech Emergency Vehicle Systems submitting the lowest responsive and responsible bid for FoamPro Systems repairs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and approves a two-year Agreement with Hi-Tech Emergency Vehicle Systems for FoamPro Systems repairs, with three (3) one-year extension options, at the sole discretion of the City, for an estimated annual cost of $5,000, and potential five (5) year cost of $25,000.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of February, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-069

A RESOLUTION ACCEPTING THE WORK BY CLYDE WHEELER PIPELINE, INC. FOR THE PROJECT TITLED "2008/2009 SANITARY SEWER COLLECTION SYSTEM REPLACEMENT" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $233,690.50

WHEREAS, a report has been filed by the Public Works Director that the project titled "2008/2009 Sanitary Sewer Collection System Replacement" has been completed by Clyde Wheeler Pipeline, Inc. in accordance with the contract agreement dated September 2, 2008.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "2008/2009 Sanitary Sewer Collection System Replacement" is hereby accepted as complete from said contractor Clyde Wheeler Pipelines, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder and to release securities upon expiration of statutory periods, and that payment of amounts totaling $233,690.50 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 3rd day of February, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-070

A RESOLUTION APPROVING AN AGREEMENT WITH PACIFIC VALLEY APPRAISAL INC. FOR ON-CALL APPRAISAL AND CONSULTANT SERVICES FOR VARIOUS PUBLIC WORKS – CAPITAL IMPROVEMENT PROGRAM PROJECTS FOR ONE YEAR, WITH TWO ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, IN AN AMOUNT NOT TO EXCEED $65,000 PER YEAR, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT, AND UP TO TWO ONE-YEAR EXTENSION OPTIONS

WHEREAS, the Public Works Department – Capital Improvement Services Division (CIS) performs a number of tasks requiring appraisal services that are to be separated from acquisition duties that will be performed by the City's property agent, and

WHEREAS, CIS has found it necessary to utilize the services of specialized consulting appraisal firms, and

WHEREAS, retaining an on-call appraisal consultant allows the division to have quick access to specific appraisal and consultant services when needed, and

WHEREAS, capital improvement projects presently scheduled for review and processing by City staff continue to rise at a rapid rate, and

WHEREAS, using an experienced appraisal firm provides a quick turnaround, which is essential to efficient response to the large undertaking of numerous projects, and

WHEREAS, the goal in having an on-call appraisal consultant is to standardize the outcome of the review process, reduce response time, and promote project cost savings, which positively impacts the Capital Improvement Program (CIP) budget, and

WHEREAS, on October 22, 2008, in compliance with Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and

Engineering Services for Capital Projects, a Request for Qualifications and Proposals was initiated to perform on-call appraisal services, and

WHEREAS, the Request for Qualifications was sent to five (5) appraisal firms, there were five (5) firms that provided Qualification Statements, and all five (5) were interviewed, and

WHEREAS, the consulting firm of Pacific Valley Appraisal Inc. is licensed by the State and has over 25 years experience in government appraisal preparation, and

WHEREAS, Pacific Valley Appraisal Inc., of Modesto, has 32 years of experience and an intimate knowledge of coordinating with City and agency staff to complete appraisal services and conferring with and advising City staff regarding appraisal laws, regulations, and policies, and

WHEREAS, Pacific Valley provided prior services and has demonstrated satisfactory services to the City on past projects, and

WHEREAS, Pacific Valley will submit a written scope of services outlining the specific work, schedule, and cost estimate associated with each task order, and

WHEREAS, Pacific Valley will perform no service until Capital Improvement Services management has approved the proposed specific task order and a written Notice to Proceed (NTP) is prepared and sent to Pacific Valley prior to commencement of services, and

WHEREAS, City staff recommends an On-call Appraisal and Consultant Services Agreement with Pacific Valley Appraisal Inc. be approved, and

WHEREAS, Pacific Valley will be paid on an hourly basis for actual hours and set bids 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 Pacific Valley Appraisal Inc. for On-call Appraisal and Consultant Services for various Public Works – Capital Improvement Program projects for one year, with two one-year extension options at the sole discretion of the City in an amount not to exceed $65,000 per year. Total cost for three years is not to exceed $195,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Agreement with Pacific Valley Appraisal Inc., 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 3rd day of February, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-071

A RESOLUTION APPROVING AN AGREEMENT WITH COGDILL & GIOMI, INC. FOR ON-CALL APPRAISAL AND CONSULTANT SERVICES FOR VARIOUS PUBLIC WORKS – CAPITAL IMPROVEMENT PROGRAM PROJECTS FOR ONE YEAR, WITH TWO ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, IN AN AMOUNT NOT TO EXCEED $65,000 PER YEAR, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT, AND UP TO TWO ONE-YEAR EXTENSION OPTIONS

WHEREAS, the Public Works Department – Capital Improvement Services Division (CIS) performs a number of tasks requiring appraisal services that are to be separated from acquisition duties that will be performed by the City's property agent, and

WHEREAS, CIS has found it necessary to utilize the services of specialized consulting appraisal firms, and

WHEREAS, retaining an on-call appraisal consultant allows the division to have quick access to specific appraisal and consultant services when needed, and

WHEREAS, capital improvement projects presently scheduled for review and processing by City staff continue to rise at a rapid rate, and

WHEREAS, using an experienced appraisal firm provides a quick turnaround, which is essential to efficient response to the large undertaking of numerous projects, and

WHEREAS, the goal in having an on-call appraisal consultant is to standardize the outcome of the review process, reduce response time, and promote project cost savings, which positively impacts the Capital Improvement Program (CIP) budget, and

WHEREAS, on October 22, 2008, in compliance with Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and

Engineering Services for Capital Projects, a Request for Qualifications and Proposals was initiated to perform on-call appraisal services, and

WHEREAS, the Request for Qualifications was sent to five (5) appraisal firms, there were five (5) firms that provided Qualification Statements, and all five (5) were interviewed, and

WHEREAS, the consulting firm of Cogdill & Giomi, Inc. is licensed by the State and has over 25 years experience in government appraisal preparation, and

WHEREAS, Cogdill & Giomi, Inc., of Modesto, has 27 years of experience and an intimate knowledge of coordinating with City and agency staff to complete appraisal and consultant services and conferring with and advising City staff regarding appraisal laws, regulations, and policies, and

WHEREAS, Cogdill & Giomi provided prior services and has demonstrated satisfactory services to the City on past projects, and

WHEREAS, Cogdill & Giomi will submit a written scope of services outlining the specific work, schedule, and cost estimate associated with each task order, and

WHEREAS, Cogdill & Giomi will perform no service until Capital Improvement Services management has approved the proposed specific task order and a written Notice to Proceed (NTP) is prepared and sent to Cogdill & Giomi prior to commencement of services, and

WHEREAS, City staff recommends an On-call Appraisal and Consultant Services Agreement with Cogdill & Giomi, Inc. be approved, and

WHEREAS, Cogdill & Giomi will be paid on an hourly basis for actual hours and set bids 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 Cogdill & Giomi, Inc. for On-call Appraisal and Consultant Services for various Public Works – Capital Improvement Program projects for one year, with two one-year extension options at the sole discretion of the City in an amount not to exceed $65,000 per year. Total cost for three years is not to exceed $195,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Agreement with Cogdill & Giomi, Inc., 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 3rd day of February, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-072

A RESOLUTION APPROVING AN AGREEMENT WITH WRIGHT APPRAISALS INC. FOR ON-CALL APPRAISAL AND CONSULTANT SERVICES FOR VARIOUS PUBLIC WORKS – CAPITAL IMPROVEMENT PROGRAM PROJECTS FOR ONE YEAR, WITH TWO ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, IN AN AMOUNT NOT TO EXCEED $65,000 PER YEAR, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT, AND UP TO TWO ONE-YEAR EXTENSION OPTIONS

WHEREAS, the Public Works Department – Capital Improvement Services Division (CIS) performs a number of tasks requiring appraisal services that are to be separated from acquisition duties that will be performed by the City's property agent, and

WHEREAS, CIS has found it necessary to utilize the services of specialized consulting appraisal firms, and

WHEREAS, retaining an on-call appraisal consultant allows the division to have quick access to specific appraisal and consultant services when needed, and

WHEREAS, capital improvement projects presently scheduled for review and processing by City staff continue to rise at a rapid rate, and

WHEREAS, using an experienced appraisal firm provides a quick turnaround, which is essential to efficient response to the large undertaking of numerous projects, and

WHEREAS, the goal in having an on-call appraisal consultant is to standardize the outcome of the review process, reduce response time, and promote project cost savings, which positively impacts the Capital Improvement Program (CIP) budget, and

WHEREAS, on October 22, 2008, in compliance with Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and

Engineering Services for Capital Projects, a Request for Qualifications and Proposals was initiated to perform on-call appraisal services, and

WHEREAS, the Request for Qualifications was sent to five (5) appraisal firms, there were five (5) firms that provided Qualification Statements, and all five (5) were interviewed, and

WHEREAS, the consulting firm of Wright Appraisals Inc. is licensed by the State and has over 25 years experience in government appraisal preparation, and

WHEREAS, Wright Appraisals Inc., of Sonora, CA, has over 30 years of experience and extensive appraisal experience for roads, easements, partial takes and utilities, and

WHEREAS, the firm has worked with many governmental agencies and has an extensive resume, and

WHEREAS, they have also performed work in the Modesto area, and

WHEREAS, Wright Appraisals will submit a written scope of services outlining the specific work, schedule, and cost estimate associated with each task order, and

WHEREAS, Wright Appraisals will perform no service until Capital Improvement Services management has approved the proposed specific task order and a written Notice to Proceed (NTP) is prepared and sent to Wright Appraisals prior to commencement of services, and

WHEREAS, City staff recommends an On-call Appraisal and Consultant Services Agreement with Wright Appraisals Inc. be approved, and

WHEREAS, Wright Appraisals will be paid on an hourly basis for actual hours and set bids 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 Wright Appraisals Inc. for On-call Appraisal and Consultant Services for various Public Works – Capital Improvement Program projects for one year, with two one-year extension options at the sole discretion of the City in an amount not to exceed $65,000 per year. Total cost for three years is not to exceed $195,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Agreement with Wright Appraisals Inc., 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 3rd day of February, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-073

A RESOLUTION DECLARING AS SURPLUS FROM FEBRUARY 1, 2009 THROUGH JANUARY 31, 2010, 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, ON-LINE AUCTION, ON LINE OR AS SCRAP

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, currently the City's auctioneering services are provided by the Auction House, and

WHEREAS, the Purchasing Division will also sell selected surplus property on line through PublicSurplus.com, an on-line auction company, or directly on line, and

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

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

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

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 February 1, 2009, through January 31, 2010, 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, on-line auction, on line or as scrap.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of February, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-074

A RESOLUTION APPROVING AN AGREEMENT WITH O'DELL ENGINEERING FOR THE PREPARATION OF A PRELIMINARY DESIGN REPORT FOR THE SHACKELFORD AREA SANITARY SEWER CROSSING OF THE TUOLUMNE RIVER FOR AN AMOUNT NOT TO EXCEED $73,936 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $7,394 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $81,330, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the scope of services to be provided under this agreement includes completing the 40% design for the Shackelford Area Sanitary Sewer Crossing of the Tuolumne River and summarizing the project scope and cost estimates in a Preliminary Design Report (PDR), and

WHEREAS, the purpose of the project is to replace the existing sewer pipe (siphon) across the Tuolumne River since it has reached the end of its useful design life, and

WHEREAS, this project will replace the existing 18-inch siphon with two 18-inch siphons which will connect to an existing inlet structure, and

WHEREAS, the desired method for the new installation is horizontal directional drilling (HDD), and

WHEREAS, HDD is a steerable trenchless method of installing underground pipes along a prescribed bore path by using a surface launched drilling rig, and

WHEREAS, the advantage of this method is the minimal impact on the surrounding area, especially to the Tuolumne River, and

WHEREAS, the cost of the PDR for Shackelford Crossing is slightly higher because the complexity of trenchless crossing across the Tuolumne River, and

WHEREAS, this method requires more analysis upfront, thus pushing the design past the typical 35% to upwards of 40% plus, and

WHEREAS, to ensure that the project is feasible, it is critical to complete a full geotechnical survey to properly understand the existing conditions, especially for river crossings, and

WHEREAS, a preliminary assessment of installation factors must be performed to confirm that the preliminary siphon layout is feasible and presents acceptable risk and construction cost to the City of Modesto, 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, in compliance with Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, six (6) Request for Proposals (RFPs) were sent to local design firms, and

WHEREAS, the proposals were submitted and subsequently reviewed by the Selection Committee which consisted of Public Works Engineering staff and Wastewater Operations staff, and

WHEREAS, following the consultant interviews, the Selection Committee determined that O'Dell Engineering is the most qualified to prepare the PDR of the Shackelford Area Sanitary Sewer Crossing of the Tuolumne River, and

WHEREAS, O'Dell's team included Bennett Trenchless, a sub-consultant whose expertise is trenchless design, and

WHEREAS, using outside professional services will enable this project to be completed in a timely manner, and

WHEREAS, City staff recommends an agreement with O'Dell Engineering, Inc. as the City does not have the staffing level or subject matter expertise to complete the Preliminary Design Report for the Shackelford Crossing 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 for Preliminary Design Report for the Shackelford Crossing with O'Dell Engineering, Inc. for an amount not to exceed $73,936 for the identified scope of services, plus $7,394 for additional services (if needed), for a maximum total amount of $81,330 for the project titled, "Shackelford Crossing."

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 February, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-075

A RESOLUTION AMENDING THE FISCAL YEAR 2008-2009 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FULLY FUND THE AGREEMENT FOR THE PRELIMINARY DESIGN REPORT FOR SHACKELFORD CROSSING

WHEREAS, certain budgetary transactions are necessary in the amount of $36,717, in order to fully fund the Agreement for Preliminary Design Report for Shackelford Crossing project including engineering/design/administration for staff support, and

WHEREAS, the Fiscal Year 2008-2009 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 2008-2009 Capital Improvement Program budget as shown in **Exhibit A**.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of February, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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

FUND:

Wastewater Fund

EXPENDITURES:		Increase/(Decrease)
Collection System Reliability Improvements	6210-430-B780-6052	($27,300)
Shackelford Crossing	6210-430-N143-6000	($9,417)
Shackelford Crossing	6210-430-N143-6010	$36,717

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-076

A RESOLUTION APPROVING THE EXPANSION OF THE CONSULTANT LIST FOR ENGINEERING DESIGN SERVICES FOR STREET PROJECTS

WHEREAS, the Public Works Department performs several Capital Improvement Projects (CIPs) that require engineering design that are beyond the City's current staffing levels and workload to accomplish in a timely manner, and

WHEREAS, staff has found it necessary to utilize the services of engineering firms with experience designing road improvement projects, and

WHEREAS, on November 12, 2008, the City Council, by Resolution No. 2008-630, approving several short-listed firms to perform engineering design work and construction inspection services, and

WHEREAS, one of the lists approved was specifically for the design of street projects and this list contained the four (4) most qualified firms, and

WHEREAS, only one of the firms on the approved list was local, and

WHEREAS, several engineering firms voiced their concern about the lack of local firms on the short list, and

WHEREAS, staff met with the engineering firms on January 14, 2009, to discuss their concerns regarding the City's procedures for hiring consultants, and

WHEREAS, staff agreed to add the next four (4) highest-ranking, local firms to the short list, bringing the total number of firms on the list to eight (8), and

WHEREAS, for each CIP, a written proposal outlining the scope of services, design schedule and cost estimate will be submitted by the selected consultant, and

WHEREAS, the selected consultant will perform no service until the City has approved the proposal and contract, and a written Notice to Proceed is prepared and sent to the selected consultant, and

WHEREAS, the selected consultant will be determined on a CIP project basis once a scope of work and contract have been negotiated with the most qualified firm(s) from the short lists for each particular CIP project, and

WHEREAS, City staff recommends approving the expansion of the prequalified consultant list for engineering design services for street projects to include four (4) additional local firms.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the expansion of the prequalified consultant list for engineering design services for street projects.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of February, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-077

A RESOLUTION APPROVING THE RETURN OF $1.055 MILLION IN CAPITAL FACILITY FEE (CFF) PROJECT SAVINGS FROM THE CLARATINA EXPRESSWAY EXTENSION FROM COFFEE TO OAKDALE ROAD, CAPITAL IMPROVEMENT PROJECT (CIP) TO CFF RESERVES AND REALLOCATING THE FUNDS TO A NEW CIP PROJECT FOR THE DESIGN AND RIGHT-OF-WAY (ROW) ACQUISITION RELATED TO INTERSECTION IMPROVEMENTS AND A NEW ROUNDABOUT AT COFFEE ROAD AND CLARATINA AVENUE

WHEREAS, on June 24, 2008, Council, by Resolution No. 2008-374, awarded a contract to Teichert Construction, Inc., in the amount of $1,083,508, for the construction of Claratina Avenue between Coffee Road and Oakdale Road, and

WHEREAS, the bid amount was significantly lower then the Engineer's Estimate and as a result, there is $1.055 million available to fund the Claratina Avenue at Coffee Road Roundabout project, and

WHEREAS, at its March 8, 2005 meeting, Council directed staff to install an interim landscaped roundabout with a life expectancy of 20-plus years at the intersection of Coffee Road and Claratina Avenue, and

WHEREAS, the roundabout was to be part of the Claratina Extension project from Coffee Road to Oakdale Road, and

WHEREAS, right-of-way delays caused the extension to move forward without the roundabout, and

WHEREAS, staff is in negotiations with the property owner for the right-of-way acquisition at the southeast corner, and

WHEREAS, the Finance Committee at its December 11, 2008 meeting, reviewed and concurs with staff's recommendation to return $1.055 million in Capital Facility Fee

(CFF) project savings from the Claratina Expressway Extension from Coffee to Oakdale Road, Capital Improvement Project (CIP) to CFF reserves and reallocating the funds to a new CIP project for the design and right-of-way (ROW) acquisition related to construction of intersection improvements and a new roundabout at Coffee Road and Claratina Avenue as follows:

Design	6010	$75,000
ROW Acquisition	6030	$30,000
Roadway Improvements	6040	$639,936
Construction of RAB	6040	$185,000
Contingencies	6050	$60,000
Construction Admin	6060	$65,000

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the return of $1.055 million in Capital Facility Fee (CFF) project savings from the Claratina Expressway Extension from Coffee to Oakdale Road, Capital Improvement Project (CIP) to CFF reserves and reallocating the funds to a new CIP project for the design and right-of-way (ROW) acquisition related to construction of intersection improvements and a new roundabout at Coffee Road and Claratina Avenue.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of February, 2009, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009–078

A RESOLUTION APPROVING THE DRAFT FINAL NOISE COMPATIBILITY PROGRAM AND SUPPORTING DOCUMENTATION FOR THE MODESTO CITY-COUNTY AIRPORT PART 150 NOISE COMPATIBILITY STUDY, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE SPONSOR'S CERTIFICATION DOCUMENT

WHEREAS, in response to concerns regarding environmental impacts of aviation noise, Congress provides federal funding for certain projects related to aircraft noise issues under the 1979 Aviation Safety and Noise Abatement Act, and

WHEREAS, the Federal Aviation Administration (FAA) established program guidelines under 14 CFR Part 150 to set minimum standards for the preparation of noise compatibility studies, and

WHEREAS, the Modesto Noise Compatibility Program (NCP) is intended to promote aircraft noise control and land use compatibility, and

WHEREAS, on December 11, 2001, the Council, by Resolution 2001-635, approved a Professional Services Agreement with Coffman and Associates to complete an Airport Master Plan for Modesto City-County Airport, and

WHEREAS, 95% funding for a Part 150 Study and environmental review was subsequently approved by the FAA in Airport Improvement Program grant No. AIP 3-06-0153-30, which was accepted by Council on July 11, 2006, by Resolution No. 2006-445, and

WHEREAS, on October 24, 2006, Council, by Resolution No. 2006-680, approved an amendment to the agreement with Coffman Associates to reflect the revised Scope of Services and revised Final Cost Estimate to include the NCP Update, and

WHEREAS, on May 13, 2008, Council, by Resolution No. 2008-274, approved Part 1 of the draft Part 150 Study, the draft Final Noise Exposure Maps, and supporting documentation, and

WHEREAS, after concluding four public workshops presenting Part Two of the draft Part 150 Study to the public, Coffman Associates, Inc. conducted a Public Hearing on November 17, 2008 to solicit further input from interested parties, and

WHEREAS, a final draft Part 150 Study, incorporating comments and suggestions, has been prepared by Coffman Associates,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Draft Final Noise Compatibility Program and supporting documentation for the Modesto City-County Airport Part 150 Noise Compatibility Study, and

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Sponsor's Certification document.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of February, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmember:	None
ABSENT:	Councilmember:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-079

A RESOLUTION APPOINTING KENT FAULKNER TO THE LANDMARK PRESERVATION AS THE CULTURE COMMISSION'S REPRESENTATIVE

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 January 26, 2009, the Culture Commission unanimously recommended KENT FAULKNER as its representative to the Landmark Preservation Commission.

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

SECTION 1. KENT FAULKNER, as representative of the Culture Commission, is hereby appointed to the Landmark Preservation Commission with a term expiration of January 1, 2012.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of February, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-080

A RESOLUTION DENYING THE APPEAL OF MIKA TELECOM ON BEHALF OF OMNIPOINT COMMUNICATIONS DBA T-MOBILE TO A BOARD OF ZONING ADJUSTMENT DECISION DENYING A CONDITIONAL USE PERMIT FOR A 75' CELLULAR TOWER LOCATED AT 3120 MCHENRY AVENUE

WHEREAS, Section 10-2.1207(g) requires a Conditional Use Permit by the Board of Zoning Adjustment for structures taller than 35' in height within the C-3 Highway Commercial Zone, and

WHEREAS, on June 11, 2008, Mika Telecom on behalf of Omnipoint Communications DBA T-Mobile submitted plot plans and elevations for a 75' cellular tower facility located at 3120 McHenry Avenue, and

WHEREAS, a public hearing was held by the Board of Zoning Adjustment on August 28, 2008, in the Tenth Street Place Chambers, located at, 1010 Tenth Street, Modesto, California, at which meeting, evidence, both oral and documentary, was received and considered, and

WHEREAS, the Board of Zoning Adjustment continued the public hearing to September 25, 2008, to allow the applicant to provide additional information regarding co-location opportunities, and

WHEREAS, a public hearing was held by the Board of Zoning Adjustment on September 25, 2008, in Chambers, Tenth Street Place, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered, and

WHEREAS, by Resolution No. 2008-08, the Board of Zoning Adjustment denied the Conditional Use Permit, and

WHEREAS, on October 8, 2008, Mika Telecom on behalf of Omnipoint Communications DBA T-Mobile filed an appeal to the decision of the Board of Zoning Adjustment pursuant to Section 10-2.2801 of the Municipal Code, and

WHEREAS, said appeal was set for a duly noticed public hearing before the City Council to be held on December 9, 2008, at 5:30 pm in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which time said public hearing was held, and evidence both oral and documentary was received and considered, and

WHEREAS, the City Council continued the public hearing to February 3, 2009, to allow the applicant to provide additional information regarding the feasibility of co-location at an existing cellular tower located at 3105 McHenry Avenue, and

WHEREAS, the public hearing was held by the City Council of Modesto on February 3, 2009, in Chambers, Tenth Street Place, 1010 Tenth Street, Modesto, CA, at which hearing evidence both oral and documentary was received and considered, and

NOW, THEREFORE, BE IT RESOLVED by the City Council of Modesto that it finds and determines, based on substantial evidence and testimony in the administrative record, that the appeal of Mika Telecom on behalf Omnipoint Communications DBA T-Mobile to the decision of the Board of Zoning Adjustment should be denied and the decision of the Board of Zoning Adjustment should be affirmed because while there is a significant gap in the applicant's service coverage, the proposed cellular tower would not be the least intrusive means to fill the gap, and

BE IT FURTHER RESOLVED by the City Council of Modesto that the appeal of Mika Telecom on behalf of Omnipoint Communications DBA T-Mobile to a Board of Zoning Adjustment decision denying the Conditional Use Permit for a 75' cellular tower

facility at 3120 McHenry Avenue is denied, and the decision of the Board of Zoning Adjustment is hereby affirmed for the reason set forth above, and

BE IT FURTHER RESOLVED by the City Council of Modesto that the application fee for a new Conditional Use Permit by Mika Telecom on behalf of Omnipoint Communications DBA T-Mobile for a co-location upon an existing cellular tower located at 3105 McHenry Avenue be waived.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of February, 2009, by Councilmember Hawn, 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: Hawn, Lopez, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-081

A RESOLUTION OF INTENTION TO ANNEX TERRITORY TO COMMUNITY FACILITIES DISTRICT NO. 2007-2 (KIERNAN BUSINESS PARK WEST) AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES THEREIN (ANNEXATION No. 1)

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

WHEREAS, pursuant to the Act, this Council did, by its Resolution No. 2007-584, adopted on October 2, 2007 (the "Resolution of Formation"), establish the City's Community Facilities District No. 2007-2 (Kiernan Business Park West) ("the District"), and

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

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

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

SECTION 1. The above recitals are true and correct.

SECTION 2. The boundaries of the District are shown on a map entitled "Boundary Map of City of Modesto Community Facilities District No. 2007-2 (Kiernan

Business Park West) of the City of Modesto, County of Stanislaus, State of California" on file with the County Recorder of the County of Stanislaus, at Book 4 of Maps of Assessment and Community Facilities Districts, at Page 96.

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

SECTION 4. The boundaries of the Territory are also shown on the map thereof, entitled "Annexation Map No. 1 of Community Facilities District No. 2007-2 (Kiernan Business Park West) of the City of Modesto, County of Stanislaus, State of California," on file in the office of the City Clerk, hereby approved and adopted. Pursuant to Sections 3110.5 and 3113 of the California Streets and Highways Code, the City Clerk shall endorse her certificate on the original and one copy of the map evidencing the date and adoption of this Resolution, file the original in her office and, not later than ten days after the adoption of this Resolution, file a copy of the map with the County Recorder of the County of Stanislaus. The map shall contain the legends provided in Sections 3110 and 3110.5 of the California Streets and Highways Code, including a reference to the title, book, page and recording date of the original boundary map of the District.

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

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

SECTION 7. A public hearing on this Resolution will be held at 5:30 p.m., or as soon thereafter as practicable, on Tuesday, March 24, 2009, at the regular meeting place of the City Council, City Council Chambers, Basement Level, 1010 Tenth Street, Modesto, California 95354, such time being not less than 30 or more than 60 days following the adoption hereof.

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

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

SECTION 10. (a) If a majority (but at least six) of the registered voters residing within the District or a majority (but at least six) of the registered voters residing within the Territory, or the owners of one-half or more of the area of the land in the District and

not exempt from the special tax, or the owners of one-half or more of the Territory, file written protests against the proposed annexation, and the protests are not withdrawn so as to reduce the value of the protests to less than a majority, no further proceedings to annex the Territory to the District, or to levy in the Territory the special taxes to be levied in the District, shall be taken for a period of one year from the date of the decision of the Council on the issues discussed at the hearing.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of February, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

ANNEXATION NO. 1 TO
COMMUNITY FACILITIES DISTRICT NO. 2007-2 (Kiernan Business Park West)

Attachment 4

EXHIBIT A

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2007-2
(KIERNAN BUSINESS PARK WEST)

DESCRIPTION OF AUTHORIZED SERVICES AND FACILITIES TO BE FUNDED BY COMMUNITY FACILITIES DISTRICT NO. 2007-2

The authorized services to be funded by special tax revenues include maintenance and repair of parkways, landscaped medians, the bike path, well site, storm drainage pump and basin, and related facilities, including but not limited to, concrete curbs and walks, trees, shrubs, vines, ground cover, turf, lights and irrigation systems. The services to be provided include, but are not limited to, litter and debris removal, graffiti abatement, painting repairs to landscape structures, pruning, staking, fertilizing, plant replacement and restoration, fire and weed control, erosion control, mowing of lawns, trimming of vegetation, and maintenance, repair and replacement of lighting systems.

The facilities described below are the facilities which the CFD is authorized to fund:

- Dale Road between Kiernan Ave. and Pelandale Ave. This road segment includes a landscaped median and a landscaped parkway strip.
- Healthcare Way between Dale Road and the western edge of the Kaiser facility. This road segment includes a landscaped median.
- Bangs Avenue from Dale Road to American Avenue. This road segment includes a landscaped median and a landscaped parkway strip.

The installation of authorized facilities may, but will not necessarily include, concrete curbs and walks, trees, shrubs, ground cover, lights, and irrigation systems.

The District may also fund any of the following: (i) administrative fees of the City related to the District, including costs associated with preparing the annual special tax levy, or (ii) costs associated with legal services, advertising, legal notices, and mailings related to formation or administration of the District.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-082

A RESOLUTION GRANTING A ONE-TIME EXCEPTION TO THE TIVOLI SPECIFIC PLAN TO PERMIT CONSTRUCTION OF A 4,900 SQUARE FOOT AGRIGULTURAL STORAGE BUILDING AT 3941 ROSELLE AVENUE AND TO NOT REQUIRE THE PARCEL TO FORM A COMMUNITY FACILITIES DISTRICT (CFD) IN THE TIVOLI SPECIFIC PLAN AREA AT THIS TIME

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 February 26, 2008, the City Council, by Ordinance No. 3479-C.S. adopted the Tivoli Specific Plan, to guide the development of 454 acres located in northeast Modesto, and

WHEREAS, Tom Trombetta ("Applicant") contacted the City to construct a 4,900 square foot agricultural storage building at 3941 Roselle Avenue ("Parcel"), and

WHEREAS, said Parcel resides within the Tivoli Specific Plan Area, and

WHEREAS, the Tivoli Specific Plan states that no area 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 Tivoli CFD, and

WHEREAS, the Tivoli Specific Plan does allow City to defer the requirement to form or annex to the Tivoli CFD if it meets the following criteria:

1) Residential properties of less than two acres, until there is a land division, addition of any dwelling unit or change of use, or

2) The existing commercial properties at the northeast corner of Oakdale Road and Sylvan Avenue and the southeast corner of Oakdale Road and Mable Avenue, until there is a change of use, physical expansion of the existing building, construction of new buildings or division of property, and

WHEREAS, since Applicant does not meet above-referenced deferral criteria, staff recommends Council approve a one-time exception to the Tivoli Specific Plan for the following reasons:

1) Applicant does not trigger the need for preparation of an Area Plan,

2) It is unreasonable to require Applicant to form the Tivoli CFD and pay a one-time special facilities tax in excess of $156,000 in order to construct a warehouse valued at $245,100, and

3) The existing agricultural use was operating on the site before the Parcel was annexed into the City limits, and

WHEREAS, upon future development, Parcel will be required to adhere to the Tivoli Specific Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that is hereby grants a one-time exception to the Tivoli Specific Plan to permit construction of a 4,900 square foot agricultural storage building at 3941 Roselle Avenue and to not require the parcel to form a Community Facilities District (CFD) in the Tivoli Specific Plan Area at this time.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of February, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-083

A RESOLUTION APPROVING AND AUTHORIZING SUBMISSION OF THE FISCAL YEAR 2007-2008 LOCAL TRANSPORTATION FUND (LTF) NON-TRANSIT CLAIM FOR $552,785 AND CARRYOVER LTF IN THE AMOUNT OF $3,080,898 TO THE STANISLAUS COUNCIL OF GOVERNMENTS (STANCOG)

WHEREAS, on June 3, 2008, the City Council approved the revised Fiscal Year 2007-2008 annual claim for Local Transportation Funds (LTF) for transit purposes only, and

WHEREAS, on March 25, 2008, the Stanislaus Council of Governments (StanCOG), pursuant to California State Public Utility Code (PUC) Section 99701.6, determined that there are no unmet transit needs or that there are no unmet transit needs that are reasonable to meet, and

WHEREAS, StanCOG has informed the Finance Department that it has allocated the Annual LTF for pedestrian, bicycle and street projects, pursuant to PUC Sections 99233.3 and 99234, and

WHEREAS, the City of Modesto had a combined carryover of $3,080,898 of Fiscal Year 2006-2007 LTF funds to Fiscal Year 2007-2008, and

WHEREAS, Council action authorizing the carryover is required by StanCOG pursuant to PUC Section 99621,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves and authorizes the execution and submission of the claim for apportionment of the Annual LTF in the amount of $552,785 and Carryover LTF in the amount of $3,080,898.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of February, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-084

A RESOLUTION APPROVING AND AUTHORIZING SUBMISSION OF THE FISCAL YEAR 2008-2009 LOCAL TRANSPORTATION FUND (LTF) NON-TRANSIT CLAIM FOR $1,393,154 AND CARRYOVER LTF IN THE AMOUNT OF $993,026 TO THE STANISLAUS COUNCIL OF GOVERNMENTS (STANCOG)

WHEREAS, on June 3, 2008, the City Council approved the Fiscal Year 2008-2009 annual claim for Local Transportation Funds (LTF) for transit purposes only, and

WHEREAS, on March 25, 2008, the Stanislaus Council of Governments (StanCOG), pursuant to California State Public Utility Code (PUC) Section 99701.6, determined that there are no unmet transit needs or that there are no unmet transit needs that are reasonable to meet, and

WHEREAS, StanCOG has informed the Finance Department that it has allocated the Annual LTF for pedestrian, bicycle and street projects, pursuant to PUC Sections 99233.3 and 99234, and

WHEREAS, the City of Modesto had a combined carryover of $993,026 of Fiscal Year 2007-2008 LTF funds to Fiscal Year 2008-2009, and

WHEREAS, Council action authorizing the carryover is required by StanCOG pursuant to PUC Section 99621,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves and authorizes the execution and submission of the claim for apportionment of the Annual LTF in the amount of $1,393,154 and Carryover LTF in the amount of $993,026.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of February, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-085

A RESOLUTION APPOINTING SIX (6) STUDENTS FROM MODESTO HIGH SCHOOLS TO THE CITY OF MODESTO YOUTH COMMISSION FOR A TERM OF TWO YEARS

WHEREAS, City Council Resolution No. 86-1369 established the City of Modesto Youth Commission, and authorized the City Council to appoint members to the Youth Commission, and

WHEREAS, City Council Resolution No. 89-443, authorized the principals of each of the high schools in Modesto to recommend the names of students who are interested in serving on the Commission to the City Council for appointment as Commissioners.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto that it hereby approves the appointment of the following high school students to the City of Modesto Youth Commission for a term of two years:

Beyer High School
Amanda Duvall

Big Valley Christian High School
Breiana Theodore

Downey High School
Chanell Heslop

Enochs High School
Sonam Virk

Modesto High School
Viodolorosa Stanley

Modesto Christian High School
Jennifer Giannosa

The City Clerk is hereby directed to transmit a copy of this Resolution to the newly appointed members of the City of Modesto Youth Commission, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of February, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-086

A RESOLUTION APPROVING AN AGREEMENT WITH STANISLAUS COUNTY BEHAVIORAL HEALTH AND RECOVERY SERVICES (BHRS) IN THE AMOUNT OF $41,500, TO PROVIDE PARTY PATROL POLICE OFFICERS TO CONDUCT JUVENILE ALCOHOL EDUCATION, PREVENTION AND INTERVENTION PROGRAMS FOR THE CITY OF MODESTO AND STANISLAUS COUNTY, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL NECESSARY DOCUMENTS

WHEREAS, Stanislaus County Behavioral Health and Recovery Services (BHRS) requires Party Patrol Police Officers to contact, identify and hold accountable minors drinking illegally at home parties and in violation of the law, and

WHEREAS, the Modesto Police Department has developed a first-time offender juvenile alcohol education, prevention and intervention program, and

WHEREAS, minors contacted by the Party Patrol will be cited and required to attend diversion classes with their parents, and

WHEREAS, the goal of the class is to educate minors and parents of the dangers related to minors consuming alcohol, and

WHEREAS, the Modesto Police Department has seen a reduction in alcohol related injuries and deaths related to juveniles and alcohol since the Party Patrol was established, and

WHEREAS, the Modesto Police Department will also provide a marketing campaign, including placing ads in newspapers, yearbooks, as well as produce posters to educate youth about the harmful effects of alcohol, and

WHEREAS, the Modesto Police Department will prepare reports on enforcement actions taken related to juvenile alcohol consumption offenses, and

WHEREAS, the term of this Agreement is January 1, 2009 through December 31, 2009, and

WHEREAS, the City shall be compensated in the amount of $41,500 for the services of Party Patrol Police Officers to conduct juvenile alcohol education, prevention and intervention program, and

WHEREAS, there is no fiscal impact to the City of Modesto.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Stanislaus County Behavioral Health and Recovery Services (BHRS) in the amount of $41,500 to provide Party Patrol Police Officers to conduct juvenile alcohol education, prevention and intervention programs for the City of Modesto and Stanislaus County.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of February, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NUMBER 2009-087

A RESOLUTION AMENDING THE MULTI-YEAR BUDGET ESTIMATING REVENUE OF $41,500 FOR OVERTIME AND REIMBURSEMENT FOR THE PARTY PATROL AGREEMENT WITH THE COUNTY OF STANISLAUS BEHAVIOR HEALTH AND RECOVERY SERVICES (BHRS)

WHEREAS, since May 2, 2006, the City of Modesto Police Department has had an annual Party Patrol Agreement with the County of Stanislaus Behavioral Health and Recovery Services (BHRS) to allow for completion of services/activities related to Party Patrol, Reduction of Binge Drinking and Related Problems among Youth and Young Adults, and

WHEREAS, this Agreement is to provide Party Patrol Police Officers and conduct juvenile alcohol education, prevention and intervention programs to reduce underage drinking parties and activities throughout Modesto and Stanislaus County, and

WHEREAS, the term of the new Agreement is January 1, 2009 through December 31, 2009, and

WHEREAS, the multi-year budget must be amended to reflect the Agreement revenues associated with this program as shown in **Exhibit A**, which is incorporated by reference herein, 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 multi-year budget is hereby amended estimating revenue of $41,500 for overtime and reimbursement for the Party Patrol Agreement with the County of Stanislaus Behavioral Health and Recovery Services (BHRS).

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of February, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit A

	Expense:		
To:	**0420-190-2094-0130**	**$41,500**	**Officers' Overtime Hours Cost**
	Revenue:		
To:	**0420-190-2094-3730**	**$41,500**	**School/County Contribution**

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-088

A RESOLUTION APPROVING AN AGREEMENT WITH BLACKBURN CONSULTING FOR CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES OF THE EMERALD TRUNK REHABILITATION PROJECT IN AN AMOUNT NOT TO EXCEED $886,395.02, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Emerald Trunk Line conveys raw wastewater in the City's Service Area 2 along the Emerald Avenue corridor and consists of approximately 17,000 feet of pipe, and

WHEREAS, the City is now undergoing this project to rehabilitate the Emerald Trunk Line to protect it from further corrosion damage and extend its service life, and

WHEREAS, the City Council, on April 1, 2008, by Resolution No. 2008-190, approved an Agreement with Brown and Caldwell to prepare the final project design of this project, and

WHEREAS, due to the complexity and amount of staff hours to support construction of the Emerald Trunk Rehabilitation project, a construction management firm is required for management and inspection of this project, and

WHEREAS, City Staff utilized Administrative Directive 3.1, Selection Procedures for Professional Consultants, and

WHEREAS, City staff recommends an agreement with Blackburn Consulting, a local Modesto firm, as the City does not have the staffing level or subject matter expertise to perform construction management and inspection services for the following: constructability review, valued engineering, bid evaluation, 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 Emerald Trunk Rehabilitation 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 Blackburn Consulting for construction management and inspection services for the Emerald Trunk Rehabilitation project in an amount not to exceed $886,395.02.

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 February, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-089

A RESOLUTION AMENDING THE FISCAL YEAR 2008-2009 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FULLY FUND THE AGREEMENT FOR CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES OF THE EMERALD TRUNK REHABILITATION PROJECT

WHEREAS, a budget adjustment in the amount of $200,000 is necessary to fully fund the Agreement with Blackburn Consulting for construction management and inspection services and staff administration of the Emerald Trunk Rehabilitation project, and

WHEREAS, the project is fully funded and a line item transfer is required, and

WHEREAS, the Fiscal Year 2008-2009 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 2008-2009 Capital Improvement Program budget as shown in **Exhibit A**.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of February, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit A

FUND:

Wastewater Fund

EXPENDITURES:		Increase/(Decrease)
Emerald Trunk Rehab	6210-480-B808-6050	($200,000)
Emerald Trunk Rehab	6210-480-B808-6060	$200,000

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-090

A RESOLUTION APPROVING AN AGREEMENT WITH WRA, INC. FOR PRE-CONSTRUCTION BIOLOGICAL SURVEY SERVICES OF THE PRIMARY OUTFALL REHABILITATION PROJECT IN AN AMOUNT NOT TO EXCEED $10,300, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Primary Outfall Pipeline transports primary effluent wastewater from the City's Sutter Avenue Primary Water Quality Control Plant to the Jennings Road Secondary Plant and consists of approximately 6.5 miles of 60-inch pipeline, and

WHEREAS, the City is now undergoing this project to rehabilitate the Primary Outfall Pipeline to protect it from further corrosion damage and extend its service life, and

WHEREAS, the Finding of Conformance along with the City's 2007 Wastewater Master Plan requires a biological survey prior to start of construction, and

WHEREAS, WRA, Inc. was selected for this project since they performed the biological survey for other sanitary sewer projects for the City, and therefore they are familiar with the natural setting of the area, and

WHEREAS, City staff recommends an Agreement with the consulting firm of WRA, Inc. be approved to perform pre-construction biological survey services in order to identify burrowing owl, nesting raptor and Swanson Hawk foraging habitats along the pipe's alignment.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with WRA, Inc. for pre-construction biological survey services for the Primary Outfall Rehabilitation project in an amount not to exceed $10,300.00.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of February, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-091

A RESOLUTION ACCEPTING THE WORK BY TEICHERT CONSTRUCTION FOR THE PROJECT TITLED "TUOLUMNE RIVER REGIONAL PARK GATEWAY PHASE 1.2" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $2,683,866.97

WHEREAS, a report has been filed by the Public Works Director that the project titled "Tuolumne River Regional Park Gateway Phase 1.2" has been completed by Teichert Construction in accordance with the contract agreement dated September 4, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Tuolumne River Regional Park Gateway Phase 1.2" is hereby accepted as complete from said contractor Teichert Construction, that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder and to release securities upon expiration of statutory periods, and that payment of amounts totaling $2,683,866.97 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 February, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NUMBER 2009-092

A RESOLUTION AMENDING THE FISCAL YEAR 2008/2009 OPERATING BUDGET REDUCING GENERAL FUND REVENUES BY $290,000 DUE TO DELAYED IMPLEMENTATION OF THE FRANCHISE TOW PROGRAM

WHEREAS, the City spends more than $2,000,000 annually on costs associated with non-consensual towing, and

WHEREAS, in Fiscal Year 2008/2009, the General Fund operating budget includes revenue, estimated at $360,000 over 12 months, from the fees associated with the towing of these vehicles, and

WHEREAS, due to delayed implementation of the franchise tow program, this revenue is now estimated at $70,000 based on an anticipated start date of April 1, 2009, and

WHEREAS, as proposed under the franchise tow contracts, the per vehicle tow fee is set at $40 with an estimated 7,000 tows per year, and

WHEREAS, on April 1, 2010, the fee increases to $45 and to $50 in April 1, 2011,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2008/2009 Operating Budget reducing General Fund revenues by $290,000 due to delayed implementation of the Franchise Tow Program is hereby amended as shown in the Budget Adjustment (**attached**), which is 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.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of February, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Polly Findlen
Telephone No.: 29518
Department: POLICE

Council Action Date: _____
Resolution Number: _____

Adjustment to FY: 08/09

Fund Title: General Fund

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
DEPARTMENTAL REVENUES/INCLUDES TRANFERS IN					
FROM					
0100-190-1921-1314		$360,000	($290,000)	$70,000	City Towing
TO					
APPROPRIATIONS/INCLUDES TRANSFERS OUT					
FROM					
0100-800-8000-8003	0100R	$1,628,558	($290,000)	$1,338,558	Appropriated Reserve
TO					

COMMENTS/JUSTIFICATION (USE ADDITIONAL PAGES AS NECESSARY)

At the time the 09 budget was prepared, the Franchise tow program was expected to be implemented by 7/1/08. It is anticipated that the $40 per tow revenue that will offset the program costs will be ready to begin 4/1/09. This adjustment reflects the expected revenue from April 1 to June 30, 2009.

AUTHORIZATION	SIGNATURE	DATE
(Authority levels reflected on back)		
DEPARTMENT DIRECTOR or AUTHORIZED DESIGNEE (Attach Delegation Authorization)		
DEPUTY DIRECTOR (If needed)		
ADMINISTRATIVE SERVICES OFFICER (If needed)		
FINANCE DIRECTOR		
CITY MANAGER		

TRANSFER NUMBER_____

BY_____ **DATE**_____

ITEMS REQUIRING COUNCIL ACTION:

1. Appropriation of undesignated reserves
2. Appropriation of new revenues
    a. Does not include Developer Payment
3. Budgeting inter-fund transfers
    a. Does not include adjustments to budgeted transfers where the intent is to subsidize an enterprise operation
4. Creation of inter-fund loans
5. Creation of, or increase in, any multi-year appropriation
6. Addition of permanent staff positions
7. Appropriation of payments for new indebtedness including operating leases
8. All other budgetary actions not delegated to another official

ITEMS DELEGATED TO CITY MANAGER:

1. Transfer appropriations between departments within a fund
2. Changing any capital equipment appropriation
3. Changing appropriations for temporary agency labor
4. Transfer appropriations to or from salary line items
5. Appropriate reserves for litigation on a case-by-case basis
6. Revoke multi-year appropriations
7. Transfer appropriations from a primary capital project to create of modify the budget of a related secondary capital project without increasing the total appropriations
8. Transfer appropriations between two or more related secondary capital projects without increasing the total appropriations
9. Close Capital Improvement Program projects
10. Adjustments to Inter-fund transfers intended to balance enterprise fund operations
11. Appropriate Developer Payments not previously budgeted
    a. Annexation Deposits
    b. Special District Formation Deposits
    c. Developer Deposits to be recognized as revenue

ITEMS DELEGATED TO FINANCE DIRECTOR:

1. Appropriate unbudgeted grant interest
2. 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 of decrease to the total amount of discretionary appropriations provided to the affected departments(s)
3. Make technical budget corrections to implement the intent of Council-approved actions and resolutions
4. Transfer appropriations between sub-funds of a single fund (except where this changes appropriation amounts for temporary agency labor and/or capital equipment purchases)

ITEMS DELEGATED TO DEPARTMENT DIRECTORS:

1. Transfer appropriations between non-salary line items within a department, within a single fund (exludes appropriations related to capital equipment, capital improvement program projects and temporary labor)

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-096

A RESOLUTION APPROVING THE PROSPECTIVE BIDDER PREQUALIFICATION LIST FOR THE EMERALD TRUNK REHABILITATION PROJECT CONSISTING OF THE FOLLOWING CONTRACTORS: COLICH & SONS L.P.; D'ARCY & HARTY CONSTRUCTION, INC.; INSITUFORM TECHNOLOGIES, INC.; K.J. WOODS CONSTRUCTION, INC.; MICHELS CORPORATION, DBA MICHELS PIPELINE CONSTRUCTION; SUPER EXCAVATORS, INC.; AND EBERT MCGUIRE AND HESTER A JOINT VENTURE

WHEREAS, the Emerald Trunk Rehabilitation Project involves the rehabilitation of approximately 20,700 feet of existing 24 to 36-inch reinforced concrete sewer pipeline, and

WHEREAS, the project is located in a busy corridor with numerous roadway, railroad, utility, and canal crossings, and

WHEREAS, in order to limit project impacts, the City will use trenchless technologies to rehabilitate and optimize the capacity of the existing system, and

WHEREAS, because of the nature and complexity of the project, City staff are prequalifying contractors for the proposed work based on prior experience with projects of similar size and complexity, and

WHEREAS, the deadline for prospective bidders to submit a prequalification package to bid on the project was December 23, 2008, and

WHEREAS, on January 13, 2009, by Resolution No. 2009-040, the City Council approved the Prospective Bidder Prequalification Appeals Panel for the Emerald Trunk Rehabilitation Project, and

WHEREAS, the City received Statements of Prequalifications from ten contractors and evaluated the prospective bidders' qualifications based on experience with projects of similar size and complexity consistent with State law, and

WHEREAS, in their initial submittal Ebert McGuire and Hester a Joint Venture, used a project manager who did not qualify for the project, and

WHEREAS, Ebert McGuire and Hester requested a protest hearing that was held on February 19, 2009, and

WHEREAS, in their revised submittal, Ebert McGuire and Hester changed the project manager dedicated to the assignment, and therefore the joint venture also qualified, and

WHEREAS, as a result the following prospective bidders qualified to submit bids on the project: Colich & Sons L.P.; D'Arcy & Harty Construction, Inc.; Insituform Technologies, Inc.; K.J. Woods Construction, Inc.; Michels Corporation, dba Michels Pipeline Construction; Super Excavators, Inc.; and Ebert McGuire and Hester a Joint Venture, and

WHEREAS the qualified bidders will be placed on the bidders' list included in the project bid documents, and

WHEREAS, any contractors who wish to submit subcontracting proposals to the pre-qualified bidders will be allowed to obtain bid documents,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Prospective Bidder Prequalification List for the Emerald Trunk Rehabilitation Project consisting of: Colich & Sons L.P.; D'Arcy & Harty Construction, Inc.; Insituform Technologies, Inc.; K.J. Woods Construction, Inc.;

Michels Corporation, dba Michels Pipeline Construction; Super Excavators, Inc.; and Ebert McGuire and Hester a Joint Venture.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of March, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-097

A RESOLUTION APPROVING AN ELECTRIC UTILITY POLE RELOCATION AGREEMENT WITH MODESTO IRRIGATION DISTRICT FOR THE RELOCATION OF TWO UTILITY POLES AND ASSOCIATED UNDERGROUND CONDUIT LOCATED ON SISK ROAD NORTH OF PELANDALE AVENUE FOR THE PELANDALE AVENUE AT SISK ROAD AND SR99 NORTHBOUND ON-RAMP PROJECT IN THE AMOUNT NOT TO EXCEED $89,300, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Pelandale Avenue at Sisk Road and SR99 Northbound On-ramp project is needed to comply with the Kaiser Development Agreement, the City's Circulation Element of the City's General Plan, as well as regional transportation needs, and

WHEREAS, there are high voltage electrical lines along the east side of Sisk Road north of Pelandale Avenue that must be moved in order to construct the project per the Kaiser Development Agreement, and

WHEREAS, the Modesto Irrigation District will move the poles in accordance with the terms of the agreement, and

WHEREAS, the current budgeted amount of $89,300 for the agreement is available in CIP account 1410-430-I1424 "Pelandale Sisk to 99 Improvements" to cover the cost for these services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement between the City of Modesto and Modesto Irrigation District (MID), for the relocation of electric utility poles and associated underground conduit located on Sisk Road north of Pelandale Avenue in an amount not to exceed $89,300.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of March, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-098

A RESOLUTION APPROVING THE THIRD AMENDMENT TO THE AGREEMENT WITH AVAIL TECHNOLOGIES, INC. FOR THE DEVELOPMENT AND INSTALLATION OF A COMPUTER-AIDED DISPATCH/AUTOMATIC VEHICLE LOCATION SYSTEM FOR THE MODESTO AREA EXPRESS BUS SYSTEM IN AN AMOUNT NOT TO EXCEED $6,200, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO THE AGREEMENT

WHEREAS, on March 6, 2007, City Council, by Resolution 2007-161, approved an agreement with Avail Technologies, Inc. for the development and installation of a Computer-Aided Dispatch/Automatic Vehicle Location (CAD/AVL) system for the Modesto Area Express (MAX) bus fleet, and

WHEREAS, on June 3, 2008, City Council, by Resolution 2008- 327, approved the First Amendment to the Agreement with Avail Technologies, Inc. increasing the original Agreement by $175,600 to incorporate system upgrades, and

WHEREAS, on August 12, 2008, City Council, by Resolution 2008-471, approved the Second Amendment to the Agreement with Avail Technologies, Inc. increasing the original Agreement by $21,500 to incorporate additional system upgrades, and

WHEREAS, during further CAD/AVL development, it has been determined that additional system enhancements are both feasible and cost effective to link the voice and date system emergency notification systems, and

WHEREAS, funds are budgeted in Account No. 6510-165-A044 for this Third Amendment to the Agreement with Avail Technologies, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Third Amendment to the Agreement with Avail Technologies, Inc. for the development and installation of a computer-aided dispatch/automatic vehicle location system for the Modesto Area Express (MAX) bus system in an amount not to exceed $6,200.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of March, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-099

A RESOLUTION APPOINTING SEVEN (7) MEMBERS AND TWO (2) ALTERNATE MEMBERS TO THE ENTERTAINMENT 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 Entertainment Establishment Ordinance, effective August 1, 2008, created an Entertainment Commission to oversee the entertainment permit process, including dance and processing of special event requests within the City of Modesto, and

WHEREAS, appointment of the members of the Commission shall be made upon recommendation by the City Council Safety & Communities Committee, and

WHEREAS, the Safety & Communities Committee met on September 29 & 30, 2009 to interview applicants to the Commission, and accordingly recommend appointment of SUSANNA MENDIETA BEASLEY, SARA LYTLE-PINHEY, MITCHELL MAISETTI, DAN PARK, DON BEAN, REGINALD RUCKER and CHRIS RICCI to the Entertainment Commission.

WHEREAS, the Safety & Communities Committee further recommended that two alternates, JENNIFER ALLSUP and LES KNOLL, also be appointed to ensure a quorum at all meetings.

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

SECTION 1. The following members and alternates, with term expiration dates respectively, are hereby appointed to the Entertainment Commission:

SUSANNA MENDIETA BEASLEY, January 1, 2013
SARA LYTLE-PINHEY, January 1, 2013

CHRIS RICCI, January 1, 2013
MITCHELL MAISETTI, January 1, 2012
DAN PARK, January 1, 2012
DON BEAN, January 1, 2011
REGINALD RUCKER, January 1, 2011
JENNIFER ALLSUP (alternate), January 1, 2012
LES KNOLL (alternate), January 1, 2011

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed members of the Entertainment 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 March, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-100

A RESOLUTION ACCEPTING THE PUBLIC IMPROVEMENTS FOR THE HILLGLEN SUNRISE SUBDIVISION IN THE VILLAGE ONE SPECIFIC PLAN AREA, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS

WHEREAS, PPC, Sunrise LLC, a California Limited Liability Company ("SUBDIVIDER"), is the subdivider of the HILLGLEN SUNRISE SUBDIVISION ("SUBDIVISION"), and

WHEREAS, SUBDIVIDER has filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amounts of $1,111,427, and $555,713.50, respectively, and

WHEREAS, SUBDIVIDER has filed a warranty bond in the amount of $111,142.70 to guarantee public improvements in the SUBDIVISION, and

WHEREAS, the Public Works Director, in a memorandum to Council, indicates that all work required by the Subdivision Agreement has been completed to the satisfaction of the Public Works Department, and

WHEREAS, the Public Works Director has indicated that it would be in order for the City Council to accept the public improvements in the SUBDIVISION as complete, authorize the City Clerk to file a Notice of Completion, and release the securities upon expiration of the statutory periods,

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

1) The public improvements in the SUBDIVISION are hereby accepted, and the City Clerk is hereby authorized to file a Notice of Completion for the public improvements.

2) The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of $1,111,427 upon recordation of the Notice of Completion.

3) The City Clerk is hereby authorized to release the subdivision bond for labor and materials in the amount of $555,713.50 sixty (60) days after recordation of the Notice of Completion, provided no claim is made thereon.

4) The City Clerk is hereby authorized to release the warranty bond to guarantee SUBDIVISION improvements in the amount of $111,142.70 one year and one day after the effective date of this resolution, provided no claim is made thereon.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of March, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-101

A RESOLUTION ACCEPTING THE PUBLIC IMPROVEMENTS FOR THE THOMAS TERRACE SUBDIVISION IN THE VILLAGE ONE SPECIFIC PLAN AREA, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS

WHEREAS, PPC, Sunrise LLC, a California Limited Liability Company ("SUBDIVIDER"), is the subdivider of the THOMAS TERRACE SUBDIVISION ("SUBDIVISION"), and

WHEREAS, SUBDIVIDER has filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amounts of $150,617, and $75,308.50, respectively, and

WHEREAS, SUBDIVIDER has filed a warranty bond in the amount of $15,061.70 to guarantee public improvements in the SUBDIVISION, and

WHEREAS, the Public Works Director, in a memorandum to Council, indicates that all work required by the Subdivision Agreement has been completed to the satisfaction of the Public Works Department, and

WHEREAS, the Public Works Director has indicated that it would be in order for the City Council to accept the public improvements in the SUBDIVISION as complete, authorize the City Clerk to file a Notice of Completion, and release the securities upon expiration of the statutory periods.

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

1) The public improvements in the SUBDIVISION are hereby accepted, and the City Clerk is hereby authorized to file a Notice of Completion for the public improvements.

2) The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of $150,617 upon recordation of the Notice of Completion.

3) The City Clerk is hereby authorized to release the subdivision bond for labor and materials in the amount of $75,308.50 sixty (60) days after recordation of the Notice of Completion, provided no claim is made thereon.

4) The City Clerk is hereby authorized to release the warranty bond to guarantee SUBDIVISION improvements in the amount of $15,061.70 one year and one day after the effective date of this resolution, provided no claim is made thereon.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of March, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNIL
RESOLUTION NO. 2009-102

A RESOLUTION AFFIRMING THE CITY'S CO-SPONSORSHIP OF "EARTH DAY IN THE PARK FESTIVAL, 2009" AT GRACEADA PARK AND APPROVING THE SALE OF MERCHANDISE IN THE PARK DURING THE EVENT

WHEREAS, in 1970 Earth Day was established to make the public aware of programs successful in protecting the environment and conserving natural resources, and

WHEREAS, on March 24, 1992, the City Council, by Resolution No. 92-129, acknowledged "Earth Day in the Park" as an annual event, and

WHEREAS, the Citizen's Advisory Committee on Recycling (CACOR) sponsors the event, and the 20th Annual "Earth Day in the Park" will be held on Saturday, April 18, 2009, 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, 2008" had over 100 vendor booths, and approximately 8,000 attendees, and

WHEREAS, as in prior years' events, the Committee seeks Council approval for the sale of merchandise in the park during the event.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby affirms the City's co-sponsorship of "Earth Day in the Park Festival, 2009", 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, 2009" event.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of March, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-103

A RESOLUTION AMENDING SECTION 2.2 OF PERSONNEL RULE 2 OF THE CITY OF MODESTO RELATING TO THE REVISION OF THE POSITION CLASSIFICATION PLAN

WHEREAS, Section 1202 of Article XII of the Charter of the City of Modesto provides that the Personnel System provided by said Article shall be implemented by such rules and regulations governing the administration thereof as are adopted by the City Council upon recommendation of the City Manager, and

WHEREAS, the City Council has adopted Personnel Rules as authorized by the City Charter, and

WHEREAS, the City Council established Personnel Rule 2 on July 7, 1954 by adoption of Resolution 54-204, and

WHEREAS, the City Manager has recommended an amendment to Personnel Rule 2.2, and

WHEREAS, the City Council finds that said proposed amendment promotes the purposes and objectives of the Personnel System,

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

SECTION 1. PERSONNEL RULE AMENDED. Personnel Rule 2 of the City of Modesto is hereby amended to revise Section 2.2 as follows: "The classification plan or major revisions to the plan which affect any classification title or salary shall be effective only upon adoption by City Council resolution. Minor material modifications may be made by the City Manager or their designee to include adjustments of Essential & Marginal functions, Distinguishing Characteristics and/or Minimum Qualifications as

appropriate. Personnel Rule 2 is hereby approved and made part of the Personnel Rules 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 10th day of March, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-104

A 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 FEDERAL 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 approved amending 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 & Drug Testing Policy and Procedure to ensure compliance with the Federal regulations of the 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 March 10, 2009.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of March, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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
Department of Public Works
Department of Parks, Recreation, & Neighborhoods

Anti-Drug Program/Alcohol Misuse Program

Summary: This policy covers city government and it contains language on FTA and FMCSA anti-drug and alcohol misuse policies and establishes an anti-drug and alcohol misuse program for Commercial Vehicle Operators, and Transit Division Employees that complies with the Department of Transportation's (DOT) 49 CFR parts 382, 655, and 40.

D R A F T

City of Modesto
Department of Public Works
Department of Parks, Recreation, & Neighborhoods

ANTI-DRUG PROGRAM/ALCOHOL MISUSE PROGRAM

As required by the Department of Transportation

Revision Dates:
FMCSA - Anti-Drug/Alcohol Misuse revised January 1995, December 1996, Pending
FTA - Anti-Drug/Alcohol Misuse revised January 1995, December 1996, Pending

I. INTRODUCTION

The City of Modesto has written and implements 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. 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 the City's Drug-Free Workplace Program or other applicable City Policies.

The Public Works Department is comprised of multiple divisions that provide a wide variety of services. This diversity has resulted in the Department being regulated by two different operating authorities of the Department of Transportation. This has made writing a policy for the Department challenging because the operating authorities' rules differ in some places. This Program will inform the reader in the places where the rules differ by having different categories or another clear method of separating the rules.

DOT allows the City's program to be stricter than their regulations as long as language specific to the City's program is identified. Therefore, where this program goes beyond the requirements of DOT, the text below is highlighted in bold print.

A. Policy Statement

1. The purpose of this policy is to establish an Anti-Drug Program / Alcohol Misuse Program for Commercial Vehicle Operators, and Transit Division Employees that complies with the Department of Transportation's (DOT) 49 CFR parts 382, 655, and 40. Part 382 requires employers to test drivers who are required to obtain a commercial driver's license (CDL) for the illegal use of alcohol and controlled substances and was effective on January 1, 1995. Part 655 requires that Transit Employees who maintain, operate, or control the movement of transit vehicles be tested for controlled substances and alcohol. Effective August 1, 2001, Part 655 replaces Parts 653 and 654, which went into effect on January 1, 1996. DOT has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens. This policy incorporates the DOT requirements for DOT covered safety-sensitive employees.

Participation in this program is a requirement of all safety sensitive employees, and therefore, is a condition of employment.

2. **It is the policy of the City of Modesto to attract and maintain a work force that is free of alcohol or drugs which may impair judgment and job performance and may result in accident or injury to self, other 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.**

3. **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.**

4. Any questions in relation to this program should be directed to the Risk Manager, who serves as the City's DOT Program Manager, telephone number: 209-577-5251. (E-mail humanresources@modestogov.com) Additional information regarding DOT regulations can also be found at www.dot.gov/ost/dapc/oamanagers.

II. PROHIBITED BEHAVIOR

A. Controlled Substances: Covered employees are prohibited by the Department of Transportation from using marijuana (includes all hemp products), cocaine, opiates, phencyclidine (PCP), and amphetamines at any time. **The City prohibits the use of any controlled substance or other performance-altering drug that cannot be substantiated by medical evidence of legitimate drug use. The City also prohibits any employee from engaging in unlawfully manufacturing, distributing, dispensing, possessing, or using controlled substances in the workplace. Additionally, it is the employee's obligation to notify his/her supervisor of any therapeutic drug use that may alter their ability to perform safety sensitive functions. It is imperative that an employee informs his/her supervisor if the prescription indicates that one should not drive, operate machinery, or engage in hazardous activities. In making this notification the employee need not divulge any confidential medical information to the supervisor, such as underlying medical condition, symptoms, etc.** In the event that an employee's drug screen comes back positive due to a prescription drug, it shall be the employee's responsibility to provide the Medical Review Officer with proof of a valid prescription in order for test results to be ruled negative. **An employee who is convicted of a**

drug or alcohol violation occurring in the work place must notify his/her supervisor within 5 days.

B. Alcohol: An employee will be removed from performing safety-sensitive functions:

1. When test results indicate an alcohol concentration of 0.04 or greater;
2. Within four hours after using alcohol;
3. While using alcohol on the job;
4. During the 8 hours following an accident if their involvement has not been discounted as a contributing factor in the accident or until they are tested;
5. If they refuse to submit to required alcohol tests; and
6. If they are in possession of alcohol while driving.

If an employee is found to have an alcohol concentration of 0.02 or greater but less than 0.04, or if the employee is under the influence of or impaired by alcohol, as indicated by behavior, speech and performance indicators of alcohol misuse, and a reasonable suspicion alcohol test cannot be obtained, the employee will have to be removed from safety-sensitive duties for 24 hours under FMCSA regulations or 8 hours under FTA regulations. An employee with a positive drug test shall be removed from covered functions until an evaluation is held, recommendations of evaluation carried out, and the employee has passed a return-to-duty test.

C. **The City of Modesto prohibits the use of controlled substances and alcohol while on the job or subject to duty. Use of controlled substances and/or alcohol while on the job or subject to duty, even if the alcohol concentration is 0.02 or greater but less than 0.04 may result in disciplinary action up to and including termination in accordance with the applicable MOU and personnel policies.**

D. **No employee shall report for duty or remain on duty when the employee uses any controlled substance, except when use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely operate a commercial vehicle.**

An employee taking prescribed drugs who has knowledge of or has been advised that they have the potential to interfere with safe work performance shall report this possibility to the supervisor before beginning work. Failure to notify a supervisor may result in disciplinary action, up to and including termination in accordance with the applicable MOU and personnel policies. The employee may be require to provide a statement from a licensed physician, nurse practitioner or physician assistant, that the employee is able

to work safely while taking the prescribed medication. **The statement should not and need not contain confidential medical information, such as diagnosis, medical history, symptoms, etc., but should only describe the employee's job-related functional limitations, if any.** An employee who is not cleared to work will not be permitted to work unless an alternative work assignment is granted under the City's modified duty assignment policy. If no alternative work assignment is available, the employee may use sick leave, accrued time off, or approved leave of absence until released for work by a licensed physician, nurse practitioner or physician assistant.

III. DRUG AND ALCOHOL TESTING REQUIREMENTS

A. Employee Categories: The following employee positions are subject to FMCSA or FTA drug and alcohol testing as outlined in this policy.

- Employee positions that require a CDL to perform job tasks and are covered by **FMCSA** and can be found on Appendix A.
- Employee positions that are covered by **FTA**:

The following positions perform maintenance duties:

- Bus Fueler – hourly position
- Heavy Equipment Mechanic – Bus Shop

B. Types of Drug Testing: Employees subject to this drug-testing program are required to be tested under the following six types of tests:

1. Pre-Employment Testing
   a) A pre-employment drug test will be conducted when an individual is selected to be hired for a position listed in this policy. Said individual will not perform covered safety-sensitive functions until he/she passes the pre-employment drug test.
   b) A pre-employment drug test will be conducted when a current employee transfers from a position not covered by this policy into a position listed in this policy. An employee who was previously separated from a Part 382 or 655 anti-drug program position, will be pre-employment tested prior to performing safety-sensitive duties.
   c) A pre-employment drug test will be conducted when a current employee or applicant has not performed a safety-sensitive function for 90 consecutive days regardless of the reason and the employee has not been in the employer's random selection pool during that time.
   d) If a pre-employment test is canceled, the applicant is required to submit to and pass another test. Pre-employment drug tests for disabled individuals unable to provide sufficient volume can be reported as negative if medical examination shows no evidence of illegal drug use.
   e) Applicants who are offered a position covered by this policy will be tested before being employed. If applicant's drug test is

positive, then the matter will be referred to the MRO for review (see Section 6 - Medical Review Officer). Pre-employment job applicants or employees seeking a transfer into a position covered by this policy who test positive will not be hired unless and until the City receives an opinion from the MRO explaining that the positive test result should not be a bar to employment or transfer. Applicants and employees transferring into a covered position have the option to have their sample retested if their request is made to the MRO within 72 hours of the receipt of the final test result from the MRO.

f) If an employee or applicant has previously failed or refused a pre-employment drug test the employee must provide proof of having successfully completed a referral, evaluation and treatment plan as described in 49 CFR § 655.62.

g) Employees working in a position covered by this policy on the effective date and who continue to work in a covered position do not require a pre-employment test.

h) In the event that the MRO was not able to contact the applicant to discuss the results of their drug test, the City shall notify the applicant of the results of the pre-employment drug test, if the applicant requests such results within 60 calendar days of being notified of the disposition of the employment application. The applicant will be referred to a qualified SAP.

2. Random Testing

a) All employees working in a position covered by this policy are subject to unannounced testing based on random selection. This includes temporary employees performing work in a covered position. A covered employee may be randomly tested for prohibited drug use anytime while on duty.

b) The number of employees randomly selected for drug/alcohol testing during the calendar year shall be not less that the percentage rates established by Federal regulations for those safety-sensitive employees subject to random testing by Federal regulations. A person may be randomly picked more than once or not picked at all during the annual period.

c) To assure that the selection process is random, all employees covered by this policy will be placed in a common pool. All full time and hourly employees will be in this pool. Employees remain in the random selection pool at all times, regardless of whether or not they have been previously selected for testing.

d) The random selection procedure will be a computer-based random number generator.

e) Random testing will be done on at least a monthly basis. Testing will be conducted on different days of the week throughout the annual cycle to prevent employees from matching their drug use patterns to the schedule for collection. Collection for monthly random testing will be spread out over the month. Selected employees will not be notified until immediately prior to the time

that they are due at the collection site. If an employee is unavailable during a draw period due to long-term absence, a replacement number can be drawn using the computerized random number generator to select additional numbers. If an employee is temporarily unavailable, or it is their day off, the number should be held until their next shift within the same testing period. No employee shall be excused because of operational difficulties.

f) Random alcohol testing will be performed at a rate of at least 10% of the average number of covered positions. This rate is subject to adjustment by DOT as based on the industry's violation rate. Random alcohol testing will be done on a monthly basis with the number of draws based on the size of the random pool.

g) An employee shall only be tested for alcohol while the employee is performing, just before the employee is to perform, or just after the employee has performed safety-sensitive functions. **It is the City's position that employees that are hired to drive a commercial motor vehicle are expected to be available to drive that vehicle, or perform safety sensitive functions, anytime that they are at work; unless they have a medical excuse that advises that they do not drive.**

h) Random notifications should be conducted as discreetly as possible in order to ensure the confidentiality and integrity of the process.

3. Post-Accident Testing:

All employees working in positions covered by this policy whose performance either contributed to an accident or cannot be completely discounted as a contributing factor to the accident will be tested.

a) Time Frame for Testing Employees

(1) The employee will be tested for controlled substances as soon as possible, but no later than 32 hours after the accident. Because certain drugs or drug metabolites do not remain in the body for extended periods of time, testing should be as soon as possible. Alcohol tests should be conducted within 2 hours and must be performed within 8 hours.

(2) As soon as practicable following an accident, the City shall test each surviving covered employee for alcohol if that employee's performance of a covered function either contributed to the accident or cannot be completely discounted as a contributing factor to the accident. If an alcohol test is required, but is not administered within two (2) hours following the accident, the City shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a required test is not administered within eight (8) hours following the accident, the City

shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test. These records shall be made available to FMCSA, or FTA upon request.

(3) The decision not to administer a test shall be based on the City's determination, using the best available information at the time of the determination that the covered employee's performance could not have contributed to the accident.

(4) A covered employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying his/her supervisor of his/her location if he/she leaves the scene of the accident prior to submission to such test, may be deemed by the supervisor to have refused to submit to testing. Nothing in this section shall be construed to require the delay of necessary medical attention for injured people 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.

(5) All reasonable steps will be taken to obtain a urine sample for the testing of controlled substances from an employee after an accident. In case of a conscious but hospitalized employee, the hospital or medical facility will be requested to obtain a sample and if necessary, reference will be made to the DOT drug testing requirements.

(a) If an employee who is subject to post-accident testing is conscious, able to urinate normally (in the opinion of a medical professional) and refuses to be tested, that is a test refusal.

b) Process for Obtaining Specimen Collection/Documentation:

(1) Supervisor shall discreetly inform the employee that there is reason to believe that their performance contributed to the accident or cannot be completely discounted as contributing factor to the accident. Remind the employee that a request for a test is not an accusation; it is only a request for additional objective data.

(2) **The potentially affected employee will not be allowed to proceed alone to or from the collection site. A supervisor or other appropriate personnel shall accompany him/her to and from the collection site.**

(3) **After returning from the collection site, the employee should not be allowed to perform covered functions pending the results of the drug**

test/alcohol test.

(4) Record the activity performed that support the determination to conduct a post-accident test. This documentation should be prepared and signed by the supervisor within 24 hours of the accident or before the results of the tests are released, whichever is earlier, if possible (Post-Accident Record of Decision form is located at the end of this section in Appendix B).

(5) Drivers shall be provided with necessary post-accident information, procedures, and instructions prior to the driver operating a CMV so that drivers will be able to comply with the requirements of Part 382.

(a) FMCSA regulations stipulate that the results of breath or blood test for the use of alcohol or a urine test for the use of controlled substances, conducted by Federal, State or local officials having independent authority for the test, shall be considered to meet the requirements of Part 382, provided such tests conform to applicable Federal, State, or local requirements, and that the results of the tests are obtained by the employer. In the event that the City is unable to conduct a FTA post-accident alcohol and/or drug test due to circumstances beyond its control (i.e. employee is unconscious, incarcerated, etc.), results from local or state law enforcement officers may be used in lieu of FTA tests if provided results are consistent with state and local law.

(6) **After-hour random or holiday post-accident tests shall be collected @ DNT Health.**

4. Reasonable Suspicion Testing

a) When there is reasonable suspicion to believe that an employee covered by this policy is using a prohibited drug or using alcohol while on duty, the employee will be required to take a test for controlled substances and/or alcohol. The required observations for alcohol and/or controlled substances reasonable suspicion testing shall be made by a supervisor or city official who is trained in drug use symptoms. A decision to test must be based on specific contemporaneous articulable observations concerning the appearance, behavior, speech, or body odors of the employee. The observations may include indications of the chronic and withdrawal effects of controlled substances. Alcohol testing is authorized only if the observations are made during, just preceding or just after the period of the workday that the employee is performing a covered function.

b) If an alcohol test is required, but is not administered within two (2)

hours following the request for the test, the City shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a required test is not administered within eight (8) hours following the request, the operator shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test. These records shall be completed by the employee's supervisor and forwarded to the Risk Manager for inclusion in the drug and alcohol files. These records shall also be made available to FMCSA, and FTA upon request.

c) Process for Obtaining Specimen Collection/Documentation:

(1) Supervisor shall discreetly inform the employee that there is reason to believe that some substance is affecting their performance. Ask the employee to explain the suspected behavior and to describe the events that took place from their perspective. If there is still a reasonable belief that drugs or alcohol are a factor in the situation, a request for testing should be made; if no reasonable belief is determined, then no request for testing should be made. If a decision is made to test, inform the employee that they are being requested to accompany the appropriate official to the specimen collection site to provide a urine/breath specimen. Inform the employee that the consequences of refusal to submit to testing is equivalent to having a positive test result.

(2) **The potentially affected employee should not be allowed to proceed alone to or from the collection site. A supervisor, or other appropriate personnel, shall accompany him/her to and from the collection site.**

(3) **After returning from the collection site, the employee shall not be allowed to perform covered functions pending the results of the drug/alcohol test. The employee should not be allowed to operate any motor vehicle due to the reasonable belief that they may be under the influence of alcohol or a drug(s).**

(4) Record the activity performed that supports the determination to conduct a reasonable suspicion test. This documentation should be prepared and signed by the supervisor within 24 hours of the request for test or before the results of the tests are released, whichever is earlier, if possible. A copy should be forwarded to the Risk Manager for filing in the Drug and Alcohol Program Files. A copy shall be delivered to the employee.

(5) Notwithstanding the absence of a reasonable suspicion alcohol and/or drug test under this section, no

employee shall report for duty or remain on duty requiring the performance of safety-sensitive functions while the employee is under the influence of or impaired by alcohol or drugs, as shown by the behavioral, speech, and performance indicators of alcohol misuse or drug use, nor shall the City permit the employee to perform or continue to perform safety sensitive functions until:

(a) Negative drug test results are reported;
(b) An alcohol test is administered and the driver's alcohol concentration measures less than 0.02; or twenty-four hours have elapsed following the determination that there was reasonable suspicion to believe that the employee had violated the alcohol prohibitions of this program (8 hours for FTA). **Test results greater than 0.02 or positive drug tests may result in disciplinary actions up to and including termination in accordance with the applicable MOU.**

5. Return To Duty Testing

Return to Duty Testing and Follow-up Testing assumes that the City has elected to retain the employee and has not exercised its authority to terminate the employee in accordance with the applicable MOU.

Controlled Substances: Before a covered employee returns to duty requiring the performance of a safety sensitive function after engaging in prohibited conduct, the employee shall undergo a return to duty controlled substance test that results in a verified negative test result. An employee may not return to duty until they:

(1) Have been recommended by the SAP for return to duty,
(2) Pass a DOT drug test, and
(3) Not failed a drug test required by Part 382 or 655 after returning to duty.

b) Alcohol: The City shall ensure that before a covered employee returns to duty requiring the performance of a covered function after engaging in conduct prohibited by this Program, the employee shall undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 and have been recommended by the SAP for return to duty.

6. Follow-up Testing

a) Following the determination that a covered employee is in need of assistance in resolving problems associated with alcohol misuse or drug use, the City shall ensure that the employee is subject to

unannounced follow-up alcohol and/or drug testing as directed by a substance abuse professional (SAP). The SAP will recommend education, treatment or both.

b) Follow-up testing for alcohol shall be conducted when the covered employee is performing covered functions; just before the employee is to perform covered functions; or just after the employee has ceased performing such functions. Follow-up testing for drugs shall be conducted anytime the covered employee is on duty.

c) A minimum of 6 unannounced, follow-up tests must be administered within the first 12 months after the employee has returned to duty. The SAP can direct additional testing during this period or for an additional period up to a maximum of 60 months from the date that the employee returned to duty. The SAP can terminate the requirement for the follow-up testing in excess of the minimum at any time, if the SAP determines that the testing is no longer necessary.

d) The City may direct the employee to undergo return-to-duty and follow-up testing for both alcohol and controlled substances, if the SAP determines that it is necessary for that particular employee.

e) An employee who is undergoing follow-up testing shall remain in the random pool and be tested if his/her number is selected.

f) **The SAP shall not reveal the employee's confidential medical information (such as diagnosis or medical history) to the City when making his/her recommendation for education and/or treatment, or at any other time with out specific consent.**

g) **The City shall not require the employee to sign an authorization for release of confidential medical information to the city in connection with any evaluation by the SAP.**

h) **The employee shall be promptly given a copy of the final recommendations.**

7. Blind Performance Testing

   As an employer with fewer than 2,000 DOT-covered employees, the City is not required to provide blind specimens for performance testing.

8. Notice to Employees

   The City shall notify an employee of the results of any tests for controlled substances if the test results are verified as positive. The City shall also inform the employee which controlled substance or substances were verified as positive. **Upon request the City shall provide the employee with a copy of the custody and control form of the laboratory results and documents concerning the chain of custody of the samples.**

9. **Compensation**

   Time spent by City employees in conjunction with post-accident, random and reasonable suspicion testing shall be considered hours worked and shall be paid time. The City shall also pay the

cost of these tests. The City shall pay the cost of the initial evaluation by the SAP. Cost of SAP recommendations follow-up testing, SAP recommended treatment and time spent while testing for return to duty and follow-up testing shall be borne by the employee.

IV. TESTING PROCEDURES

Analytical urine drug testing and breath testing for alcohol may be conducted when circumstances warrant or as required by Federal regulations. Drug tests can be performed any time an employee is on duty. An alcohol test can be performed when the employee is actually performing a safety-sensitive duty, just before, or just after the performance of a safety-sensitive duty.

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities, which have been approved by the U.S. Department of Health and Human Services (DHHS). All testing will be conducted with the procedures put forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the testing procedure, and the validity of the test result.

Drug Tests: The drugs that will be tested for include marijuana, cocaine, opiates, amphetamines, and phencyclidine. Urine specimens will be collected using the split specimen collection method described in 49 CFR Part 40. Each specimen will be accompanied by a DOT Chain of Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. **Copies of the completed DOT chain of Custody and Control Form shall be given to the employee.** An initial drug screen will be conducted on the primary specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts present are above the minimum thresholds established in 49 CFR Part 40, as amended. The test results from the laboratory will be reported to a Medical Review Officer (MRO). The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed positive test result. The MRO will contact the employee, notify the employee of the positive laboratory result, and provide the employee with an opportunity to explain the confirmed test result. The MRO will subsequently review the employee's medical history/medical records to determine whether there is a legitimate medical explanation for a positive laboratory result. If no legitimate medical explanation is found, the test will be verified positive and reported to the program manager. If a legitimate explanation is found, the MRO will report the test result as negative.

The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen is negative, the split will be discarded. If the primary is positive, the split will be retained for testing if so requested by the employee through the Medical Review Officer.

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

An applicant who is offered initial employment in or promotion to a position covered by this policy will be required to report to the drug testing collection site within 24 hours of notification, or at a specific pre-designated date and time, and provide a specimen of his/her urine.

Upon notification that a drug test is required, an employee will report immediately after notification to the drug collection site and provide a specimen of his/her urine. The employee is required to report to the collection site within 60 minutes of receiving notification. Failure to report within the specified time frame without good cause is considered a refusal to test.

The City may choose to test for other substances under its separate (non-DOT) substance abuse policy; however, it may not do so under DOT pretenses or using the same specimen that is being collected for DOT requirements.

Alcohol Tests: Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved testing device operated by a trained technician. If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. The confirmatory test will be performed using a NHTSA-approved evidential breath testing device (EBT) operated by a trained breath alcohol technician (BAT). The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout along with an approved alcohol testing form will be used to document the test, the subsequent results, and to attribute the test to the correct employee. **The employee, upon request, will receive a copy of the EBT printout along with the completed alcohol testing form**. The test will be performed in a private, confidential manner as required by 49 CFR Part 40 as amended. The procedure will be followed as prescribed to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.

An employee who has a confirmed alcohol concentration of greater than 0.02 but less than 0.04 will be removed from his/her position for eight hours (FTA) or 24 hours (FMCSA) unless a retest results in a concentration measure of less than 0.02.

V. REFUSALS TO TEST AND UNCOMPLETED TESTS

A. Controlled Substances

1. Compliance with this drug/alcohol testing plan is a condition of employment. Refusal to take a required drug/alcohol test or failure of a drug/alcohol test shall result in removal from performing covered functions. **Refusing to test may lead to disciplinary action up to and including termination from the City in accordance with the applicable MOU.**

   Refusal includes the following and applies to both drug and alcohol testing:

   - An inability to provide a specimen or breath sample without a

valid medical reason (confirmed by a physician);
- Tampering, adulterating, or substituting specimen;
- Delaying arrival at a designated collection site;
- Leaving the collection site prior to test completion;
- Failure to permit an observed or monitored collection when required;
- Failure to undergo a medical evaluation when required;
- Failure to cooperate with any part of the testing process;
- Once test is underway, failing to remain at site and provide a specimen;
- Failure to sign Step 2 of alcohol test form; and
- Leaving the scene of an accident without just cause prior to submitting to a test. (An employee may leave the scene of an accident in order to obtain medical assistance for those injured in the accident. Failure to return to the scene will be regarded as a refusal to test.)
- Failure to or refusal to take a second test when directed by the employer or collector

2. Prohibitions on use: The City shall not use an employee in a function covered by Part 382 or 655 who:
   a) Fails a drug test as verified by the MRO, or
   b) Refuses to take a drug test required by this Program.

3. 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.

4. Options for Return-To-Duty. An employee may be given an opportunity to retain his or her employment, provided they first:
   a) Have been evaluated by the SAP and successfully completes the SAP's recommended program.
   b) Have been recommended by the SAP for return to duty,
   c) Pass a DOT drug test or alcohol test, and have
   d) Not failed a drug test required by Part 382 or 655 after returning to duty.

B. Alcohol:

1. Compliance with this drug/alcohol testing plan is a condition of employment. Refusal (see Section V. A. 1) to take a required alcohol test or failure of an alcohol test shall result in removal from performing covered functions. **Refusing to test, failing a test, attempting to**

adulterate a sample, not reporting to the collection site in the time allotted, or leaving the scene of an accident before the tests have been directed will result in removal from a covered function and may lead to disciplinary action up to and including termination from the City in accordance with the applicable MOU. An employee may leave the scene of an accident in order to obtain medical assistance for those injured in the accident. Failure to return to the scene will be regarded as a refusal to test.

2. Prohibitions on use: The City shall not use an employee in a function covered by Part 382 or 655 who:
   a) Has a breath alcohol concentration of 0.04 or greater.
   b) Has consumed alcohol within four hours prior to performing safety sensitive duties, or, if an employee is called to respond to an emergency, within the time period after the employee has been notified to report to duty.
   c) Has consumed alcohol while on-call. An employee who acknowledges use of alcohol within four hours of the time the employee is called to duty must report such use and the inability to perform safety sensitive duties. If the employee acknowledges use of alcohol but claims to be able to perform safety sensitive duties, the employee shall be required to successfully pass a alcohol test before being permitted to perform safety sensitive duties. **Employees on "stand by" must be "ready to perform safety-sensitive functions"; therefore, failure to be available due to alcohol use while on standby will result in disciplinary action up to and including termination in accordance with the applicable MOU.**
   d) Is using alcohol on the job.
   e) Uses alcohol eight hours following an accident if employee's involvement cannot be discounted as a contributing factor to the accident, unless they have been tested.
   f) Refuses to be tested.
      (1) Insufficient Breath on alcohol screens: If the BAT reports the employee has not provided a sufficient amount of breath, the employee will be directed to obtain within five days, an evaluation from a licensed physician who is acceptable to the City and who has expertise in the medical issues raised by the employee's failure to provide a sufficient specimen. The City will provide information and instructions as contained in 49CFR Part 40.265. If the physician determines the medical condition could have or did preclude the employee from providing a sufficient amount of breath, the test is cancelled. Otherwise it constitutes a refusal to test. **The City shall not request the physician to reveal the employee's confidential medical information (e.g. diagnosis, history, symptoms, etc.) to the City when reporting his/her determination.**
   g) Employees having a BAC of 0.02 or greater but less than 0.04 will

be removed from a covered function for at least 24 hours under FMCSA rules and 8 hours for FTA rules. Employees with a BAC of 0.04 or greater will be removed from a covered function and referred to the SAP for evaluation.

3. **The City reserves the right to discipline employees who test greater than 0.02, up to and including termination.**

VI. MEDICAL REVIEW OFFICER (MRO)

A. The MRO must be a licensed physician who is responsible for receiving laboratory results generated by the drug-testing program, and who meets all the requirements of 49 CFR 40.121 as amended.

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

VII. TESTING LABORATORY

The City shall use a drug-testing laboratory certified under DHHS 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 responsibility for the laboratory's urine drug testing facility.

VIII. EMPLOYEE AND SUPERVISOR TRAINING

A. Every employee covered by this policy will receive the following drug use/alcohol misuse education:

1. Drug/alcohol information will be periodically distributed and displayed in the work areas.

2. Copies of this policy will be displayed in the work area. This information will be discussed at the time that it is handed out so that the employees understand its content. Every new employee receives a copy of the entire Program.

3. The hot line telephone number for employee assistance is 1-800-992-5465, 24 hours per day, seven days a week.

B. A list of supervisory and management positions that shall receive training for detecting symptoms of drug use/alcohol misuse is located in Appendix B. Supervisors will receive 60 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.

IX. EVALUATION/REHABILITATION

No employee shall perform safety sensitive functions who has engaged in conduct prohibited by this policy and procedure. An employee who fails a drug test, alcohol test (0.04 or greater), or refuses to be tested shall be removed from safety sensitive duties **and placed on a non-paid leave pending disciplinary review**. Additionally the employee shall be referred to a Substance Abuse Professional (SAP) who must be a licensed physician, 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 shall determine what assistance the employee needs in resolving problems associated with alcohol misuse or drug use. Applicants not hired or employees who are to be terminated 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 controlled substances use shall be evaluated by a substance abuse professional to determine that the employee has properly followed any rehabilitation program and shall be subject to unannounced follow-up alcohol and controlled substances tests. The SAP will perform responsibilities and retain confidential records as required by 49 CFR Part 40, as amended. **The SAP shall comply with all provisions of HIPPA.**

Participation in rehabilitation through the EAP will not result in disciplinary action. However, successful completion of an SAP recommended 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 waive disciplinary action where warranted for violations of rules and regulations unrelated to participation in the EAP program.

Reinstatement 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 dismissal in accordance with the applicable MOU.**

The SAP's recommendation that an employee is medically qualified to be returned to duty does not waive the City's authority to impose disciplinary action in accordance with the applicable MOU.

Employees who voluntarily request treatment to resolve an alcohol misuse or drug use problem or have been recommended by the SAP to undergo such treatment shall be referred to the City's Employee Assistance Program. <u>This referral does not waive the City's authority to impose disciplinary actions that may include termination, upon the employee in accordance with the applicable MOU.</u>

X. RECORDKEEPING

A. The City of Modesto will keep the following records for the periods specified. These records will be maintained in the Office and under the supervision of the Program Manager.

1. Five years. The following records shall be maintained for a minimum of five years:
   a) Records of employee alcohol test results that indicate an alcohol concentration of 0.02 or greater,
   b) Records of employee verified positive controlled substances test results,
   c) Documentation of refusals to take required alcohol and/or controlled substances tests.
   d) Calibration documentation,
   e) Employee evaluation and referrals shall be maintained for a minimum of five years, and
   f) A copy of each annual calendar year MIS summary.
   g) Employee evaluation and referrals shall be maintained for a minimum of five years, and
   h) A copy of each annual calendar year MIS summary.

2. Two years. Records related to the alcohol and controlled substances collection process (except calibration of EBT devices) and training shall be maintained for a minimum of two years.

3. One year. Records of negative and canceled controlled substances test results and alcohol test results with a concentration of less than 0.02 shall be maintained for a minimum of one year.

B. Types of Records. The following specific records shall be maintained:

1. Records related to the collection process:
   a) Collection log books if used.
   b) Calibration documentation for evidential breath testing devices.
   c) Documentation of breath alcohol technician training.
   d) Documents generated in connection with decisions to administer reasonable suspicion alcohol tests.
   e) Documents generated in connection with decisions on post-accident tests.
   f) Documents verifying existence of a medical explanation of the inability of a covered employee to provide adequate breath for testing.
   g) Consolidated annual calendar year (MIS) summaries.

2. Records related to test results:
   a) The employer's copy of the alcohol test form, including the results of the test.
   b) The employer's copy of the chain of custody and control form.

c) Documents sent by the MRO to the employer, including those required by § 382.407(a).
d) Documents related to the refusal of any covered employee to submit to a required alcohol test.
e) Documents presented by a covered employee to dispute the result of an alcohol or controlled substances test.
f) Documentation of SAP referrals for all positive tests.

3. Records related to evaluations:
   a) Records pertaining to a determination by a substance abuse professional concerning a covered employee's need for assistance.
   b) Records concerning a covered employee's compliance with the recommendations of the substance abuse professional.

4. Record(s) related to the employer's MIS annual testing data.

5. Records related to education and training:
   a) Materials on alcohol misuse awareness, including a copy of the operator's policy on alcohol misuse.
   b) Documentation of compliance with the requirements of § 382.601 Employer obligation to promulgate a policy on the misuse of alcohol and use of controlled substances, including the driver's signed receipt of education materials.
   c) Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for alcohol and/or controlled substances testing based on reasonable suspicion.
   d) Certification that any training conducted complies with DOT's requirements for such training.

6. Records related to drug testing:
   a) Agreements with collection site facilities, laboratories, medical review officers, and consortia;
   b) Names and positions of officials and their role in the employer's alcohol and controlled substances testing programs;
   c) Quarterly laboratory statistical summaries of urinalysis required by § 40.111;
   d) The employer's drug testing policy and procedures.

C. Location of Records: All records required shall be made available for inspection at the City within two business days after a request has been made by an authorized representative of the Research and Special Programs Administration, Federal Highway Administration or the Federal Transit Administration.

D. Access to Facilities and Records

1. Except as required by law or expressly authorized or required by DOT, the City shall not release covered employee information that is contained in the records required to be maintained in § 382.401.

2. A covered employee is entitled, upon written request, to obtain copies of any records pertaining to the employee's use of drugs or misuse of alcohol, including any records pertaining to his or her drug or alcohol tests. The City shall promptly provide the records requested by the employee. Access to employee's records shall not be contingent upon payment for records other than those specifically requested.

3. The City is required to obtain pursuant to an employee's consent, information on the employee's alcohol tests with a concentration result of 0.04 or greater, positive controlled substances test results, and refusals to be tested within the preceding two years, which are maintained by the driver's previous DOT covered employers.
   a) This information shall be maintained and reviewed by the City no later than 14 calendar days after the first time a driver performs safety-sensitive functions for an employer, if it is not feasible to obtain the information prior to the driver performing safety-sensitive functions.
   b) If the driver stops performing safety-sensitive functions for the employer before expiration of the 14 day period or before the employer has obtained the required information, the City must still obtain the information.
   c) The City must provide to each of the driver's DOT-covered employers within the two preceding years the driver's specific, written authorization for release of the information.
   d) The release of any information may take the form of personal interviews, telephone interviews, letters, or any other method of obtaining information that ensures confidentiality. The City shall maintain a written, confidential record with respect to each past employer contacted.
   e) The City may not use a driver to perform safety-sensitive functions if the employer obtains information on the driver's alcohol test with a BAC of 0.04 or greater, verified positive controlled substances test result, or refusal to be tested, by the driver, without obtaining information on a subsequent substance abuse professional evaluation and/or determination under § 40.25.

XI. REPORTING OF ANTI-DRUG / ALCOHOL TESTING RESULTS

A. 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.

B. 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 its request. 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. The City is required by RSPA to complete and send to RSPA the City's annual calendar year summary information in the form and manner prescribed by RSPA. The report shall be completed and sent to RSPA by the 15th of March and will contain the summary information for the prior calendar year.

C. Each annual calendar year summary containing information on controlled substances and alcohol screening test results shall include the following informational elements:

1. Number of covered employees subject to parts 382 & 655;

2. Number of covered employees subject to testing under the anti-drug rules or alcohol misuse rules of more than one DOT agency, identified by each agency;

3. Number of urine specimens collected by type of test;

4. Number of positive test results, verified by a MRO, by type of test and type of drug;

5. Number of negative controlled substance tests verified by a MRO by type of test;

6. Number of persons denied a position as a employee following a pre-employment verified positive controlled substances test and/or a pre-employment alcohol test that indicates an alcohol concentration of 0.04 or greater;

7. Number of employees with tests verified positive by a medical review officer for multiple controlled substances;

8. Number of employees who refused to submit to an alcohol or drug test required by this program;
   a) Number of screening alcohol tests by type of test; and
   b) Number of confirmation alcohol tests, by type of test;

9. Number of confirmation alcohol tests indicating an alcohol concentration of 0.02 or greater but less than 0.04 by type of test;

10. Number of confirmation alcohol tests indicating an alcohol concentration of 0.04 or greater, by type of test;

11. Number of employees who were returned to duty (having complied with the recommendations of a MRO/SAP), in the reporting period, who previously:
    a) Had a verified positive controlled substance test result, or
    b) Engaged in prohibited alcohol misuse under the provisions of this program;

12. Number of employees who were administered alcohol and drug tests at the same time, with both a verified positive drug test result and an alcohol test result indicating an alcohol concentration of 0.04 or greater; and

13. Number of employees who were found to have violated any non-testing prohibitions and any action taken in response to the violation.

XII. CONTRACTORS HIRED BY PUBLIC WORKS

A. Contractors hired by Public Works that fall under sections 49 CFR Part 655 shall be required to submit a copy of their Anti-Drug / Alcohol Misuse Program and may also be required to submit quarterly reports that state: number of employees tested, type of test, number of positive drug tests and resulting action for those that tested positive, number of alcohol tests that indicated a BAC of 0.04 or greater and resulting action, number of alcohol tests that indicated a BAC of 0.02 or greater, but less than 0.039 and resulting action, for that period. The contractor shall make clear the job titles of employees who will perform any work or functions covered by Part 655 under said contract. Names may also be included if clarification is necessary. Failure to submit an Anti-Drug/Alcohol Misuse Program that complies with DOT Part 655 and Part 40 may result in the rejection of offerer's bid. Failure to submit quarterly reports or annual MIS reports may result in a default of contract as stated in the project's specifications and contract documents. Although not required by FMCSA, *the City may require contractors to show evidence of compliance with Part 382.*

B. The contractor shall allow access to property and records by a City representative, FMCSA, FTA or any DOT agency with regulatory authority over the operator for the purpose of monitoring the operator's compliance with the requirements of Parts 382, 655, and 40, as amended.

XIII. CONFIDENTIALITY

A. Each individual's record of testing and results under this policy will be maintained 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, Supervisor if removal from a safety-sensitive function is necessary).

B. 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.

C. Drug and alcohol testing and/or rehabilitation records shall only be released to subsequent DOT covered employers upon written consent from the covered employee. Then only the specific information requested by the employee shall be released.

XIV. EMPLOYEE INFORMATION ON THE EFFECTS OF ALCOHOL MISUSE / CONTROLLED SUBSTANCE USE

A. Effects of alcohol and controlled substances on a person's health, work, and personal life include: Disruption of sleep; changes in eating patterns, commonly not eating as much and therefore, weight loss; mood swings; depression; increased physical ailments (i.e., headaches, colds, stomach problems); decreased motivation; withdrawal from family and friends; quicker to anger; neglects obligations and is not as attentive; does not handle stress; changes friends; excuses use of alcohol.

B. Signs and symptoms of controlled substance use or alcohol misuse which could effect work performance include: Reporting to work late; calling in sick often; unauthorized absences; smell of alcohol on a person; taking long or frequent breaks; change in personality - more angry or less friendly; decreased motivation: an "I don't care" attitude; thinking and concentration not as sharp; more prone to accidents; forgetfulness; less attentive to appearance; appearing tired; sleeping on the job.

For additional information, see attached fact sheets in Appendix D.

XV. TERMS AND DEFINITIONS

Accident - the definition of an accident can be found under Post-Accident Testing.

Air Blank - A reading by an 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, and which is spiked with known quantities of specific drugs or which is 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 invalid under §40 Subpart N – Problems in Alcohol Testing.

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 vehicle

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 Regulations (49 CFR part 172, subpart F).

Confirmation Test - For alcohol testing 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 it 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.

Contractor - A person or organization that provides a service for a recipient, sub-recipient, employer, or operator consistent with a specific understanding or arrangement.

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

Covered Function (safety-sensitive function) means:

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) Controlling dispatch or movement of a revenue service vehicle;
    (D) Maintaining a revenue service vehicle or equipment used in revenue service, unless the recipient receives sections 18 funding and contracts out such services;
    (E) Carrying a firearm for security purposes;
    (F) 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 community service hot-line 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 an 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. This term includes sub-recipients, operators, and contractors.

Evidential breath testing device (EBT) - An EBT 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 confirming 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 sub-recipient primarily operating in an area of 200,000 or more in population.

Medical Review Officer (MRO) - A licensed physician 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 or 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 guide-way 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.

Small Operator -
1) FMCSA: An employer who has less than 50 covered employees.
2) FTA: A recipient or sub-recipient primarily operating in an area of less than 200,000 in population

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.

Substance Abuse Professional (SAP) - The Substance Abuse Professional for this program must be a:
1) licensed physician (medical doctor) 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 and 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.

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MODESTO CITY COUNCIL
RESOLUTION NO. 2009-105

A RESOLUTION APPROVING AN AGREEMENT WITH RMC WATER AND ENVIRONMENT FOR VALUE ENGINEERING SERVICES FOR THE PHASE 2 BIOLOGICAL NUTRIENT REMOVAL (BNR)/TERTIARY PROJECT IN AN AMOUNT NOT TO EXCEED $106,557 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $10,655.70 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $117,212.70 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on April 25, 2008, the State Regional Water Quality Control Board (RWQCB) issued a new tentative waste discharge permit (Permit No. CA0079103), which contained limits more restrictive than those indicated in the City 2007 Wastewater Master Plan (WWMP), and

WHEREAS, the new permit includes unprecedented limits for seasonal secondary effluent discharges into the San Joaquin River and the City is required to meet the effluent discharge limits by June 2013, and

WHEREAS, due to the anticipated high cost and complexity of the project, staff recommends that the Phase 2 Preliminary Design Report (PDR) undergo a value engineering analysis, and

WHEREAS, value engineering will provide the City with an independent review of the Phase 2 facility design and construction approach, and the outcome would provide efficient and cost effective recommendations to the Phase 2 design, and

WHEREAS, in compliance with Administrative Directive 3.1, based on the complex nature of the project, the Public Works Director approved a short-list of eight engineering firms that have extensive experience with wastewater treatment design, and

WHEREAS, on October 28, 2008, a Request for Proposals (RFP) was sent to those eight engineering firms, and

WHEREAS, two proposals were submitted and subsequently reviewed by the Selection Committee, which consisted of three City staff, one member of the Building Industry Association of Central California, and one member of the Manufacturer's Council of the Central Valley, and

WHEREAS, following the consultant interviews, the Selection Committee determined that RMC Water and Environment, of Walnut Creek, is the most qualified firm to perform the value engineering services for the Phase 2 BNR/Tertiary project, and

WHEREAS, City staff recommends an agreement with RMC Water and Environment to perform the value engineering services for the Phase 2 BNR/Tertiary project as the engineering division does not have sufficient staff resources or subject matter expertise available to enable this project to move forward in a timely manner,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with RMC Water and Environment for value engineering services for the Phase 2 Biological Nutrient Removal (BNR)/Tertiary project in an amount not to exceed $106,557, for the identified scope of services, plus $10,655.70 for additional services (if needed), for a maximum total amount of $117,212.70.

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 March, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

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MODESTO CITY COUNCIL
RESOLUTION NO. 2009-106

RESOLUTION AUTHORIZING THE SUBMITTAL OF A GRANT APPLICATION TO THE GOVERNOR'S OFFICE OF HOMELAND SECURITY (OHS) REQUESTING $119,000 IN FY 2008-09 CALIFORNIA TRANSIT SECURITY GRANT PROGRAM (CTSGP) FUNDS FOR THE PURCHASE AND INSTALLATION OF A VIDEO SURVEILLANCE SYSTEM, AUTOMATIC VEHICLE LOCATION EQUIPMENT, AND RADIOS IN SIX (6) FIXED ROUTE BUSES

WHEREAS, California voters approved the Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act of 2006 (Proposition 1B) in the November 7, 2006 General Election, and

WHEREAS, Proposition 1B provided the Stanislaus County region with a funding allocation of $413,426 in FY 2008-09, and

WHEREAS, these funds may only be used for transit system capital projects that are focused on security, and may not be used for ongoing operations, and

WHEREAS, StanCOG is responsible for the apportionment of these funds to the transit agencies within the county, and these funds are apportioned on a collaborative basis, not by formula, and

WHEREAS, on January 29, 2009, the StanCOG Policy Board approved the $93,394 for the City of Modesto, and

WHEREAS, Proposition 1B also makes the City of Modesto eligible for a local allocation of $25,606 in FY 2008-09, and

WHEREAS, City staff proposed combining both apportionments and submit a grant application for a total of $119,000 to purchase and install video surveillance systems, automatic vehicle location systems, and radios in six fixed route buses that are currently on order, and

WHEREAS, the Governor's Office of Homeland Security has a March 18, 2009 deadline to submit grant applications for these funds.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes submittal of a grant application to the Governor's Office of Homeland Security (OHS) requesting $119,000 in FY 2008-09 California Transit Security Grant Program (CTSGP) Funds for the purchase and installation of a video surveillance system, automatic vehicle location equipment, and radios in six (6) fixed route buses.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute all necessary grant documents with the Governor's Office of Homeland Security 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 Deputy Director of Transportation Services 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 10th day of March, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

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MODESTO CITY COUNCIL
RESOLUTION NO. 2009-107

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE MONTH-TO-MONTH LEASE AGREEMENTS TO PROVIDE INTERIM FLIGHT TRAINING AND RELATED SERVICES AT THE MODESTO CITY-COUNTY AIRPORT PENDING THE COMPLETION OF A REQUEST FOR PROPOSALS (RFP) TO PROVIDE PERMANENT SERVICES

WHEREAS, the recent and sudden closure of the airport's only flight school has left a void in the General Aviation (GA) community at the Modesto City-County Airport, and

WHEREAS, in addition to flight training provided by the business, pilots have also lost a source for pilot support and supplies, and

WHEREAS, a hub for GA activity is no longer present at the Airport, and these losses not only deprive the local pilots of necessary services, it also represents lost revenue to the Airport, and

WHEREAS, several parties have come forward and expressed interest in providing these services, and

WHEREAS, staff will be bringing to Council an RFP to solicit proposals to provide a flight training school and a wider range of aviation services, and

WHEREAS, because it takes time to solicit proposals to replace these services, it is very possible that those seeking to continue flight training and/or purchase these other services will seek them at another venue, and

WHEREAS, staff proposed interim lease agreements between the City and various vendors who are willing and able to continue providing the desired services while a permanent solution is pursued, and

WHEREAS, this interim arrangement will allow individuals who meet all of the City's requirements to lease space for the purpose of providing flight training and pilot services at Modesto City-County Airport during the time needed for the City to conduct a formal RFP process, and

WHEREAS, this interim lease would be granted on a month-to-month basis, with the understanding that the agreement could be terminated by the City when a successful RFP applicant has been selected.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager to execute month-to-month lease agreements to provide interim flight training and related services at the Modesto City-County Airport pending the completion of a Request for Proposals (RFP) to provide permanent services.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of March, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-108

RESOLUTION AUTHORIZING THE SOLICITATION OF REQUEST FOR PROPOSALS (RFP) TO OPERATE A FLIGHT TRAINING SCHOOL AND PROVIDE RELATED SERVICES AT THE MODESTO CITY-COUNTY AIRPORT

WHEREAS, the recent and sudden closure of the airport's only flight school has left a void in the General Aviation (GA) community at the Modesto City-County Airport, and

WHEREAS, in addition to flight training provided by the business, pilots have also lost a source for pilot support and supplies, and

WHEREAS, a hub for GA activity is no longer present at the Airport, and these losses not only deprive the local pilots of necessary services, it also represents lost revenue to the Airport, and

WHEREAS, several parties have come forward and expressed interest in providing these services, and

WHEREAS, under separate action, staff proposed interim month-to-month lease agreements between the City and various vendors who are willing and able to continue providing the desired flight training and pilot services while a permanent solution is pursued.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the solicitation of Request for Proposals (RFP) for professional services to operate a flight training school and provide related services 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 10th day of March, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-109

RESOLUTION APPROVING THE SUBMITTAL OF THE AIRPORT CAPITAL IMPROVEMENT PLAN (ACIP) UPDATE TO THE FEDERAL AVIATION ADMINISTRATION (FAA) 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 5-year ACIP on an annual basis 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 several mandated safety and compliance issues (obstruction removal, instrument security fencing, and runway safety areas), current infrastructure needs, and planning for future airport needs, and

WHEREAS, the total package of capital improvements submitted to the FAA for the five fiscal year period ending in 2014 is estimated to cost $24,010,525, and

WHEREAS, funding will be borne by the FAA at 95% ($22,809,999) with the Airport Fund providing the remaining 5% ($1,200,526) mostly through Passenger Facility Fees, and

WHEREAS, the Council Economic Development Committee, at its February 9, 2009 meeting, recommended forwarding this item to full Council for consideration.

NOW THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the submittal of the Airport Capital Improvement Plan (ACIP) Update to the Federal Aviation Administration (FAA) and Caltrans Aeronautics.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of March, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmember:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmember:	None
ABSENT:	Councilmember:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-110

A RESOLUTION APPROVING AN AGREEMENT WITH JES ENGINEERING TO PROVIDE ENGINEERING DESIGN SERVICES FOR THE WATER QUALITY CONTROL COMMUNICATIONS PROJECT, IN AN AMOUNT NOT TO EXCEED $37,209 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $3,720.90 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $40,929.90, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the scope of services to be provided under this agreement includes updating the path survey, structural analysis of existing tower structure, preparation of designs, specifications and construction cost estimate, as well as providing bidding support and permit processing, and

WHEREAS, the purpose of this project is to provide adequate network bandwidth connection between the Jennings Treatment Plant and the City network, and

WHEREAS, the current available network bandwidth connecting the Jennings Treatment Plant to the City network is inadequate for the security upgrades being made to the facility, and

WHEREAS, due to the remote location, it is cost prohibitive to extend the City's fiber optic network to that location, and

WHEREAS, staff concluded that wireless network technology was the better option as it is substantially less costly and just as efficient, and

WHEREAS, the City does not have the staffing level or subject matter expertise to complete the engineering design for the Water Quality Control Communications Project, and current workload levels do not provide for timely in-house solutions/responses, and

WHEREAS the Public Works Engineering staff and Wastewater Operations staff reviewed a proposal from JES Engineering in reference to the discussed scope of services, and

WHEREAS, City staff recommends an agreement with JES Engineering, Inc. based on their experience and expertise in telecommunications,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with JES Engineering to provide engineering design services for the Water Quality Control Communications Project, in an amount not to exceed $37,209 for the identified scope of services, plus $3,720.90 for additional services (if needed), for a maximum total amount of $40,929.90.

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 March, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)
APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-111

A RESOLUTION ACCEPTING THE WORK BY TOP GRADE CONSTRUCTION, INC. FOR THE PROJECT TITLED "2004-2005 PAVEMENT REHABILITATION PROGRAM - SYLVAN AVENUE RECONSTRUCTION 71' EAST OF MCHENRY AVENUE TO 365' WEST OF COFFEE ROAD" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $1,962,493.42

WHEREAS, a report has been filed by the Public Works Director that the project titled "2004-2005 Pavement Rehabilitation Program - Sylvan Avenue Reconstruction 71' East of McHenry Avenue to 365' West of Coffee Road" has been completed by Top Grade Construction, Inc. in accordance with the contract agreement dated March 4, 2008.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "2004-2005 Pavement Rehabilitation Program - Sylvan Avenue Reconstruction 71' East of McHenry Avenue to 365' West of Coffee Road" is hereby accepted as complete from said contractor Teichert Construction, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder and to release securities upon expiration of statutory periods, and that payment of amounts totaling $1,962,493.42 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 March, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-112

A RESOLUTION AUTHORIZING PAYMENT OF SALES TAX IN THE AMOUNT OF $334,271 FOR THE PURCHASE OF THE MEMBRANE BIOREACTOR EQUIPMENT FOR THE PHASE 1A TERTIARY WASTEWATER TREATMENT FACILITY PROJECT

WHEREAS, the City of Modesto operates and maintains a secondary treatment system and wastewater reclamation facility at 7007 Jennings Road, and

WHEREAS, based on the analysis prepared for the Wastewater Master Plan, the City expects that tertiary treatment will be required to meet anticipated regulatory requirements, and

WHEREAS, the City Council, on February 26, 2008, by Resolution 2008-140, approved an Agreement with Zenon Environmental Corporation for the purchase of Membrane Bioreactor Equipment for the Phase 1A Tertiary Wastewater Treatment Facility project, and

WHEREAS, the Agreement with Zenon Environmental Corporation for the purchase of Membrane Bioreactor Equipment for the Phase 1A Tertiary Wastewater Treatment Facility project specifically excluded sales tax, and

WHEREAS, the City Council, on September 23, 2008, by Resolution 2008-563, approved the plans and specifications for the Phase 1A Tertiary Wastewater Treatment Facility project and accepted the bid and approved a $19,148,562.50 contract with Pacific Mechanical Corporation, and

WHEREAS, the City Council, on September 23, 2008, by Resolution 2008-565 budgeted funds for the sales tax and other project costs but did not authorize the actual payment of the sales tax, and

WHEREAS, the contract with Pacific Mechanical Corporation includes the assignments of the agreements with Zenon Environmental Corporation, and

WHEREAS, the contract with Pacific Mechanical Corporation does not include the payment of sales tax, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes payment of sales tax in the amount of $334,271 for the purchase of the Membrane Bioreactor Equipment for the Phase 1A Tertiary Wastewater Treatment Facility Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of March, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-113

A RESOLUTION AUTHORIZING PAYMENT OF SALES TAX IN THE AMOUNT OF $23,861 FOR THE PURCHASE OF THE OXIDATION AERATION AND MIXING EQUIPMENT FOR THE PHASE 1A TERTIARY WASTEWATER TREATMENT FACILITY PROJECT

WHEREAS, the City of Modesto operates and maintains a secondary treatment system and wastewater reclamation facility at 7007 Jennings Road, and

WHEREAS, based on the analysis prepared for the Wastewater Master Plan, the City expects that tertiary treatment will be required to meet anticipated regulatory requirements, and

WHEREAS, the City Council, on June 10, 2008, by Resolution 2008-343, approved an Agreement with WesTech Engineering, Inc. for the purchase of Oxidation Ditch Aeration and Mixing Equipment for the Phase 1A Tertiary Wastewater Treatment Facility project, and

WHEREAS, the Agreement with WesTech Engineering, Inc. for the purchase of Oxidation Ditch Aeration and Mixing Equipment for the Phase 1A Tertiary Wastewater Treatment Facility project specifically excluded sales tax, and

WHEREAS, the City Council, on September 23, 2008, by Resolution 2008-563, approved the plans and specifications for the Phase 1A Tertiary Wastewater Treatment Facility project and accepted the bid and approved a $19,148,562.50 contract with Pacific Mechanical Corporation, and

WHEREAS, the City Council, on September 23, 2008, by Resolution 2008-565 budgeted funds for the sales tax and other project costs but did not authorize the actual payment of the sales tax, and

WHEREAS, the contract with Pacific Mechanical Corporation includes the assignments of the agreements with WesTech Engineering, Inc., and

WHEREAS, the contract with Pacific Mechanical Corporation does not include the payment of sales tax, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes payment of sales tax in the amount of $23,861 for the purchase of the Oxidation Aeration and Mixing Equipment for the Phase 1A Tertiary Wastewater Treatment Facility Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of March, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-114

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 2007072023): AMENDING SECTION 23-3-9 OF THE ZONING MAP TO REZONE FROM MEDIUM-HIGH DENSITY RESIDENTIAL ZONE, R-3, TO PROFESSIONAL OFFICE ZONE, P-O, PROPERTY LOCATED AT 1108 OAKDALE ROAD. (TRINITY VENTURES, LLC)

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, Trinity Ventures, LLC has proposed that the zoning designation for the property located on the southeast corner of Oakdale Road and Peppermint Drive, be amended to rezone from Medium-High Density Residential Zone, (R-3), to Professional Office Zone, (P-O), and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for a Master EIR, states that the lead agency shall prepare an Initial Study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the master environmental impact report and whether the subsequent project was described in the master environmental impact report as being within the scope of the project, and

WHEREAS, the City's Community & Economic Development Department by Environmental Assessment Initial Study EA/C&ED 2009-01 ("Initial Study") reviewed the proposed amendment to the Zoning Map and rezoning Medium-High Density Residential Zone, R-3 to Professional Office Zone, P-O project to determine whether the project is within the scope of the project covered by the Modesto Urban Area General

Plan Master EIR ("Master EIR"), and concluded that the proposed project is within the scope of the Master EIR and will have no additional significant effect on the environment that was not identified in the Master EIR, and further, that no new additional mitigation measures or alternatives are required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines beginning on February 18, 2009 the City caused to be published a 20-day notice of the City's intent to make a finding that the proposed project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on March 10, 2009, 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-High Density Residential Zone, R-3 to Professional Office Zone, P-O, a copy of which is **attached** hereto as **Exhibit "A"**, and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. That the proposed project is contemplated and described in the Master EIR (SCH No. 2007072023) as being within the scope of the Master EIR.

2. That the project will have no new significant effects on the environment not identified or examined in the Master EIR, and no new or additional mitigation measures are required.

3. That, as per Section 21157.1 of the Public Resources Code, no new environmental document or findings are required by the California Environmental Quality Act (CEQA).

4. That there are no specific features which are unique to the proposed project that require project specific mitigation measures. Accordingly, the certified mitigation measures identified in the Master EIR will be sufficient for this project.

5. That all feasible mitigation measures set forth in the Master EIR which are appropriate to the project shall be incorporated in the project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of March, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, Olsen, O'Bryant, 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 2009-01

City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study Environmental Checklist
C&ED No. 2009-01

For the proposed:

P-RZN-08-001
Rezone R-3 to P-O

1108 Oakdale Road
APN: 067-027-021

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

December 12, 2008

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 **RZN-08-001 Rezone R-3 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: RZN-08-001, Rezone R-3 to P-O

B. Address or Location: 1108 Oakdale Road, Modesto, CA 95355

C. Applicant: Trinity Ventures, LLC

D. City Contact Person: Rita Doscher, Associate Planner

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

E. Current General Plan Designation(s): MU, Mixed Use

F. Current Zoning Classification(s): R-3, Medium-High Density Residential

G. Surrounding Land Uses:
North: 26-unit Apartment Complex - Medium Density Residential
South: P-D(525) including Rite Aid and C-1 uses
East: Single-Family Residential

West: P-D(137) with a car wash and C-1 uses

H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR:

The applicant proposes to convert the undeveloped 1.5 acre medium-high density residential (R-3) zoned lot into a future professional-office (P-O) zone. The applicant has indicated that development of the parcel is not planned; however, any future development would require subsequent staff level approval through the Development Plan Review process.

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 MEIR 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 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 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 MEIR were reviewed (section 5 below) and it was determined that the MEIR 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 MEIR. 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 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. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the MEIR. 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 MEIR. 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 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. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the MEIR. New or additional mitigation measures or alternatives are required as a result.

Original Signed Copy on file in CEDD	Associate Planner	December 12, 2008
Project Manager	Title	Date

4. Within the Scope Analysis of this Document:

The MEIR permits 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 MEIR.	☒	☐
(2)	City policies which reduce, avoid, or mitigate environmental effects will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template.	☒	☐
(3)	Federal, State, regional, and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (that is, would not offer the same level of protection assumed under the MEIR).	☒	☐
(4)	No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	☒	☐
(5)	The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.	☒	☐
(6)	Development within the project will comply with all appropriate mitigation measures contained and enumerated in the General Plan MEIR.	☒	☐

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 MEIR 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 MEIR occurred less than five years prior to the filing of the application for this subsequent project.	☒	☐
(2)	This project is described in the MEIR and its approval will not affect the adequacy of the MEIR 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 MEIR was certified.	☒	☐
(b)	No new information, which was not known and could not have been known at the time the MEIR was certified as complete, has become available.	☒	☐
(c)	Policies remain in place that require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development.	☒	☐

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, discloses whether the proposed project may cause any project-specific significant effect on the environment that was not examined in the Final MEIR (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 MEIR.

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 MEIR.

The environmental impact analysis in the MEIR 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 MEIR. 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 MEIR identified the following significant and unavoidable traffic and circulation impacts:

Effect: Increased traffic will result in certain roadway segments operating at LOS D or worse.

Effect: The Substantial increase in traffic relative to the existing load and capacity of the street system will cause, violation, either individually or cumulatively, of an LOS standard established by the County CMP for designated roads and highways.

Effect: Creation of need for Capacity-enhancing modifications to existing facilities.

Effect: Increase in energy consumption associated with the operation of highway projects, rail improvements, and aviation facilities.

Effect: Severe contrast with existing neighborhood or area character caused by highway and transit projects.

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

Traffic and Circulation mitigation measures that are pertinent to this project are found on MEIR pages V-1-15 through V-1-21. All feasible measures appropriate to the project – including any new measures - will be incorporated into or made conditions of approval of this project and will be listed in Section V, Mitigation Measures Applied to Project.

Discussion: No new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

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

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

		YES	NO
(1)	The project exceeds the MEIR's traffic generation assumptions for this site and City Engineering and Transportation staff has determined that the project would have additional project-specific effects that are not avoided or reduced by the MEIR's program of mitigation measures.	☐	☒
(2)	Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).	☐	☒
(3)	Result in inadequate emergency access.	☐	☒
(4)	Result in inadequate parking capacity.	☐	☒

Discussion:

(1) Engineering and Transportation Staff reviewed the proposed project and have the following comments:

A. Oakdale Road is designated as a 6-lane principal arterial street in the Modesto General Plan. Peppermint Drive is a collector street. Prior to development the project shall dedicate the street right-0f-way, per City of Modesto Standard Detail No. 382. No traffic study is required.

B. No access on Oakdale Road. One access on Peppermint Drive and One reciprocal access with the property to the south to utilize the traffic signal at the Oakdale/Rite Aid Driveway. A site access study is not required for this project.

(2) The project will not substantially increase hazards due to a design feature (for example, sharp curves or dangerous intersections) or incompatible uses.

(3) Police and Fire staff reviewed this proposal. Development of this property shall conform to the requirements of City of Modesto Standards and 2007 California Fire Code for Fire department access to buildings.

(4) Proposal to rezone from R-3, Medium-High Density Residential to P-O, Professional Office. Development of the site is not currently planned.

2. DEGRADATION OF AIR QUALITY

a. Significant Effects Identified in the Master EIR

The MEIR identified the following significant environmental impacts relative to air quality:

Effect: Projected traffic levels will result in increased ambient carbon monoxide (CO) levels in the project area. This is a significant and unavoidable impact.

Effect: Projected traffic levels will result in increased ROG and NOX levels in the project area. This is a significant and unavoidable impact.

These are also cumulative impacts on air quality.

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

Air Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-2-11 through V-2-18 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes AQ-17 from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-2.B of the MEIR provides analysis of Air Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) adopted CEQA Guidelines.	☐	☒
	The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD.	☐	☒
(2)	The project does not comply with the air quality policies of the Modesto Urban Area General Plan.	☐	☒
(4)	The project would expose sensitive receptors to substantial pollutant concentrations.	☐	☒
(5)	The proposed project would create objectionable odors affecting a substantial number of people.	☐	☒

Discussion:

(1) The project was referred to the San Joaquin Valley Unified Air Pollution Control District who determined that the project would not exceed their Thresholds of Significance for these emissions.

(2) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-3, Medium-High Density Residential to P-O, Professional Office. Development of the site is not currently planned.

3. GENERATION OF NOISE

a. Significant Effects Identified in the Master EIR

The MEIR identified the following significant and unavoidable environmental impacts relative to noise:

Effect: Traffic noise levels for future conditions in the plan area have the potential to result in exceedances of the City's Noise Significance Standards (see Table 3-3 of the MEIR).

Effect: Noise level projections based on the traffic levels anticipated in the General Plan indicate that noise will exceed the City's General Plan and noise ordinance standards.

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

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-10 through V-3-15 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. and any new measures are listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes N-4, N-5, N-6, and N-9 from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-3.B of the MEIR provides analysis of noise impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	☐	☒
(2)	The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.	☐	☒
(3)	The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☒
(4)	The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.	☐	☒

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-3, Medium-High Density Residential to P-O, Professional Office. Development of the site is not currently planned.

4. EFFECTS ON AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The MEIR identified the following significant environmental impacts relative to agricultural lands:

Effect: Development within the urbanized Baseline Developed Area and Redevelopment Area will have a less-than-significant impact on agricultural lands.

Effect: Conversion of agricultural land will occur as available developable land is occupied within the City. This is a significant and unavoidable impact.

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County. This is a significant and unavoidable cumulative impact.

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

Agricultural Land mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-4-7 and V-4-8 of the MEIR. All feasible measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The 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.

c. Project-Specific Effects

Section V-4.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project will directly result in the development of land outside the March 2003 planning area boundaries.	☐	☒
(3)	The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract.	☐	☒
(4)	The project will Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use.	☐	☒

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-3, Medium-High Density Residential to P-O, Professional Office. Development of the site is not currently planned.

5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES

a. Significant Effects Identified in the Master EIR

The MEIR identified the following significant environmental impacts relative to water supply:

Effect: Urban Area General Plan policies are established to limit groundwater extractions to the safe yield of the aquifer and thereby avoid aquifer over drafting. In addition, the UWMP requires that new urban development would proceed in conjunction with the availability of water supplies and distribution facilities. It is assumed that increased entitlement of surface water supplies such as a water transfer from another water purveyor would undergo independent environmental review pursuant to CEQA. This is a less-than-significant impact.

Effect: Development to the future projected City population would require expansion of the MRWTP to its full 60 mgd capacity, development of additional groundwater wells, and construction of additional water distribution and treatment facilities. Construction of some of the required facilities would most likely require site-specific environmental impact assessments to be conducted under CEQA. Consequently, the potential environmental impacts of the Urban Area General Plan are considered less than significant.

Effect: During drought years, despite available options, significant water shortages are forecast for the San Joaquin River basin by the year 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions. This is a significant and unavoidable cumulative impact.

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

Water Supply mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-5-7 through V-5-8 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-5.B of the MEIR provides analysis of Water Supply impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed.	☐	☒

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-3, Medium-High Density Residential to P-O, Professional Office. Development of the site is not currently planned.

6. INCREASED DEMAND FOR SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The MEIR 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 MEIR. The WMP MEIR 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 MEIR and do not need to be considered under this Initial Study. Refer to the WMP MEIR for details.

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

Sewer Service mitigation measure(s) pertinent to the project being analyzed in this Initial Study. are found on pages V-6-4 through V-6-7 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

There are no mitigation 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.	☐	☒
(2)	The project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	☐	☒

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-3, Medium-High Density Residential to P-O, Professional Office. Development of the site is not currently planned.

7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The MEIR identified the following significant environmental impacts relative to sensitive wildlife and plant habitat:

Effect: Although many sensitive species live in riparian habitats within the planning area, the policies of the plan will ensure that impacts of the Urban Area General Plan will be less than significant.

Effect: Requiring higher residential density than the suburban norm and a compact pattern of growth within the designated planning area to the year 2025 will minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

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

Wildlife and Plant Habitat mitigation measure pertinent to the project being analyzed in this Initial Study are found on pages V-7-19 through V-7-21. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

There are no mitigation measures applicable to this project regarding sensitive wildlife and plant habitat.

c. Project-Specific Effects

Section V-7.B of the MEIR provides analysis of Wildlife and Plant Habitat impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect	☐	☒

on special status species.

(3) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. ☐ ☒

Discussion:

(1) The proposed project is consistent with the City of Modesto Urban Area General Plan, because the project site is located within a Regional Commercial area which accommodates the type of development proposed, and it does not represent an increase in intensity of use or development beyond that which is already allowed by the existing zoning of the site. The project is a proposal to rezone from R-3, Medium-High Density Residential to P-O, Professional Office. Development of the site is not currently planned.

(2) 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 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 MEIR identified the following significant environmental impacts relative to archaeological or historical sites:

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.

Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

Effect: The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. This would be a less-than-significant impact with the imposition of new mitigation measure Cultural-1.

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

Archaeological or Historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-13 and V-8-14 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes AH-9 and AH-10 from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-8.B of the MEIR provides analysis of Archaeological/Historical impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site.	☐	☒

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-3, Medium-High Density Residential to P-O, Professional Office. Development of the site is not currently planned.

(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.

9. INCREASED DEMAND FOR STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The MEIR identified the following significant environmental impacts relative to storm drainage:

Effect: The potential impacts on storm water drainage that could occur from the project were qualitatively evaluated with respect to several factors including: extent of the projected increase in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions; regulatory criteria and guidelines; and professional judgment. Because the Urban Area General Plan includes policies that require new development in all three sections of the planning area to install approved drainage facilities, the potential impacts of the Urban Area General Plan on storm water drainage are considered less than significant.

Effect: The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious areas and associated urban storm water drainage. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage

discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. This cumulative impact is considered significant and unavoidable.

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

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes SD-7 from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-9.B of the MEIR provides analysis of Storm Drainage impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite.	☐	☒
(3)	Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	☒

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-3, Medium-High Density Residential to P-O, Professional Office. Development of the site is not currently planned.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The MEIR identified the following significant environmental impacts relative to flooding and water quality:

Effect: Increased runoff can accelerate soil erosion, stream channel scouring, and sedimentation of channels, and also increase pollutant transport to waterways. The potential impacts of the project on flooding are considered less than significant because the Urban Area General Plan Update includes policies to restrict development in the floodplain and therefore

would avoid exposing persons and property to flood hazards. In addition, new development under the Urban Area General Plan is required to install storm water drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions.

Effect: The potential impacts of the project on surface-water quality are considered less than significant because the City policies and capital improvement projects for storm water drainage facilities would minimize discharges of urban pollutants to natural waterways. The City drainage program policies require new development to prepare drainage plans and implement urban runoff control measures; larger Specific Plan developments must have storm drainage systems designed to control pollutant runoff. The City's implementation policies for the municipal NPDES storm water permit require new development to implement an appropriate selection of permanent pollution control measures. Permanent erosion control measures such as seeding and planting vegetation for new cut-and-fill slopes, directing runoff through vegetation, or otherwise reducing the offsite discharge of particulates and sediment are the most effective method of controlling offsite discharges of urban pollutants.

Effect: The City's future development will contribute to cumulative water quality effects. EPA regulations for NPDES storm water permits and new proposed regulatory additions to the rules have become much more comprehensive in recent years and are being implemented to reduce pollutant runoff from both large- and small-scale activities. Implementation of NPDES-permitting programs throughout the county will reduce potential water-quality impacts to a less-than-significant level.

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

Flooding and Water Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-10-7 through V-10-10 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes FWQ-14 from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

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

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	☐	☒
(3)	The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures.	☐	☒

(4) The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff. ☐ ☒

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-3, Medium-High Density Residential to P-O, Professional Office. Development of the site is not currently planned.

11. INCREASED DEMAND FOR PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The MEIR 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. ☐ ☒

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-3, Medium-High Density Residential to P-O, Professional Office. Development of the site is not currently planned.

12. INCREASED DEMAND FOR SCHOOLS

a. Significant Effects Identified in the Master EIR

The MEIR 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 MEIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan.). As long as all anticipated subsequent projects apply these policies, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995). The proposed additional school policy will address the situation that would arise should AB 50 be repealed. It will authorize impact fees or other methods to finance additional school facilities.

The following schools mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See pages V-12-4 through V-12-7 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project:

Discussion:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-12.B of the MEIR provides analysis of Schools impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which provide that compliance results in less-than-	☐	☒

significant impacts on schools.

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-3, Medium-High Density Residential to P-O, Professional Office. Development of the site is not currently planned.

13. INCREASED DEMAND FOR POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The MEIR identified the following significant environmental impacts relative to police services:

Effect: The 1995 MEIR 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:

There are no mitigation measures 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.	☐	☒
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	☒

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-3, Medium-High Density Residential to P-O, Professional Office. Development of the site is not currently planned.

14. INCREASED DEMAND FOR FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The MEIR 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 MEIR 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. No mitigation measures were required as a result of the North Beyer Park Specific Plan MND. 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 significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	☒

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-3, Medium-High Density Residential to P-O, Professional Office. Development of the site is not currently planned.

15. GENERATION OF SOLID WASTE

a. Significant Effects Identified in the Master EIR

The MEIR identified the following significant environmental impacts relative to solid waste:

Effect: It is projected that by 2025, the City will have generated and disposed of 1.5 million tons of solid waste in a landfill. Stanislaus County and its other cities are projected to generate another 3.3 million tons by 2025, for a total of 4.8 million tons requiring disposal. This total takes into consideration current diversion rates and use of the Stanislaus Resource Recovery Facility (SRRF) waste-to-energy facility for the majority of solid waste that is not source reduced, recycled, or composted. At the current loading rate, the Fink Road Landfill has a remaining life of 41 years. This landfill's remaining capacity of 6 million tons can accommodate the projected cumulative total of 4.8 million tons, and some of this total may go to other landfills. Since continued development under the Urban Area General Plan would not exceed the existing landfill capacity, and a 129-acre future expansion of the landfill has been approved, the General Plan's potential impact on solid waste disposal is considered less than significant.

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

Solid Waste Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study. are found on pages V-15-5 and V-15-6 MEIR. No mitigation measures were required as a result of the North Beyer Park Specific Plan MND. 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.	☐	☒
(2)	The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity.	☐	☒

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-3, Medium-High Density Residential to P-O, Professional Office. Development of the site is not currently planned.

(2) The proposed project was referred to the City's Solid Waste Division and the County for review, and there was no indication of a problem in serving the project.

16. GENERATION OF HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The MEIR 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 MEIR 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. No mitigation measures were required as a result of the North Beyer Park Specific Plan MND. 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.	☐	☒
(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.	☐	☒
(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.

(4) The proposed project would be constructed on a contaminated site not known to the State of California as of March 2008. ☐ ☒

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-3, Medium-High Density Residential to P-O, Professional Office. Development of the site is not currently planned.

(2) The proposed project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.

(3) 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.

(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 MEIR 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 MEIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Landslide and Seismic Activity Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-17-6 and V-17-7 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-17.B of the MEIR provides analysis of landslides and seismic impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.	☐	☒

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-3, Medium-High Density Residential to P-O, Professional Office. Development of the site is not currently planned.

(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 MEIR identified the following significant environmental impacts relative to energy:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less than significant.

Effect: Build out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kilowatt hours (kwh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation, which ensures that the project will not exceed local, state, and federal energy standards. The impact is less than significant.

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

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project:

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-18.B of the MEIR provides analysis of energy impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒

Discussion:

The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-3, Medium-High Density Residential to P-O, Professional Office. Development of the site is not currently planned.

19. EFFECTS ON VISUAL RESOURCES

a. Significant Effects Identified in the Master EIR

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

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.

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 MEIR. 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 MEIR 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 MEIR.

Significance Criteria: 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 proposed project is inconsistent with policies relating to visual resources in the Urban Area General Plan.	☐	☒
(2) The proposed project would degrade views from riverside areas and parks to a greater degree than assumed in the Urban Area General Plan.	☐	☒

(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. ☐ ☒

Discussion:

The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-3, Medium-High Density Residential to P-O, Professional Office. Development of the site is not currently planned.

20. LAND USE AND PLANNING

a. Significant Effects Identified in the Master EIR

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

Effect: No residual significant direct or cumulative impacts were disclosed in the MEIR.

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 MEIR. 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 MEIR 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 MEIR.

Significance Criteria: 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 proposed project is inconsistent with land use and planning policies in the Urban Area General Plan.	☐	☒
(2)	The proposed project would physically divide an established community in a way not assumed in the Urban Area General Plan.	☐	☒
(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.	☐	☒
(4)	The proposed project conflicts with an applicable habitat conservation plan or natural community conservation plan.	☐	☒

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-3, Medium-High Density Residential to P-O, Professional Office. Development of the site is not currently planned.

(2) The project is infill development which will not divide an established community.

(3) The proposed project 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 project 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 MEIR 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 MEIR.

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 MEIR. 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 MEIR 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 MEIR.

Significance Criteria: 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 proposed project is inconsistent with policies relating to climate change in the Urban Area General Plan.	☐	☒
(2)	The proposed project would result in average automobile trip lengths or CO_2 emissions higher than those assumed in the MEIR.	☐	☒
(3)	The proposed project would conflict with the Sustainable Communities Strategy that the Air Resources Board has agreed will achieve the goals of AB 32.	☐	☒

Discussion:

The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-3, Medium-High Density Residential to P-O, Professional Office. Development of the site is not currently planned.

V. MITIGATION MEASURES APPLIED TO THE PROJECT

If the Initial Study results in a determination that a Finding of Conformance can be adopted for the proposed project, Section A below applies. If the Initial Study results in a determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration/EIR must be prepared for the project, 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 MEIR appropriate to the project shall be incorporated into the project. The following adopted General Plan Policies and MEIR Mitigation Measures shall be made part of the project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan:

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

Traffic and Circulation:

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

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-115

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 2007072023): AMENDING SECTION 23-3-9 OF THE ZONING MAP TO REZONE FROM LOW DENSITY RESIDENTIAL ZONE, R-1, TO PROFESSIONAL OFFICE ZONE, P-O, PROPERTY LOCATED AT 2220 E. ORANGEBURG AVENUE. (TRINITY VENTURES, LLC)

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, Trinity Ventures, LLC has proposed that the zoning designation for the property located on the south side of E. Orangeburg Avenue east of Oakdale Road, be amended to rezone from Low Density Residential Zone, (R-1), to Professional Office Zone, (P-O), and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for a Master EIR, states that the lead agency shall prepare an Initial Study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the master environmental impact report and whether the subsequent project was described in the master environmental impact report as being within the scope of the project, and

WHEREAS, the City's Community & Economic Development Department by Environmental Assessment Initial Study EA/C&ED 2009-02 ("Initial Study") reviewed the proposed rezone from Low Density Residential Zone, R-1 to Professional Office Zone, P-O to determine whether the project is within the scope of the project covered by the Modesto Urban Area General Plan Master EIR ("Master EIR"), and concluded that

the proposed project is within the scope of the Master EIR and will have no additional significant effect on the environment that was not identified in the Master EIR, and further, that no new additional mitigation measures or alternatives are required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines beginning on February 18, 2009 the City caused to be published a 20-day notice of the City's intent to make a finding that the proposed project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on March 10, 2009, 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 Low Density Residential Zone, R-1 to Professional Office Zone, P-O, a copy of which is **attached** hereto as **Exhibit "A"**, and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. That the proposed project is contemplated and described in the Master EIR (SCH No. 2007072023) as being within the scope of the Master EIR.

2. That the project will have no new significant effects on the environment not identified or examined in the Master EIR, and no new or additional mitigation measures are required.

3. That, as per Section 21157.1 of the Public Resources Code, no new environmental document or findings are required by the California Environmental Quality Act (CEQA).

4. That there are no specific features which are unique to the proposed project that require project specific mitigation measures. Accordingly, the certified mitigation measures identified in the Master EIR will be sufficient for this project.

5. That all feasible mitigation measures set forth in the Master EIR which are appropriate to the project shall be incorporated in the project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of March, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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 2009-02

City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study Environmental Checklist
C&ED No. 2009-02

For the proposed:

P-RZN-08-002
Rezone R-1 to P-O

Oakdale Road & E. Orangeburg Avenue
APN: 067-029-057

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

December 30, 2008

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 **RZN-08-002, Rezone R-1 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: RZN-08-002, Rezone R-1 to P-O

B. Address or Location: South Side of E. Orangeburg Avenue East of Oakdale Road, Modesto, CA 95355

C. Applicant: Trinity Ventures, LLC

D. City Contact Person: Rita Doscher, Associate Planner

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

E. Current General Plan Designation(s): MU, Mixed Use

F. Current Zoning Classification(s): R-1, Low Density Residential

G. Surrounding Land Uses:
North: P-D(127) Century Center Shopping Center with C-2 uses
South: Single-Family Residential

East: Single-Family Residential
West: P-D(134) Financial Institution with P-O uses

H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR:

The applicant proposes to convert the undeveloped 1.475 acre low density residential (R-1) zoned lot into a future professional-office (P-O) zone. The applicant has indicated that development of the parcel is not currently planned; however, any future development would require subsequent staff level approval through the Development Plan Review process.

I. Other Public Agencies Whose Approval is Required:

None

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

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

A. The 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. 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 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 in CEDD	Associate Planner	December 30, 2008
Project Manager	Title	Date

4. Within the Scope Analysis of this Document:

The MEIR permits 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 MEIR.	☒	☐
(2)	City policies which reduce, avoid, or mitigate environmental effects will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template.	☒	☐
(3)	Federal, State, regional, and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (that is, would not offer the same level of protection assumed under the MEIR).	☒	☐
(4)	No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	☒	☐
(5)	The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.	☒	☐
(6)	Development within the project will comply with all appropriate mitigation measures contained and enumerated in the General Plan MEIR.	☒	☐

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 MEIR 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 MEIR occurred less than five years prior to the filing of the application for this subsequent project.	☒	☐
(2)	This project is described in the MEIR and its approval will not affect the adequacy of the MEIR 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 MEIR was certified.	☒	☐
(b)	No new information, which was not known and could not have been known at the time the MEIR was certified as complete, has become available.	☒	☐
(c)	Policies remain in place that require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development.	☒	☐

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, discloses whether the proposed project may cause any project-specific significant effect on the environment that was not examined in the Final MEIR (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 MEIR.

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 MEIR.

The environmental impact analysis in the MEIR 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 MEIR. 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 MEIR identified the following significant and unavoidable traffic and circulation impacts:

Effect: Increased traffic will result in certain roadway segments operating at LOS D or worse.

Effect: The Substantial increase in traffic relative to the existing load and capacity of the street system will cause, violation, either individually or cumulatively, of an LOS standard established by the County CMP for designated roads and highways.

Effect: Creation of need for Capacity-enhancing modifications to existing facilities.

Effect: Increase in energy consumption associated with the operation of highway projects, rail improvements, and aviation facilities.

Effect: Severe contrast with existing neighborhood or area character caused by highway and transit projects.

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

Traffic and Circulation mitigation measures that are pertinent to this project are found on MEIR pages V-1-15 through V-1-21. All feasible measures appropriate to the project – including any new measures - will be incorporated into or made conditions of approval of this project and will be listed in Section V, Mitigation Measures Applied to Project.

Discussion: No new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

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

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

		YES	NO
(1)	The project exceeds the MEIR's traffic generation assumptions for this site and City Engineering and Transportation staff has determined that the project would have additional project-specific effects that are not avoided or reduced by the MEIR's program of mitigation measures.	☐	☒
(2)	Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).	☐	☒
(3)	Result in inadequate emergency access.	☐	☒
(4)	Result in inadequate parking capacity.	☐	☒

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential to P-O, Professional Office. Development of the site is not currently planned.

2. DEGRADATION OF AIR QUALITY

a. Significant Effects Identified in the Master EIR

The MEIR identified the following significant environmental impacts relative to air quality:

Effect: Projected traffic levels will result in increased ambient carbon monoxide (CO) levels in the project area. This is a significant and unavoidable impact.

Effect: Projected traffic levels will result in increased ROG and NOX levels in the project area. This is a significant and unavoidable impact.

These are also cumulative impacts on air quality.

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

Air Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-2-11 through V-2-18 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes AQ-17 from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-2.B of the MEIR provides analysis of Air Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) adopted CEQA Guidelines.	☐	☒
	The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD.	☐	☒
(1)	The project does not comply with the air quality policies of the Modesto Urban Area General Plan.	☐	☒
(4)	The project would expose sensitive receptors to substantial pollutant concentrations.	☐	☒
(5)	The proposed project would create objectionable odors affecting a substantial number of people.	☐	☒

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential to P-O, Professional Office. Development of the site is not currently planned.

3. GENERATION OF NOISE

a. Significant Effects Identified in the Master EIR

The MEIR identified the following significant and unavoidable environmental impacts relative to noise:

Effect: Traffic noise levels for future conditions in the plan area have the potential to result in exceedances of the City's Noise Significance Standards (see Table 3-3 of the MEIR).

Effect: Noise level projections based on the traffic levels anticipated in the General Plan indicate that noise will exceed the City's General Plan and noise ordinance standards.

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

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-10 through V-3-15 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. and any new measures are listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes N-4, N-5, N-6, and N-9 from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-3.B of the MEIR provides analysis of noise impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	☐	☒
(2)	The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.	☐	☒
(3)	The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☒
(4)	The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.	☐	☒

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential to P-O, Professional Office. Development of the site is not currently planned.

4. EFFECTS ON AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The MEIR identified the following significant environmental impacts relative to agricultural lands:

Effect: Development within the urbanized Baseline Developed Area and Redevelopment Area will have a less-than-significant impact on agricultural lands.

Effect: Conversion of agricultural land will occur as available developable land is occupied within the City. This is a significant and unavoidable impact.

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County. This is a significant and unavoidable cumulative impact.

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

Agricultural Land mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-4-7 and V-4-8 of the MEIR. All feasible measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The 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.

c. Project-Specific Effects

Section V-4.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project will directly result in the development of land outside the March 2003 planning area boundaries.	☐	☒
(3)	The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract.	☐	☒
(4)	The project will Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use.	☐	☒

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential to P-O, Professional Office. Development of the site is not currently planned.

5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES

a. Significant Effects Identified in the Master EIR

The MEIR identified the following significant environmental impacts relative to water supply:

Effect: Urban Area General Plan policies are established to limit groundwater extractions to the safe yield of the aquifer and thereby avoid aquifer over drafting. In addition, the UWMP requires that new urban development would proceed in conjunction with the availability of water supplies and distribution facilities. It is assumed that increased entitlement of surface water supplies such as a water transfer from another water purveyor would undergo independent environmental review pursuant to CEQA. This is a less-than-significant impact.

Effect: Development to the future projected City population would require expansion of the MRWTP to its full 60 mgd capacity, development of additional groundwater wells, and construction of additional water distribution and treatment facilities. Construction of some of the required facilities would most likely require site-specific environmental impact assessments to be conducted under CEQA. Consequently, the potential environmental impacts of the Urban Area General Plan are considered less than significant.

Effect: During drought years, despite available options, significant water shortages are forecast for the San Joaquin River basin by the year 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions. This is a significant and unavoidable cumulative impact.

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

Water Supply mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-5-7 through V-5-8 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-5.B of the MEIR provides analysis of Water Supply impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed.	☐	☒

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential to P-O, Professional Office. Development of the site is not currently planned.

6. INCREASED DEMAND FOR SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The MEIR 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 MEIR. The WMP MEIR 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 MEIR and do not need to be considered under this Initial Study. Refer to the WMP MEIR for details.

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

Sewer Service mitigation measure(s) pertinent to the project being analyzed in this Initial Study. are found on pages V-6-4 through V-6-7 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

There are no mitigation 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.	☐	☒
(2)	The project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	☐	☒

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential to P-O, Professional Office. Development of the site is not currently planned.

7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The MEIR identified the following significant environmental impacts relative to sensitive wildlife and plant habitat:

Effect: Although many sensitive species live in riparian habitats within the planning area, the policies of the plan will ensure that impacts of the Urban Area General Plan will be less than significant.

Effect: Requiring higher residential density than the suburban norm and a compact pattern of growth within the designated planning area to the year 2025 will minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

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

Wildlife and Plant Habitat mitigation measure pertinent to the project being analyzed in this Initial Study are found on pages V-7-19 through V-7-21. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

There are no mitigation measures applicable to this project regarding sensitive wildlife and plant habitat.

c. Project-Specific Effects

Section V-7.B of the MEIR provides analysis of Wildlife and Plant Habitat impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species.	☐	☒
(3)	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	☐	☒

Discussion:

(1) The proposed project is consistent with the City of Modesto Urban Area General Plan, because the project site is located within a Regional Commercial area which accommodates the type of development proposed, and it does not represent an increase in intensity of use or development beyond that which is already allowed by the existing zoning of the site. The project is a proposal to rezone from R-1, Low Density Residential to P-O, Professional Office. Development of the site is not currently planned.

(2) 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 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 MEIR identified the following significant environmental impacts relative to archaeological or historical sites:

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.

Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

Effect: The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. This would be a less-than-significant impact with the imposition of new mitigation measure Cultural-1.

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

Archaeological or Historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-13 and V-8-14 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes AH-9 and AH-10 from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-8.B of the MEIR provides analysis of Archaeological/Historical impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site.	☐	☒

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential to P-O, Professional Office. Development of the site is not currently planned.

(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.

9. INCREASED DEMAND FOR STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The MEIR identified the following significant environmental impacts relative to storm drainage:

Effect: The potential impacts on storm water drainage that could occur from the project were qualitatively evaluated with respect to several factors including: extent of the projected increase in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions; regulatory criteria and guidelines; and professional judgment. Because the Urban Area General Plan includes policies that require new development in all three sections of the planning area to install approved drainage facilities, the potential impacts of the Urban Area General Plan on storm water drainage are considered less than significant.

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

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

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes SD-7 from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-9.B of the MEIR provides analysis of Storm Drainage impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite.	☐	☒
(3)	Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	☒

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential to P-O, Professional Office. Development of the site is not currently planned.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The MEIR identified the following significant environmental impacts relative to flooding and water quality:

Effect: Increased runoff can accelerate soil erosion, stream channel scouring, and sedimentation of channels, and also increase pollutant transport to waterways. The potential impacts of the project on flooding are considered less than significant because the Urban Area General Plan Update includes policies to restrict development in the floodplain and therefore would avoid exposing persons and property to flood hazards. In addition, new development under the Urban Area General Plan is required to install storm water drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions.

Effect: The potential impacts of the project on surface-water quality are considered less than significant because the City policies and capital improvement projects for storm water drainage facilities would minimize discharges of urban pollutants to natural waterways. The City drainage program policies require new development to prepare drainage plans and implement urban runoff control measures; larger Specific Plan developments must have storm drainage systems designed to control pollutant runoff. The City's implementation policies for the municipal NPDES storm water permit require new development to implement an appropriate selection of permanent pollution control measures. Permanent erosion control measures such as seeding and planting vegetation for new cut-and-fill slopes, directing runoff through vegetation, or otherwise reducing the offsite discharge of particulates and sediment are the most effective method of controlling offsite discharges of urban pollutants.

Effect: The City's future development will contribute to cumulative water quality effects. EPA regulations for NPDES storm water permits and new proposed regulatory additions to the rules have become much more comprehensive in recent years and are being implemented to reduce

pollutant runoff from both large- and small-scale activities. Implementation of NPDES-permitting programs throughout the county will reduce potential water-quality impacts to a less-than-significant level.

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

Flooding and Water Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-10-7 through V-10-10 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes FWQ-14 from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

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

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	☐	☒
(3)	The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures.	☐	☒
(4)	The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	☒

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential to P-O, Professional Office. Development of the site is not currently planned.

11. INCREASED DEMAND FOR PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The MEIR 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.	☐	☒

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential to P-O, Professional Office. Development of the site is not currently planned.

12. INCREASED DEMAND FOR SCHOOLS

a. Significant Effects Identified in the Master EIR

The MEIR 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 MEIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan.). As long as all anticipated subsequent projects apply these policies, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995). The proposed additional school policy will address the situation that would arise should AB 50 be repealed. It will authorize impact fees or other methods to finance additional school facilities.

The following schools mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See pages V-12-4 through V-12-7 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project:

Discussion:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-12.B of the MEIR provides analysis of Schools impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which provide that compliance results in less-than-significant impacts on schools.	☐	☒

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential to P-O, Professional Office. Development of the site is not currently planned.

13. INCREASED DEMAND FOR POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The MEIR identified the following significant environmental impacts relative to police services:

Effect: The 1995 MEIR 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:

There are no mitigation measures 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.	☐	☒
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	☒

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential to P-O, Professional Office. Development of the site is not currently planned.

14. INCREASED DEMAND FOR FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The MEIR 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 MEIR 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. No mitigation measures were required as a result of the North Beyer Park Specific Plan MND. 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 significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	☒

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential to P-O, Professional Office. Development of the site is not currently planned.

15. GENERATION OF SOLID WASTE

a. Significant Effects Identified in the Master EIR

The MEIR identified the following significant environmental impacts relative to solid waste:

Effect: It is projected that by 2025, the City will have generated and disposed of 1.5 million tons of solid waste in a landfill. Stanislaus County and its other cities are projected to generate another 3.3 million tons by 2025, for a total of 4.8 million tons requiring disposal. This total takes into consideration current diversion rates and use of the Stanislaus Resource Recovery Facility (SRRF) waste-to-energy facility for the majority of solid waste that is not source reduced, recycled, or composted. At the current loading rate, the Fink Road Landfill has a remaining life of 41 years. This landfill's remaining capacity of 6 million tons can accommodate the projected cumulative total of 4.8 million tons, and some of this total may go to other landfills. Since continued development under the Urban Area General Plan would not exceed the existing landfill capacity, and a 129-acre future expansion of the landfill has been approved, the General Plan's potential impact on solid waste disposal is considered less than significant.

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

Solid Waste Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study. are found on pages V-15-5 and V-15-6 MEIR. No mitigation measures were required as a result of the North Beyer Park Specific Plan MND. 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.	☐	☒
(2)	The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity.	☐	☒

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential to P-O, Professional Office. Development of the site is not currently planned.

(2) The proposed project was referred to the City's Solid Waste Division and the County for review, and there was no indication of a problem in serving the project.

16. GENERATION OF HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The MEIR 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 MEIR 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. No mitigation measures were required as a result of the North Beyer Park Specific Plan MND. 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.	☐	☒
(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.	☐	☒
(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.	☐	☒
(4)	The proposed project would be constructed on a contaminated site not known to the State of California as of March 2008.	☐	☒

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential to P-O, Professional Office. Development of the site is not currently planned.

(2) The proposed project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.

(3) 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.

(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 MEIR 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 MEIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Landslide and Seismic Activity Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-17-6 and V-17-7 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-17.B of the MEIR provides analysis of landslides and seismic impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project would be located on soil that is unstable, or that would become	☐	☒

unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential to P-O, Professional Office. Development of the site is not currently planned.

(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 MEIR identified the following significant environmental impacts relative to energy:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less than significant.

Effect: Build out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kilowatt hours (kwh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation, which ensures that the project will not exceed local, state, and federal energy standards. The impact is less than significant.

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

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project:

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-18.B of the MEIR provides analysis of energy impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒

Discussion:

The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-3, Medium-High Density Residential to P-O, Professional Office. Development of the site is not currently planned.

19. EFFECTS ON VISUAL RESOURCES

a. Significant Effects Identified in the Master EIR

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

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.

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 MEIR. 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 MEIR 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 MEIR.

Significance Criteria: 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 proposed project is inconsistent with policies relating to visual resources in the Urban Area General Plan.	☐	☒
(2)	The proposed project would degrade views from riverside areas and parks to a greater degree than assumed in the Urban Area General Plan.	☐	☒
(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.	☐	☒

Discussion:

The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential to P-O, Professional Office. Development of the site is not currently planned.

20. LAND USE AND PLANNING

a. Significant Effects Identified in the Master EIR

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

Effect: No residual significant direct or cumulative impacts were disclosed in the MEIR.

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 MEIR. 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 MEIR 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 MEIR.

Significance Criteria: 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 proposed project is inconsistent with land use and planning policies in the Urban Area General Plan.	☐	☒
(2)	The proposed project would physically divide an established community in a way not assumed in the Urban Area General Plan.	☐	☒
(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.	☐	☒
(4)	The proposed project conflicts with an applicable habitat conservation plan or natural community conservation plan.	☐	☒

Discussion:

(1) The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential to P-O, Professional Office. Development of the site is not currently planned.

(2) The project is infill development which will not divide an established community.

(3) The proposed project 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 project 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 MEIR 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 MEIR.

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 MEIR. 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 MEIR 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 MEIR.

Significance Criteria: 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 proposed project is inconsistent with policies relating to climate change in the Urban Area General Plan.	☐	☒
(2)	The proposed project would result in average automobile trip lengths or CO_2 emissions higher than those assumed in the MEIR.	☐	☒
(3)	The proposed project would conflict with the Sustainable Communities Strategy that the Air Resources Board has agreed will achieve the goals of AB 32.	☐	☒

Discussion:

The proposed project is consistent with the Urban Area General Plan, and is a proposal to rezone from R-1, Low Density Residential to P-O, Professional Office. Development of the site is not currently planned.

V. MITIGATION MEASURES APPLIED TO THE PROJECT

If the Initial Study results in a determination that a Finding of Conformance can be adopted for the proposed project, Section A below applies. If the Initial Study results in a determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration/EIR must be prepared for the project, 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 MEIR appropriate to the project shall be incorporated into the project. The following adopted General Plan Policies and MEIR Mitigation Measures shall be made part of the project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan:

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

Traffic and Circulation:

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

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-116

A RESOLUTION APPOINTING DONALD BORGWARDT TO THE HOUSING REHABILITATION LOAN COMMITTEE AS THE REPRESENTATIVE OF THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS

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

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

SECTION 1. DONALD BORGWARDT is hereby appointed to the Housing Rehabilitation Loan Committee, as the representative of the Housing Authority of the County of Stanislaus, with term expiration of January 1, 2013.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of March, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

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MODESTO CITY COUNCIL
RESOLUTION NO. 2009-117

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF HYDROCHLORIC ACID FOR THE PUBLIC WORKS DEPARTMENT, TO BASIC CHEMICAL SOLUTIONS, LLC, SANTA FE SPRINGS, CA, FOR AN ESTIMATED ANNUAL COST NOT TO EXCEED $60,000, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE AGREEMENT FOR A PERIOD OF TWO YEARS, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED TOTAL COST OVER FIVE (5) YEARS OF $300,000

WHEREAS, on September 23, 2008, the City Council, by Resolution No. 2008-555, authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of hydrochloric acid for Public Works Department, and

WHEREAS, on December 19, 2008, the Purchasing Division issued Request for Bid No. 0809-10 for the purchase of hydrochloric acid to nine (9) prospective bidders, posted the bid on the City's web site and formally advertised as required by law, and

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

WHEREAS, funds are budgeted and available for fiscal year 08/09 in account 6210-480-5214-0312 for the purchase of hydrochloric acid,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase of hydrochloric acid for the Public Works Department, to Basic Chemical Solutions, LLC, Santa Fe Springs, CA, for an estimated annual cost not to exceed $60,000.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue an annual purchase agreement for a period of two (2) years, with three (3) one-year extension options, at the sole discretion of the City, for an estimated total cost over five years of $300,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of March , 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-118

RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF A 4,000 GALLON WATER TRUCK FOR THE PUBLIC WORKS, FLEET SERVICES DIVISION TO DELTA TRUCK CENTER, MODESTO, CA AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR A TOTAL COST OF $108,348

WHEREAS, on October 28, 2008, the City Council, by Resolution No. 2008-592, authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, throughout FY 08/09 through various competitive processes, with the Purchasing Division coming back to Council for award authorization, and

WHEREAS, the 4,000 gallon water truck for the Water Quality Control Services is included in the FY 08/09 new vehicles and heavy equipment list authorized by Council, and

WHEREAS, on December 18, 2008, the Purchasing Division issued RFB No. 0809-11 for the purchase of a 4,000 gallon water truck to twenty-eight (28) prospective bidders, posted the bid on the City's web site and formally advertised as required by law, and

WHEREAS, based on providing a responsive and responsible bid, City staff recommends the award of bid and contract for the purchase of a 4,000 gallon water truck for the Public Works Department, Fleet Services Division to Delta Truck Center, Modesto, CA and authorizing the Purchasing Manager to issue a purchase agreement for a total cost of $108,348, and

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

to be formally bid. The award of bid and contract for the purchase of a 4,000 gallon water truck for the Public Works Department, Fleet Services Division to Delta Truck Center, Modesto, CA, conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted in fiscal year 08/09 in the Fleet Equipment Replacement Fund (account 7210-480-5814-5852) for $108,348,

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 a 4,000 gallon water truck for the Public Works Department, Fleet Services Division to Delta Truck Center, Modesto, CA,

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase order for a total cost of $108,348.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of March, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-119

RESOLUTION AMENDING THE FISCAL YEAR 2008-09 OPERATING BUDGET TO REDUCE EXPENDITURES IN ORGANIZATION 5220 (STORM DRAIN FUND 6280) BY $473,592, TO INCREASE EXPENDITURES IN ORGANIZATION 4444 (AB 939 GREEN WASTE DIVERSION FUND 0370) BY $473,592 AND RESERVES BY $89,908, AND TO ESTIMATE $563,500 IN ADDITIONAL REVENUE TO FUND 0370, AS MORE FULLY DESCRIBED ON EXHIBIT "1"

WHEREAS, on November 25, 2008, by Resolution No. 2008-650, the City Council approved the creation of an AB 939 Green Waste Diversion Fund (Fund 0370) and related fees for wastes from residential containers, commercial bins, and drop boxes, and

WHEREAS, the approved monthly fees are: $1.33 per month for wastes collected from residential containers; $2.36 per yard for wastes from commercial bins; and $8.40 per ton for wastes collected from drop boxes, and

WHEREAS, in order to fully implement the City Council-approved creation of an AB 939 Green Waste Diversion Fund and the move of pruned refuse activities from the Storm Drain Fund to this new fund, the budget needs to be adjusted to move the expenditures, as more fully described on **Exhibit "1" attached** hereto and incorporated herein by reference, and

WHEREAS, the increased revenue from approved AB 939 Green Waste Diversion Fees to be charged on a per ton basis on wastes collected from residential containers, commercial bins and drop boxes needs to be formally estimated, and

WHEREAS, for the remainder of FY 08-09, staff is estimating that the new revenue will be $370,000 from wastes collected from residential containers, $113,000 on wastes collected from commercial bins, and $80,000 on wastes collected from drop

boxes, as more fully described on **Exhibit "1" attached** hereto and incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the Fiscal Year 2008-09 operating budget to reduce expenditures in Organization 5220 (Storm Drain Fund 6280) by $473,592, to increase expenditures in Organization 4444 (AB 939 Green Waste Diversion Fund 0370) by $473,592, and reserves by $89,908 and to estimate $563,500 in additional revenue to Fund 0370, and, as more fully described on **Exhibit "1" attached** hereto and incorporated herein by reference.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of March, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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 1

Fund Name:
Storm Drainage Fund

Expense Account Adjustments

		Increase (Decrease)
6280-480-5220-0184	Salary Adjustment-Decrease	($115,038)
6280-480-5220-0189	Benefit Adjustment-Decrease	($ 57,372)
6280-480-5220-0218	Equipment Pool Rental Maintenance	($166,853)
6280-480-5220-0226	Laundry and Cleaning	($ 500)
6280-480-5220-0235	Services-Professional and Other	($ 27,106)
6280-480-5220-0254	Operations Tech and Info Chgs	($ 404)
6280-480-5220-0255	Services City Forces-Interfund	($ 52,596)
6280-480-5220-0256	Phones Tech and Info Chgs	($ 490)
6280-480-5220-0259	Services City Forces-Intrafund	($ 16,236)
6280-480-5220-0269	Employment Agencies-Temp	($ 57,500)
6280-480-5220-0301	Office Supplies	($ 500)
6280-480-5220-0308	Tools, Shop and Field Supplies	($ 1,275)
6280-480-5220-0415	Liability Insurance	($ 2,690)
6280-480-5220-9991	Service Credits-Intrafund	$ 24,968
	Total:	(523,528.00)

Fund Name:
Green Waste Diversion AB939 Fund

Revenue Account Adjustments

0370-355-4444-4112	Residential AB939 Green Waste Fee	$370,000
0370-355-4444-4113	Commercial AB939 Green Waste Fee	$113,500
0370-355-4444-4114	Drop Box AB939 Green Waste Fee	$ 80,000
	Total:	$563,500.00

Expense Account Adjustments

0370-355-4444-0184	Salary Adjustment-Decrease	$115,038
0370-355-4444-0189	Benefit Adjustment-Decrease	$ 57,372
0370-355-4444-0218	Equipment Pool Rental Maintenance	$166,853
0370-355-4444-0226	Laundry and Cleaning	$ 500
0370-355-4444-0235	Services-Professional and Other	$ 27,106
0370-355-4444-0254	Operations Tech and Info Chgs	$ 404
0370-355-4444-0255	Services City Forces-Interfund	$ 52,596
0370-355-4444-0256	Phones Tech and Info Chgs	$ 490
0370-355-4444-0259	Services City Forces-Intrafund	$ 16,236
0370-355-4444-0269	Employment Agencies-Temp	$ 57,500
0370-355-4444-0301	Office Supplies	$ 500
0370-355-4444-0308	Tools, Shop and Field Supplies	$ 1,275
0370-355-4444-0415	Liability Insurance	$ 2,690
0370-355-4444-9991	Service Credits-Intrafund	($ 24,968)
0370-800-8000-8003	Contingency Reserve	$ 89,908
	Total:	$563,500.00

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-120

A RESOLUTION APPROVING AN EXTENSION OF COOPERATIVE WORK AGREEMENT NO. 10-177 WITH THE STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE EXTENSION TO THE COOPERATIVE AGREEMENT

WHEREAS, on March 13, 2001, the City Council, by Resolution No. 2001-115, authorized the City Manager to submit an application and negotiate an agreement with the State of California Department of Transportation (Caltrans) for the use of Transportation Enhancement Activities (TEA) funds for landscape enhancement within and near the Briggsmore/State Route 99 Interchange, and

WHEREAS, in the Fall of 2002, the City was notified that non-local funding in the amount of $1,300,000 was identified for this project, and

WHEREAS, on September 2, 2003, the City Council, by Resolution No. 2003-470, authorized the City Manager to execute two Cooperative Agreements with Caltrans, and

WHEREAS, Cooperative Agreement No. 10-177 has expired as of July 30, 2008, and Caltrans has agreed to an extension through February 29, 2012, in order to complete the project and reimburse the City through the authorized TEA funds,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an extension of Cooperative Agreement #10-177 with the State of California Department of Transportation to provide for landscape enhancement within and near the Briggsmore/State Route 99 Interchange.

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

The foregoing resolution was introduced at a meeting of the Council of the City of Modesto held on the 24th day of March, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

RESCINDED

AUG - 5 2009

THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2009-384

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-121

A RESOLUTION APPROVING ADJUSTMENTS TO THE MAXIMUM RATE SCHEDULE FOR CITY RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL SOLID WASTE COLLECTION SERVICES, TO BECOME EFFECTIVE APRIL 1, 2009, INCLUDING FUEL COST, AND RESCINDING RESOLUTION NO. 2008-650

WHEREAS, with the adoption of Ordinance No. 3068-C.S. in November of 1997, the City no longer sets rates for the collection of garbage in Modesto, and instead performs a comprehensive review of cost information submitted by the contract garbage haulers, and

WHEREAS, the City sets a maximum rate that the haulers may charge for the various types of services provided under the contracts based on cost data provided by the lowest cost hauler, and

WHEREAS, Section f (2) of the City's Service Agreements with its solid waste collectors requires that when the City makes adjustments to the collection services provided under the Agreements, any additional costs should be covered by adjustments to the maximum rates, and

WHEREAS, in addition, maximum rates for solid waste collection services are reviewed annually as requested by the City's garbage collection companies, and

WHEREAS, the City conducted an analysis using the audited financial statements provided by the garbage haulers, supplemental data provided by the garbage haulers, and fuel price information and forecast prices developed by the United States Department of Energy, and

WHEREAS, new maximum rates were calculated, and a recommendation for a new maximum rate schedule was developed, which included a recommendation that quarterly adjustments to the fuel component of the maximum rates be made, and

WHEREAS, a report dated March 10, 2009, 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 March 24, 2009, in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto California, at which date and time a duly noticed public hearing was held at said time and place, at which time evidence, both oral and documentary, was received and considered, and

WHEREAS, it was found and determined by the Council of the City of Modesto that the existing schedules of rates and charges for garbage service in the City of Modesto should be revised as recommended, and that quarterly adjustments to the fuel component of the maximum rates should be made, and

WHEREAS, staff has adjusted the fuel component of the maximum rates and has incorporated the fuel component adjustment into the schedule of Maximum Charges for Garbage Service **attached** hereto, marked **Exhibit "1"** and incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Maximum Charges for Garbage Service as **attached** hereto, marked **Exhibit "1"** and incorporated herein by reference. Said Maximum Charges for Garbage Service includes twice-a-year bulky item pickup for residential customers and

all other residential services as stipulated in the Service Agreements and shall become effective April 1, 2009, 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. 2008-650 is hereby rescinded effective April 1, 2009.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of March, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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 "1"
April 1, 2009

MAXIMUM CHARGES FOR GARBAGE SERVICE

STANDARD CONTAINERS

Maximum Monthly Rates
(Once a Week Pickup Service)

Standard container service shall include the following:

- One, 96-gallon container for garbage/recyclables
- One, 96-gallon container for green waste and other organics
- Blue bag recycling
- 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 **$23.27 per month** regardless of size of container. A fuel component of $0.92 per month is included in the maximum rate for the quarter beginning October 1, 2008 and ending December 31, 2008. The fuel component may be adjusted quarterly.
b. The maximum rate for each additional garbage container shall be **$17.34 per month, and $9.50 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 **$19.49 per month**. A fuel component of $0.92 per month is included in the maximum rate for the quarter beginning October 1, 2008 and ending December 31, 2008. The fuel component may be adjusted quarterly.
b. The maximum rate for each additional 60-gallon garbage container shall be **$16.89 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

Regular Container Maximum Rates						
Container Size	NUMBER OF COLLECTIONS PER WEEK					
	1	2	3	4	5	6
1 CY	$ 39.27	$ 55.31	$ 77.69	$ 100.09	$ 122.49	$ 144.89
2 CY	$ 55.31	$ 100.09	$ 144.89	$ 189.68	$ 234.46	$ 279.25
3 CY	$ 77.69	$ 144.89	$ 212.07	$ 279.25	$ 346.45	$ 413.63
4 CY	$100.09	$ 189.68	$ 279.25	$ 368.84	$ 458.42	$ 548.01
5 CY	$122.49	$ 234.46	$ 346.45	$ 458.42	$ 573.41	$ 682.38
6 CY	$144.89	$ 279.25	$ 413.63	$ 548.01	$ 682.38	$ 816.76

FORK Participants Container Maximum Rates						
Container Size	NUMBER OF COLLECTIONS PER WEEK					
	1	2	3	4	5	6
2 CY	$ 41.48	$ 75.07	$ 108.67	$ 142.26	$ 175.85	$ 209.44
3 CY	$ 58.27	$ 108.67	$ 159.05	$ 209.44	$ 259.84	$ 310.22
4 CY	$ 75.07	$ 142.26	$ 209.44	$ 276.63	$ 343.82	$ 411.01
5 CY	$ 91.87	$ 175.85	$ 259.84	$ 343.82	$ 430.06	$ 511.79
6 CY	$108.67	$ 209.44	$ 310.22	$ 411.01	$ 511.79	$ 612.57
90-gallon	$ 17.87	$ 35.73	$ 53.60	$ 71.46	$ 89.33	$ 107.19

- A detachable container rental rate of $10.00 per month is included in the above schedules.

1. **Weekly rental/Detachable Containers** - Shall not exceed the rate for 1 pickup per week for each size container.

2. **Fuel Component** - A fuel component of $0.80 per cubic yard per month ($0.185 per cubic yard) for a 1 cubic yard container collected once a week is included in the maximum rate for the quarter beginning October 1, 2008 and ending December 31, 2008. The fuel component shall be analyzed quarterly and adjustments shall be made as necessary. The adjustment shall be based on the average price of fuel for a preceding quarter as follows: July 1/January-March; October/April-June; January 1/July-September; April 1/October-December. Average prices shall be determined based on published prices for California from the Department of Energy.

DROP BOX CONTAINERS

1. **Pick up charge** - $210.95 per pick up
2. **Rental** - $0.85 per day up to 7 day maximum rental
   - $3.00 per day for boxes kept 7 or more days without servicing
   - $10.00 per day for boxes kept 21 or more days without servicing
3. **Disposal charge** - Actual charge to be paid by customer. Garbage company will provide up to 40 CY Drop Box containers for above stated charges subject only to load limit of transfer vehicle. An AB 939 Green Waste Diversion Fee of $8.40 per ton will be added to the disposal charges.

COMPACTORS

Front Loader Type:

Container Size	NUMBER OF COLLECTIONS PER WEEK					
	1	2	3	4	5	6
3 CY	$233.07	$ 434.67	$ 636.21	$ 837.75	$1,039.35	$1,240.89
4 CY	$300.27	$ 569.04	$ 837.75	$1,106.52	$1,375.26	$1,644.03
6 CY	$434.67	$ 837.75	$1,240.89	$1,644.03	$2,047.14	$2,450.28

Roll-Off Type:

1. 6 CY to 40 CY	$210.95 per pickup
2. Medical waste compactors	$265.00 per pickup
3. Washing compactor	$30.00
4. Disposal Charge:	Actual charge to be paid by customer
5. AB 939 Green Waste Diversion Fee	$8.40 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

1. 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.
2. The above residential maximum rates include a $1.33 per month per household AB 939 Green Waste Diversion Fee.
3. The above commercial bin and front-loader compactor maximum rates include an AB 939 Green Waste Diversion Fee of $2.36 per yard/month.
4. Pursuant to Section 11-6.15(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.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-122

A RESOLUTION AMENDING THE CLASS RANGE TABLE FOR REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES TO CORRECT THE SALARY RANGE FOR WATER QUALITY CONTROL OPERATIONS SUPERVISOR FROM SALARY RANGE 436 TO SALARY RANGE 440

WHEREAS, the on December 9, 2008 the City amended **Exhibit "A"** of Resolution No. 2008-504, which approved the Class Range Table for Represented Management and Confidential Non-Sworn Classes, and

WHEREAS, the salary range for Water Quality Control Operations Supervisor was incorrectly stated,

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

SECTION I. AMENDMENT TO RESOLUTION NO. 2008-504 **Exhibit "A"** entitled, "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective January 6, 2009," **attached** to Resolution No. 2008-504, 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 24, 2009," which is **attached** hereto and made a part hereof as though set forth in full herein. Said amended **Exhibit "A"** amends the Class Range Table for Water Quality Control Operations Supervisor to change the salary range from 436 to salary range 440.

SECTION II. EFFECTIVE DATE. This resolution shall become effective on and after March 24, 2009.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 24th day of March, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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
CLASS RANGE TABLE
REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES
Effective **March 24, 2009**

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 Senior Systems Technician
427	Administrative Analyst I

Exhibit "A"

RANGE	TITLE
	Animal Control Supervisor
	Human Resources Analyst I
	Police Civilian Supervisor
	Technology Solutions Analyst I
	Workers' Compensation Claims Examiner II
428	Accountant II
	Assistant City Clerk
430	Associate Planner
	Budget Analyst I
	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 Accountant
	Senior Crime and Intelligence Analyst
	Wastewater Collection Systems Supervisor
	Water Quality Control Plant Maintenance Supervisor
433	Water Resources Analyst
434	Budget Analyst II
	Customer Services Supervisor
	Recycling Program Coordinator
	Senior Community Development Program Specialist
	Software Analyst II
	Supervising Accountant
	Systems Engineer II
435	Assistant Transportation Planner

RANGE	TITLE
	Business Analyst
	Cultural Services Program Manager
	Emergency Medical Services Coordinator
	Facility Supervisor
	Management Analyst
	Organizational Development Coordinator
	Rate and Fee Analyst
	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
	Budget Officer
	Integrated Waste Specialist
	Property Agent
	Public Safety Business Services 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
441	Building Maintenance Manager
	Events Supervisor

RANGE	TITLE
	Fleet Manager
	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 Administrator
	Construction Inspection Supervisor
	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
	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
450	Business Development Manager
	Chief Building Official
	Planning Manager
	Senior Civil Engineer
452	City Engineer
	Traffic Engineer

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-123

A RESOLUTION APPROVING A SOLE SOURCE PURCHASE TO LC ACTION POLICE SUPPLY, SAN JOSE, CALIFORNIA, FOR FIREARMS UPGRADE, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE PURCHASE; AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR THE FIREARMS, FOR AN ESTIMATED TOTAL COST OF $47,285

WHEREAS, on August 12, 2008, the City Council, by Resolution No. 2008-470, amended the previous Council firearms policy to allow for the sale of firearms only after City Council approval, and

WHEREAS, any sales agreement would include a condition that all firearms be sold in a single transaction as a component of a new firearm purchase/trade-in transaction, and

WHEREAS, on September 23, 2008, the City Council, by Resolution No. 2008-546, accepted the Edward Byrne Memorial Justice Assistance Grant with the U.S. Department of Justice, in the amount of $47,285, for firearms upgrade, and

WHEREAS, the Police Department's current Sig Sauer firearms are over 12 years old, do not accommodate state-of-the-art police tools and technology, and are worn and require ongoing maintenance to keep them serviceable, and

WHEREAS, LC Action Police Supply is designated by Glock Firearms as the West Coast Distributor and was the vendor selected to facilitate the transaction, and

WHEREAS, on March 2, 2009, the Safety & Communities Committee recommended forwarding this item to the full Council for approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves award of a sole source purchase to LC Action Police Supply, San Jose, California, for firearms upgrade.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of March, 2009, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-124

A RESOLUTION APPROVING AN AGREEMENT FOR THE PURCHASE OF RETIRED CITY OF MODESTO POLICE CANINE, LEEDA, BY HER HANDLER, OFFICER PERINE, 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 canines from departmental service, and

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

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement for the purchase of retired City of Modesto Police canine, Leeda, by her handler, Officer Perine, as more fully set forth in the Modesto Police Department Canine Transfer Contract **attached** hereto as **Exhibit "A"** and incorporated herein by this reference.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute 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 March, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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 POLICE DEPARTMENT CANINE TRANSFER CONTRACT

This AGREEMENT made and entered into in the City of Modesto, State of California, this ____ day of _____, **200__**, by and between the City of Modesto, a municipal corporation of the State of California, hereinafter referred to as "CITY", and David Perine, canine handler for the Modesto Police Department, hereinafter referred to as "HANDLER".

Facts:

Canine "Leeda" has been with the Modesto Police Department since ***February of 2002***. "Leeda" has served the city for ***five 1/2*** years. "Leeda" was born in September of 2001 and will be 8 years old in September of 2009. "Leeda" has had a long and distinguished career as a police narcotic dog. "Leeda" has reached an age where her health has begun to decline and she is slowing down. Her ability to continue to do police work at an acceptable level is no longer there and it is my recommendation she be retired from service.

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

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

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

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

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

follows:

1. *HANDLER* does agree to assume ownership of the Modesto police canine named "Leeda", and to assume any and all risks, including, but not limited to, risk of injury or death to third persons, and to hold CITY, its police department, and its employees and/or agents or volunteers harmless from any and all liability, claims, administrative proceedings or other responsibility whatsoever arising from any injuries or damages that may occur on or after the date ownership of the dog is transferred pursuant to this AGREEMENT. That date is hereby fixed by agreement by and among the parties hereto as being _____ __, **2009**.

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

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

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

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

IN WITNESS WHEREOF, the CITY OF MODESTO, a municipal corporation, has caused this Agreement to be executed in duplicate by its City Manager and attested by its City Clerk under authority of Resolution No. 09-____ adopted by the City Council of the City of Modesto on the ? day of ? 2009.

NEW OWNER

_____

David Perine, Handler

CITY OF MODESTO

_____

Greg Nyhoff, City Manager

ATTEST:

By_____
Stephanie Lopez, City Clerk

APPROVED AS TO FORM:

By_____
Susana A. Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-125

RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF A PAVEMENT CRACK SEALER FOR THE PUBLIC WORKS DEPARTMENT, STREET MAINTENANCE DIVISION

WHEREAS, for several years, streets maintenance crews have been focusing on major street repairs where preventative maintenance is no longer a reasonable approach, and

WHEREAS, with the decline of available funds for major street repairs, staff will now be focusing more on activities that will extend the life of the road surfaces, and

WHEREAS, purchase of a pavement crack sealer will allow staff to address both short and long-term preventive maintenance needs and seal cracks in the surfaces of the most at-risk roads, and

WHEREAS, this procedure will slow the intrusion of water through the pavement and the subsequent erosion of the road base, and

WHEREAS, funds are budgeted in an amount not to exceed $58,000 in Account 0700-160-E004-6070 for the purchase of said pavement crack sealer, 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,

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

SECTION 1. The City Clerk is hereby authorized to call for public formal bids for the purchase of pavement crack sealer for the Public Works Department, Street

Maintenance Division, to be opened in the office of the City Clerk, 1010 Tenth Street, in the City of Modesto. The City Clerk is hereby directed to give notice inviting such sealed bids in the time, form, and manner provided by law.

SECTION 2. After the sealed bids are opened, they shall be tabulated and analyzed by the Purchasing Division and the Purchasing Manager shall present a request for award to Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of March, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmember:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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. 2009-126

Print

A RESOLUTION ACCEPTING THE WORK BY ROSS CARROLL, INC. FOR THE PROJECT TITLED "SNYDER AVENUE IMPROVEMENTS BETWEEN PRESCOTT ROAD AND CARVER ROAD" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $630,836.95

WHEREAS, a report has been filed by the Public Works Director that the project titled "Snyder Avenue Improvements between Prescott Road and Carver Road" has been completed by Ross Carroll, Inc. in accordance with the contract agreement dated May 13, 2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Snyder Avenue Improvements between Prescott Road and Carver Road" is hereby accepted as complete from said contractor Ross Carroll, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder and to release securities upon expiration of statutory periods, and that payment of amounts totaling $630,836.95 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 March, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-127

A RESOLUTION APPROVING AN AGREEMENT CONSENTING TO COMMON USE BETWEEN THE MODESTO IRRIGATION DISTRICT AND THE CITY OF MODESTO REGARDING THE CONSTRUCTION OF A 230,000 VOLT TRANSMISSION LINE BY THE MODESTO IRRIGATION DISTRICT FOR THE ROSEMORE SUBSTATION TO USE CERTAIN REAL PROPERTY LOCATED WITHIN APN: 007-037-010 AND 007-037-012, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Modesto Irrigation District (MID) constructed a 230,000 volt transmission line for the purpose of improving its Rosemore Substation above-ground facility, and

WHEREAS, the City of Modesto is the holder of a 25 foot wide permanent sewer easement recorded on March 7, 1980, in Book 3296 of Official Records at Page 805, and

WHEREAS, MID required approximately 2,018 square feet within Assessor's Parcel Number (APN): 007-037-010 and 007-037-012 of the City's sewer easement, and

WHEREAS, the Agreement Consenting to Common Use allows MID use of the City's easement for the transmission line at no cost,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement Consenting to Common Use between the Modesto Irrigation District and the City of Modesto for the 230,000 volt transmission line constructed by the Modesto Irrigation District for the Rosemore Substation to use certain real property located within APN: 007-037-010 and 007-037-012.

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 24th day of March, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-128

A RESOLUTION APPROVING A PURCHASE AGREEMENT WITH KAREN R. HABERBUSH, TRUSTEE OF THE PASO-HABERBUSH REVOCABLE FAMILY TRUST DATED AUGUST 31, 2007, FOR A 0.326-ACRE PARCEL LOCATED AT 1850 ROUSE AVENUE (APN 037-053-040), IN THE AMOUNT OF $65,000 FOR THE EMERALD TRUNK LINE REHABILITATION PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND ALL RELATED DOCUMENTS REQUIRED TO CLOSE ESCROW

WHEREAS, the Emerald Trunk Line Rehabilitation Project is identified in the City's 2007 Wastewater Master Plan as a high priority collection system capital improvement project, and

WHEREAS, project construction will require a permanent sewer easement along its alignment, and

WHEREAS, the new alignment is preferred because the existing line is located in the back yards of existing homes and replacing the line in this area would be very disruptive to the residents, and

WHEREAS, the property is a residential parcel located at 1850 Rouse Avenue (APN 037-053-040), without any existing buildings, and

WHEREAS, the City Council directed staff to proceed with acquiring property to facilitate the rehabilitation of the Emerald Trunk Line, and

WHEREAS, the property has been appraised and an offer to acquire the property rights at fair market value has been accepted by Karen R. Haberbush, Trustee,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Purchase Agreement for the acquisition of a 0.326-acre parcel located at 1850 Rouse Avenue, owned by Karen R. Haberbush, Trustee of the Paso-

Haberbush Revocable Family Trust Dated August 31, 2007 (APN: 037-053-040), to be purchased by the City of Modesto for the Emerald Trunk Line Rehabilitation Project in the amount of $65,000.

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 24th day of March, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-129

A RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN AN ACCEPTANCE FORM FOR THE GRANT DEED FOR THE ACQUISITION OF A PROPERTY LOCATED AT 1850 ROUSE AVENUE, OWNED BY KAREN R. HABERBUSH, TRUSTEE OF THE PASO-HABERBUSH REVOCABLE FAMILY TRUST DATED AUGUST 31, 2007, (APN 037-053-040) TO BE PURCHASED BY THE CITY OF MODESTO FOR THE EMERALD TRUNK LINE REHABILITATION 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 0.326-acre parcel located at 1850 Rouse Avenue, owned by Karen R. Haberbush, Trustee of the Paso-Haberbush Revocable Family Trust Dated August 31, 2007, (APN: 037-053-040) to be purchased by the City of Modesto for the Emerald Trunk Line Rehabilitation Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign an acceptance form on behalf of the City of Modesto for one (1) Grant Deed for the acquisition of a property located at 1850 Rouse Avenue, owned by Karen R. Haberbush, Trustee of the Paso-Haberbush Revocable Family Trust Dated August 31, 2007, (APN 037-053-040) to be purchased by the City of Modesto for the Emerald Trunk Line Rehabilitation Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of March, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-130

A RESOLUTION AMENDING THE FISCAL YEAR 2008-2009 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FULLY FUND THE PURCHASE AGREEMENT FOR THE EMERALD TRUNK LINE REHABILITATION PROJECT, INCLUDING THE PRELIMINARY COST ESTIMATE FOR CLOSING COSTS

WHEREAS, certain budgetary transactions are necessary in the amount of $66,000, in order to fully fund the Purchase Agreement with Karen R. Haberbush, Trustee of the Paso-Haberbush Revocable Family Trust Dated August 31, 2007, for a 0.326-acre parcel located at 1850 Rouse Avenue (APN 037-053-040) for the Emerald Trunk Line Rehabilitation Project, including preliminary cost estimate for closing costs, and

WHEREAS, the Fiscal Year 2008-2009 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 2008-2009 Capital Improvement Program budget as shown in **Exhibit A**.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of March, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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

FUND:

Wastewater Fund

EXPENDITURES:		Increase/(Decrease)
Emerald Trunk Rehabilitation	6210-480-B808-6050	($66,000)
Emerald Trunk Rehabilitation	6210-480-B808-6030	$66,000

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-131

Print

RESOLUTION APPROVING THE SUBMITTAL OF A FEDERAL AIRPORT IMPROVEMENT PROGRAM (AIP) GRANT APPLICATION FOR $1,286,251 TO THE FEDERAL AVIATION ADMINISTRATION (FAA)

WHEREAS, Modesto City-County Airport is a commercial service report that is a part of the federal airport system and 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), and

WHEREAS, the Federal Aviation Administration (FAA) requests that the City submit a new funding application annually for Modesto City-County Airport capital funding, along with a revised Airport Capital Improvement Plan (ACIP), and

WHEREAS, the local 5% match required for these grants will be paid from Passenger Facility Charges (PFCs) collected by the airlines from enplaning passengers, or from Airport Reserves,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the submittal of a Federal Airport Improvement Program (AIP) Grant application for $1,286,251 to the Federal Aviation Administration (FAA).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of March, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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. 2009–132

Print

RESOLUTION APPROVING THE SUBMITTAL OF THE PASSENGER FACILITY CHARGES (PFC) APPLICATION UPDATE TO THE FEDERAL AVIATION ADMINISTRATION (FAA) TO CONTINUE COLLECTING PFC FUNDING FOR THE MODESTO CITY-COUNTY AIRPORT

WHEREAS, the Passenger Facility Charges (PFC) Program, administered by the Federal Aviation Administration (FAA), allows the collection of PFC fees for every enplaned passenger at commercial airports controlled by public agencies, and

WHEREAS, airports use these fees to fund FAA-approved projects that enhance safety, security or capacity; reduce noise, or increase air carrier competition, and

WHEREAS, in order to continue collecting the PFC payments for use by the airport, a PFC Application Update must be submitted and approved by the FAA,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the submittal of the Passenger Facility Charges (PFC) Application Update to the Federal Aviation Administration (FAA) to continue collection PFC funding for 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 March, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmember:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmember:	None
ABSENT:	Councilmember:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

A RESOLUTION APPROVING LETTERS OF AGREEMENT BETWEEN THE CITY OF MODESTO AND THE MODESTO FIRE FIGHTERS' ASSOCIATION (MCFFA), AND THE MODESTO CITY EMPLOYEES' ASSOCIATION (MCEA); AUTHORIZING THE CITY TO EXTEND THE RETIREMENT INCENTIVE PROGRAM, VOLUNTARY SEPARATION PROGRAM AND SEVERANCE PACKAGE UPON LAYOFF TO ALL REPRESENTED EMPLOYEES AND AUTHORIZING THE CITY MANAGER TO SIGN IMPLEMENTATION DOCUMENTS

WHEREAS, revenues in the City's General Fund are approximately $2 million short of the Council-adopted 7% reserve for FY 08-09, and

WHEREAS, the City projects significant revenue shortfalls for FY 09-10, and

WHEREAS, the City and MCFFA and MCEA have reached agreements pertaining to furloughs for FY 08-09, and

WHEREAS, MCFFA, MCEA, Modesto Police Non-Sworn Association (MPNSA), Modesto Police Management Association (MPMA), Modesto Police Officers' Association (MPOA) and Modesto Confidential and Management Association (MCMA) have authorized the City to extend Retirement Incentive Program, Voluntary Separation Program and Severance Package upon layoff to employees in their respective bargaining units,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that agreements are **attached** hereto as Letters of Agreement and are hereby approved: MCFFA (**Attachment 1**) and MCEA (**Attachment 2**). Said Letters of Agreement shall be on file in the City Clerk's Office following final execution by the parties.

BE IT FURTHER RESOLVED, that the City is hereby authorized to extend Retirement Incentive Program, Voluntary Separation Program and Severance Package upon layoff to all represented employees as outlined in **Attachment 3**.

BE IT FURTHER RESOLVED, that the City Manager 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 24th day of March, 2009, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Letter of Agreement

Between

City of Modesto

And

Modesto City Fire Fighters' Association

The City and Modesto City Fire Fighters' Association (MCFFA) have met and conferred and have agreed to the following:

A. Furloughs

The City and MCFFA have agreed to implement four (4) days of furloughs (equivalent to 44.8 hours per Fire Department shift employee) to be taken off between March 17, 2009 and June 30, 2009, as follows:

1. Effective the pay period beginning March 17, 2009, and for a total of seven (7) pay periods, each member shall have 6.4 unpaid furlough hours deducted from his/her paycheck. This translates to 6 hours and 24 minutes per pay period (6:24) and is calculated by dividing forty-four and eight-tenths (44.8) hours by seven (7) pay periods. Non-shift employees shall have a thirty-two (32) hour furlough requirement, with 4 hours and 34 minutes (4:34) unpaid furlough hours deducted in each of the seven (7) pay periods.
2. During this designated furlough period through June 30, 2009, the City will continue to report each employee's full base pay rate to CalPERS each payperiod. In addition, the City will continue to pay each employee's special incentive pays (EMT, Paramedic, Haz Mat, Educational Incentive, etc.) based on 112 hours per payperiod (or 80 hours per payperiod for non-shift employees). These fully paid special incentive pays will not be impacted by the 6 hours 34 minutes per payperiod furlough deduction and will be fully reported to CalPERS.
3. On any day that the employee takes a furlough, the employee will not be permitted to work any overtime. Furlough deductions shall be considered time worked for purposes of calculating FLSA overtime for 24-hour shift employees.
4. The actual furlough shifts to be taken as time off by each employee (two 24-hour shifts) shall be scheduled by the department.
5. The parties agree that during the furlough period from March 17, 2009 through June 30, 2009, constant staffing shall be reduced to thirty-six (36) positions.

B. Retirement Incentive Program

The following agreement has been reached with respect to a Retirement Incentive Program:

1. Any employee who voluntary retires from the City between April 15, 2009 and June 1, 2009 shall receive a cash Incentive based on years of service with the City

to a maximum of $30,000. The employee's last day on payroll shall be on or after April 15, 2009 and no later than June 1, 2009.

2. The employee must notify the Human Resources Department, in writing, on or after March 25, 2009 and no later than April 10, 2009, of his/her election to take this option. Employees electing this option shall have seven (7) calendar days to rescind their election. Thereafter, the election is irrevocable.

3. The City Manager is authorized to accept or reject these elections, based on the needs of the City. There is no appeal of the City Manager's decision.

4. The employee must have a minimum of five (5) years of continuous service with the City of Modesto in a regular position.

5. The actual Incentive amount shall be calculated by multiplying the employee's number of completed years of continuous City of Modesto service, as of the employee's retirement effective date, by the employee's base hourly rate multiplied by fifty-six (56) hours, or multiplied by forty (40) hours for non-shift employees. Only years of service in regular benefited positions will be qualifying. In no event shall the Incentive amount exceed $30,000.

6. The method of distributing the Incentive must be on a bargaining unit-wide basis. No individual employee elections regarding the method of distribution will be permitted. If no method of distribution is designated by MCFFA, the distribution shall be in cash and subject to all applicable taxes.

7. Distribution options may include Health Reimbursement Arrangements (HRA's), deferred compensation (if allowable under the Internal Revenue Code and ICMA-RC) or cash. If it is later determined that distributions into deferred compensation or HRA accounts do not meet the non-discrimination requirements of the Internal Revenue Code, any such distributions shall revert to the employees as taxable cash.

8. The City Manager is authorized to extend an employee's retirement date under the Incentive Program, with the employee's agreement, to meet the needs of the City.

9. Any employee who receives this Incentive and is currently "opting out" of health coverage will have a one-time opportunity to enroll in the City's Dental and Vision plans upon retirement and may enroll in a PERS Health Plan within sixty (60) days of retirement or during any PERS Health open enrollment period.

C. Voluntary Separation Program

The following agreement has been reached with respect to a Voluntary Separation Program:

1. The Voluntary Separation Program provides the same maximum $30,000 Incentive, formula, time frames and selection process as provided in the Section B – Retirement Incentive Program.

2. The employee must have a minimum of five (5) years of continuous service with the City of Modesto in a regular position.

3. The employee shall waive his/her unemployment insurance benefit, as this is a voluntary separation.

4. The employee may not submit an application for City employment within the first 12 months following the effective date of the resignation.

5. The employee shall complete a waiver of any and all liability claims.

6. There is no appeal of the City Manager's decision.

7. Employee severs any and all rights to City employment including but not limited to seniority, layoff, bumping and/or recall rights, re-employment rights and any rights to appeal loss of property interests in employment.

D. Severance Package Upon Layoff

The following agreement has been reached with respect to a Severance Package Upon Layoff:

1. The Severance Package upon layoff is available to employees subject to layoff due to an authorized reduction in the workforce, for the period of March 25, 2009 through June 30, 2010.

2. Severance pay shall be based on completed years of continuous City of Modesto service as follows:

0-5 years of service	224 hours (4 weeks) multiplied by the employee's present base hourly rate.
6-8 years of service	280 hours (5 weeks) multiplied by the employee's present base hourly rate.
9-11 years of service	336 hours (6 weeks) multiplied by the employee's present base hourly rate.
12-14 years of service	392 hours (7 weeks) multiplied by the employee's present base hourly rate.
15 or more years of service	448 hours (8 weeks) multiplied by the employee's present base hourly rate.

For non-shift employees, severance pay shall be calculated based upon forty (40) hours per week multiplied by the applicable number of weeks as designated above, multiplied by the employee's present base hourly rate of pay.

3. City will continue the City's contribution to employee's health, dental and vision benefits for the same number of weeks as the employee's severance pay, excluding any contribution to in-lieu deferred compensation.

4. Counseling benefits under the City's Employee Assistance Program shall be available for a six month period following the effective date of the layoff.

5. City will provide paid interview leave prior to layoff, to a maximum of fifteen (15) hours for employees notified by their Department Director that they may be laid off.

6. The City Manager may authorize an employee who volunteers to be laid off, to be laid off with rights to receive severance pay, health contributions and interview leave.

E. The Fire Chief and MCFFA will meet when necessary to ensure an open dialogue relative to the development of the FY 09-10 budget.

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For the City of Modesto:	For Modesto City Fire Fighters' Association:
James Miguel, Fire Chief	Cecil Ridge, President
Robin Renwick, Director of Human Resources	Robert Berbena, Fire Captain
Greg Nyhoff, City Manager	Mike Shockey, Fire Captain
Judith Ray, Deputy City Manager	Jason Fritz, Fire Engineer

Dated: _____

Letter of Agreement

Between

City of Modesto

And

Modesto City Employees' Association

The City of Modesto and Modesto City Employees' Association (MCEA) have met and conferred and have agreed to the following regarding Furloughs and regarding Performance Evaluations:

A. Furloughs

The City and MCEA have agreed to implement 32 hours of furloughs to be taken off between March 17, 2009 and June 30, 2009, as follows:

1. Effective the pay period beginning March 17, 2009, and for a total of seven (7) pay periods, each member shall have 4.57 unpaid furlough hours deducted from his/her paycheck. This translates to 4 hours and 34 minutes per pay period (4:34) and is calculated by dividing thirty-two (32) hours by seven (7) pay periods.
2. On the pay period ending March 30, 2009 the City shall create for each member a furlough bank of 32 hours. Between March 17, 2009 and June 30, 2009 the appropriate Department Director shall ensure that all members exhaust all thirty two (32) hours in the furlough bank in a manner that does not result in an increase in overtime cost due to the vacancy left by the furloughed employee.
3. Employees who have already taken voluntary unpaid furloughs during FY 08/09 may credit those voluntary furlough hours against this 32-hour requirement. These employees will be required to take the remaining hours, if any, to total 32 hours of voluntary and mandatory furlough time. Employees who have taken voluntary furloughs shall not have the leave deduction taken each payperiod nor will they have the furlough bank established. Mandatory furlough time for these employees shall be coded on the employee's timesheet as unpaid furlough leave at the time the mandatory furlough hours are taken off.
4. During this designated furlough period through June 30, 2009, the City will continue to report each employee's full base pay rate to CalPERS each payperiod. In addition, an employee's percentage-based special incentive pay (if any) will continue to be paid based on the employee's regular schedule and will not be impacted by the furlough deductions. Therefore, these percentage-based special pays will be fully reported to CalPERS.

5. Employees who regularly work a reduced work schedule, will have the 32-hour furlough requirement reduced in proportion to their reduced work schedule.

6. The parties agree that the City has the sole discretion to assign overtime and that the City shall not allow members of this bargaining unit to require the City to backfill with overtime to cover furlough hours in order to avoid actual reduction of pay by any employee. Furlough hours taken off are not considered hours worked for purposes of calculating overtime because furlough hours are unpaid.

7. Employee furloughs shall not alter any existing stand by or call duty rosters and employees shall be eligible for standby and call duty compensation during a furlough week as if the employee was in fully paid status.

B. MCEA MOU ARTICLE 39; Section 39.F shall be amended as follows:

To determine the level of performance evaluation, the most recent annual or probationary evaluation shall be used. Each overall rating of "does not meet standard" shall reduce the employee's continuous years of service by one (1) year. An overall rating of meets standard or exceeds standard shall not reduce the employee's overall years of service.

For the City of Modesto:	For Modesto City Employees' Assoc:
Greg Nyhoff, City Manager	Tom McCarthy, President
Robin Renwick, Director of Human Resources	Ron Flood, Vice President
Judith Ray, Deputy City Manager	Mona Mount, Treasurer
Barbara Santos, Deputy Director of Human Resources	Joe Rose, Attorney

ATTACHMENT 2

City of Modesto

Retirement Incentive Program, Voluntary Separation Program and Severance Package

A. Retirement Incentive Program

1. Any employee who voluntary retires from the City between April 15, 2009 and June 1, 2009 shall receive a cash Incentive based on years of service with the City to a maximum of $30,000. The employee's last day on payroll shall be on or after April 15, 2009 and no later than June 1, 2009.
2. The employee must notify the Human Resources Department, in writing, on or after March 25, 2009, and no later than 4:30 p.m. on April 10, 2009, of his/her election to take this option. Employees electing this option shall have seven (7) calendar days to rescind their election. Thereafter, the election shall be irrevocable.
3. The City Manager is authorized to accept or reject these elections, based on the needs of the City. There is no appeal of the City Manager's decision, nor is the City Manager's decision subject to the Grievance Procedure.
4. The employee must have a minimum of five (5) years of continuous service with the City of Modesto in a regular position.
5. The actual Incentive amount shall be calculated by multiplying the employee's number of completed years of continuous City of Modesto service, as of the employee's retirement effective date, by the employee's base hourly rate multiplied by forty (40) hours or fifty-six (56) hours for Fire Department shift employees. For employees whose regular work schedule is less than 40 hours, the 40 hour calculation shall be reduced proportionally. Only years of service in regular benefited positions will be qualifying. In no event shall the Incentive amount exceed $30,000.
6. The method of distributing the Incentive must be on a bargaining unit-wide basis. No individual employee elections regarding the method of distribution will be permitted. (The City Manager shall determine the method of distribution for the Unrepresented group.) If no method of distribution is designated by any given employee Association, the distribution for that Association's bargaining unit shall be in cash and subject to all applicable taxes.
7. Distribution options <u>may</u> include Health Reimbursement Arrangements (HRA's), deferred compensation (if allowable under the Internal Revenue Code and ICMA-RC) or cash. If it is later determined that distributions into deferred compensation or HRA accounts do not meet the non-

discrimination requirements of the Internal Revenue Code, any such distributions shall revert to the employees as taxable cash.

8. The City Manager is authorized to extend an employee's retirement date under the Incentive Program, with the employee's agreement, to meet the needs of the City.
9. The employee shall complete a waiver of any and all liability claims.
10. Any employee who receives this Incentive and is currently "opting out" of health coverage will have a one-time opportunity to opt-in during open enrollment, with coverage effective August 1, 2009.

B. Voluntary Separation Program

1. The Voluntary Separation Program provides the same maximum $30,000 Incentive, formula, time frames and selection process as provided in the Section B – Retirement Incentive Program.
2. The employee must have a minimum of five (5) years of continuous service with the City of Modesto in a regular position.
3. The employee shall waive his/her unemployment insurance benefits, as this is a voluntary separation.
4. The employee may not submit an application for City employment within the first 12 months following the effective date of the resignation.
5. The employee shall complete a waiver of any and all liability claims.
6. There is no appeal of the City Manager's decision, nor is the City Manager's decision subject to the Grievance Procedure.
7. Employee severs any and all rights to City employment including but not limited to seniority, layoff, bumping and/or recall rights, re-employment rights and any rights to appeal loss of property interests in employment.

C. Severance Package Upon Layoff

1. The Severance Package upon layoff is available to employees subject to layoff due to an authorized reduction in the work force, for the period of March 25, 2009 through June 30, 2010.
2. Severance pay shall be based on the employee's base rate of pay and completed years of continuous service as follows:

0-5 years of service	160 hours (4 weeks) multiplied by the employee's present base hourly rate.
6-8 years of service	200 hours (5 weeks) multiplied by the employee's present base hourly rate.

9-11 years of service	240 hours (6 weeks) multiplied by the employee's present base hourly rate.
12-14 years of service	280 hours (7 weeks) multiplied by the employee's present base hourly rate.
15 or more years of service	320 hours (8 weeks) multiplied by the employee's present base hourly rate.

For shift employees in the Fire Department, Severance pay shall be calculated based upon fifty-six (56) hours per week multiplied by the applicable number of weeks as designated above, multiplied by the employee's present base hourly rate of pay.

For employees whose regular work schedule is less than full time, the hours used to calculate severance pay shall be prorated.

3. City will continue the City's contribution to employee's health, dental and vision benefits for the same number of weeks as the employee's severance pay, excluding any contribution to in-lieu deferred compensation.

4. Counseling benefits under the City's Employee Assistance Program (or Police Department Counseling Program) shall be available for a six month period following the effective date of the layoff.

5. City will provide paid interview leave prior to layoff, to a maximum of fifteen (15) hours for employees notified by their Department Director that they may be laid off.

6. The City Manager may authorize an employee who volunteers to be laid off, to be laid off with rights to receive severance pay, health contributions and interview leave.

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-134

Print

RESOLUTION SUPPORTING SB 295 (THE AB 32 REGULATORY TIMELINE BILL)

WHEREAS, California's budget crisis is already causing severe financial hardships to local governments that must fund state and federally mandated services, with hundreds of millions in back payments owed by the state to local governments and agencies; and

WHEREAS, the mortgage crisis and record high unemployment compound the problem by reducing property tax and sales tax revenues that our cities and counties depend on; and

WHEREAS, the state is proposing to add billions in new costs to implement AB 32 – the Global Warming Solutions Act – despite warnings by the Legislative Analyst's Office and well□respected peer reviewers that carbon reduction costs have been grossly underestimated and the California Air Resources Board's (CARB) AB 32 plan will have major economic consequences for our state; and

WHEREAS, CARB's AB 32 Scoping Plan makes it clear that local government will be an "essential partner" in reducing carbon emissions; and

WHEREAS, The cost of reducing emissions from municipal buildings, facilities, vehicles, wastewater, landfills and other government operations will require enormous expenditures by local governments that are already being forced to cut back services and lay off essential personnel; and

THEREFORE be it resolved that the City of Modesto supports SB 295 (Dutton) which will adjust the timeline for implementing AB 32 to allow the state to conduct the

financial due diligence not only required by law but critically needed to responsibly protect California's local governments, families and businesses from severe economic burdens that irresponsible rulemaking will impose.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-135

Print

A RESOLUTION DIRECTING STAFF TO PREPARE AND FILE AN ANNUAL REPORT FOR LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 1 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 1-6

WHEREAS, Resolution No. 88-935 adopted by the Council of the City of Modesto on December 13, 1988, initiated proceedings for the formation of Landscape Assessment District No. 1 for the purpose of administering the maintenance of landscaping in the public right-of-way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 1-6, and

WHEREAS, said assessment district was formed in accordance with the Landscaping and Lighting Act of 1972 (Streets and Highways Code Sections 22500 through 22679), and

WHEREAS, Section 22622 of the Streets and Highways Code requires the legislative body (the City Council) to adopt a resolution which shall generally describe any proposed new improvements or any substantial changes in existing improvements and direct staff to prepare and to file a report accordingly,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that there being no proposed new improvements or any substantial changes in existing improvements in Dry Creek Meadows Subdivisions Nos. 1-6, the City Engineer, the person designated by this Council as the Engineer of Work for Assessment District No. 1, is hereby directed to prepare and file an annual report in accordance with the provisions of the Landscaping and Lighting Act of 1972, as amended, (Streets and Highways Code Sections 22500 through 22679).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of April, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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. 2009-136

Print

A RESOLUTION DIRECTING STAFF TO PREPARE AND FILE AN ANNUAL REPORT FOR LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 7-10, CREEKWOOD MEADOWS SUBDIVISION, AND YOSEMITE MEADOWS SUBDIVISIONS UNITS 1 & 2

WHEREAS, Resolution No. 89-460, adopted by the Council of the City of Modesto on April 4, 1989, initiated proceedings for the formation of Landscape Assessment District No. 2 for the purpose of administering the maintenance of landscaping in the public right-of-way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 7-10, Creekwood Meadows Subdivision, and Yosemite Meadows Subdivisions Units 1 & 2, and

WHEREAS, said assessment district was formed in accordance with the Landscaping and Lighting Act of 1972 (Streets and Highways Code Sections 22500 through 22679), and

WHEREAS, Section 22622 of the Streets and Highways Code requires the legislative body (the City Council) to adopt a resolution which shall generally describe any proposed new improvements or any substantial changes in existing improvements and direct staff to prepare and to file a report accordingly,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that there being no proposed new improvements or any substantial changes in existing improvements in Dry Creek Meadows Subdivisions Nos. 7-10, Creekwood Meadows Subdivision, and Yosemite Meadows Subdivisions Units 1 & 2, the City Engineer, the person designated by this Council as the Engineer of Work for Assessment District No. 2, is hereby directed to prepare and file an annual report in accordance with the provisions

of the Landscaping and Lighting Act of 1972, as amended, (Streets and Highways Code Sections 22500 through 22679).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of April, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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. 2009-137

Print

A RESOLUTION EXTENDING THE CURRENT CONTRACT FOR HVAC SERVICE AND REPAIRS FOR THE MODESTO CENTRE PLAZA WITH AMERICAN CHILLER CO., MODESTO, CA, FOR TWO (2) ADDITIONAL YEARS AT THE CURRENT CONTRACT TERMS, FOR AN ESTIMATED ANNUAL COST OF $30,000, AND OVER TWO YEARS $60,000

WHEREAS, on July 13, 2004, the City Council, by Resolution No. 2004-352, authorized the award of bid and contract for the furnishing of HVAC service and repairs for the Modesto Centre Plaza, to American Chiller Co., Modesto, CA, for a three (3) year agreement with two (2) one-year extension options, and

WHEREAS, the annual agreement for their service and repairs is due to expire on July 12, 2009, and

WHEREAS, because of these difficult economic times, City staff proposed extending the current agreement for two (2) additional years at the current contract terms, and

WHEREAS, the contractor accepted the City's proposal, and

WHEREAS, the contract extension will take effect on July 13, 2009, and conclude on July 12, 2011, and

WHEREAS, funds will be budgeted in Fiscal Year 2009-10 and made available in account 6710-340-3420, for the furnishing of HVAC services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award for a two (2) year contract extension at the current contract terms, for the furnishing of HVAC service and repairs for the Modesto Centre Plaza, to American Chiller Co., Modesto, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue an agreement extension, for two (2) additional years at the current contract terms, for an estimated annual cost of $30,000, and over two years $60,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of April, 2009, by Councilmember Keating, 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:	Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-138

Print

RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF STREET SWEEPING MATERIAL RECEIVING SERVICES FOR THE PUBLIC WORKS DEPARTMENT, TRANSPORTATION SERVICES DIVISION, URBAN FORESTRY SECTION, TO GILTON RESOURCE RECOVERY/TRANSFER FACILITY, INC., OAKDALE, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE AGREEMENT FOR TWO (2) YEARS, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST NOT TO EXCEED $60,000

WHEREAS, August 6, 2008, the City Council, by Resolution No. 2008-448, authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of street sweeping material receiving services for the Public Works Department, Transportation Services Division, Urban Forestry Section, and

WHEREAS, on February 3, 2009, the Purchasing Division issued RFB No. 0809-07 for the purchase of street sweeping material receiving services to five (5) prospective bidders, none of which were local companies, posted the bid on the City's web site, and formally advertised as required by law, and

WHEREAS, on March 3, 2009, RFB's were formally opened in the City Clerk's office. Of the five (5) prospective bidders, two (2) companies chose to respond, and

WHEREAS, based on providing a responsive and responsible bid, City staff recommends the award of bid and contract for the purchase of street sweeping material receiving services for the Public Works Department, Transportation Services Division, Urban Forestry Section, to Gilton Resource Recovery/Transfer Facility, Inc., Oakdale, CA, 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. The award of bid and contract for the purchase of street sweeping material receiving services for the Public Works Department, Transportation Services Division, Urban Forestry Section, conforms to the Modesto Municipal Code, and

WHEREAS, Funds are budgeted in the amount of $60,000, in the Storm Drainage Fund Account 6280-480-5313-0235,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase of street sweeping material receiving services for the Public Works Department, Transportation Services Division, Urban Forestry Section, to Gilton Resource Recovery/Transfer Facility, Inc., Oakdale, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase agreement for two (2) years, with three (3) one-year extension options, at the sole discretion of the City, for an estimated annual cost not to exceed $60,000.00.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of April, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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. 2009-139

Print

RESOLUTION AMENDING THE FISCAL YEAR 2008-2009 ANNUAL BUDGET

WHEREAS, a monthly financial analysis has been completed and it has been determined that certain adjustments are required to the Annual Budget of the City of Modesto for Fiscal Year 2008-2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the Fiscal Year 2008-2009 budget have been adjusted as shown in **Exhibit A**, which is 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.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of April, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following votes:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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

ATTACHMENT 1 – FINANCE

This budget adjustment recognizes unbudgeted revenue in the 1998 and 2007 Lease Revenue Bond funds, 9450-120-DS25 and 9450-120-DS26; and reflects 2008 Lease Revenue Bonds additional Cost of Issuance charges for Title Insurance in fund 9450-120-DS27-0454.

REVENUE

FROM:		
9450-120-DS25-6102	Trustee Interest	5,220
9450-120-DS26-6102	Trustee Interest	5,582

APPROPRIATIONS

FROM:		
0100-800-8000-8003	General Fund Reserves	(49,568)
TO:		
9450-120-DS27-0454	Cost of Issuance	60,370

TRANSFER BETWEEN FUNDS

FROM:		
0100-700-7000-7945	Transfer Out to Public Finance Authority	(60,370)
TO:		
9450-700-7000-9010	Transfer In from General Fund Reserves	60,370

This budget adjustment records the issuance of the 2008 Lease Revenue Bonds in fund 9450-120-DS27-8301.

REVENUES

TO:		
9450-120-DS27-8301	Other Financing Source	65,170,000

APPROPRIATIONS

TO:		
9450-120-DS27-0454	Cost of Issuance	492,300
9450-120-DS27-0468	Remarketing Fees	113,034
9450-120-DS25-0448	Other Financing Use	3,355,942
9450-120-DS26-0448	Other Financing Use	61,200,000
9450-800-8000-8003	Contingency Reserve	8,724

This budget adjustment recognizes unbudgeted revenue in the Stores Inventory Fund, 7110-120-1272-4909R, and appropriates these revenues to Stores Inventory - Temp Labor, 7110-120-1272-0269 for a temporary employee that is backfilling for a permanent employee who is on a temporary assignment in Purchasing.

REVENUES

TO:		
7110-120-1272-4909R	Interfund City Service	52,602
FROM:		
7110-120-1272-4909R	Interfund City Service	(32,736)

APPROPRIATIONS

TO:		
7110-120-1272-0269	Temp Services	32,736

ATTACHMENT 2 – INFORMATION TECHNOLOGY

This budget adjustment reduces budgeted revenue in the Cable TV Franchise Fee account, 0320-070-0703-1301R, due to a decision to not implement a $.75 Public Education Government (PEG) Fee. This adjustment also reallocates funds from IT Reserves, 7130-800-8000-8003, to Access Modesto/Partnership, 0320-070-0703-8145R, for contractual costs of the PEG program for FY 2008-09.

REVENUES

FROM:		
0320-070-0703-1301R	Cable TV Franchise Fees	(150,000)
TO:		
0320-070-0703-8145R	Access Modesto/Partnership	131,500

APPROPRIATIONS

FROM:		
7130-800-8000-8003	IT Reserves	(131,500)

ATTACHMENT 3 – PARKS, RECREATION & NEIGHBORHOODS

This budget adjustment recognizes unbudgeted revenue in the HOME Carry Over account, 1170-320-3260-3512, and reallocates these funds to Direct Loans, 1170-320-3260-0497, for the funding of additional American Dream Down Payment Initiative Program loans in Modesto.

REVENUE

TO:		
1170-320-3260-3512	HOME Carry Over	164,660

APPROPRIATIONS

TO:		
1170-320-3260-0497	Direct Loans	164,660

This budget adjustment recognizes unbudgeted revenue and expense between Parks Services Organization 3522 and Carpenter Road Landfill Organization 4403 for a service credit agreement that was not entered into the FY 2008-09 budget.

REVENUE

TO:		
0100-350-3522-4909R	Interfund Labor	21,888

APPROPRIATIONS

TO:		
0360-355-4403-0255	Services City Forces	21,888
0360-355-4403-0308	Too/Shop/Field Supplies	5,203

ATTACHMENT 4 – PUBLIC WORKS

This budget adjustment recognizes the change in expected revenues for the Modesto Airport Operating Program. The decrease in revenue will be absorbed by the Airport Reserves.

REVENUES

FROM:			
6310-440-5412-4401	Special Concessions		(1,222)
6310-440-5412-4404	Gallonage		(21,162)
6310-440-5412-4419	Aircraft Tie Down Fees		(2,652)
		Total	(25,036)

TO:			
6310-440-5412-1401	Business License Registration		50
6310-440-5412-1404	Business License Mill Tax		3,827
6310-440-5412-4402	Airport Key Rental		250
6310-440-5412-4416	Airport Landing Fees		8,638
6310-440-5412-6225	City Bldg Rental		2,800
		Total	15,565

APPROPRIATIONS

FROM:		
6310-800-8000-8003	Airport Reserves	(9,471)

This budget adjustment recognizes additional revenue from Stanislaus County Property Tax Share, 6330-440-5414-3404. In addition, the transfer between the Special Revenue Fund 6330 and the Capital Fund is being decreased since less is needed. Finally, all remaining tax revenue is being moved to the Operating Account Fund 6310.

REVENUES

TO:		
6330-440-5414-3404	County Share of Property Tax	14,000

TRANSFER BETWEEN FUNDS

FROM:		
6330-700-7000-7632	Transfer from Fund 6330 to Fund 6320	(30,825)
6330-700-7000-7631	Transfer from Fund 6330 to Fund 6310	39,103

TO:		
6320-700-7000-9633	Transfer from Fund 6330 to Fund 6320	(30,825)
6310-700-7000-9633	Transfer from Fund 6330 to Fund 6310	39,103

Capital Improvement Project (CIP) A015-Airport Security Fence, 6320-440-A015-3613, has been postponed until FY 2009-10. This budget adjustment also eliminates this capital project in the FY 2008-09 budget.

REVENUES

FROM:		
MY-6320-440-A015-3613	Airport Security Fence	(32,300)

TRANSFER BETWEEN FUNDS

FROM:		
MY-6330-700-A015-7632	Transfer from Fund 6330 to Fund 6320	(1,700)
TO:		
MY-6320-700-A015-9633	Transfer from Fund 6330 to Fund 6320	(1,700)

Capital Improvement Project #A803, Airport Noise Study, is currently under budgeted. A transfer from the Airport Special Revenue Fund is necessary to mitigate this shortfall.

TRANSFER BETWEEN FUNDS

FROM:		
MY-6330-700-A803-7632	Transfer to Fund 6320	61
TO:		
MY-6320-700-A803-9633	Transfer from Fund 6330	61

This budget adjustment reconciles expenses and revenues, and closes out the budget for Capital Improvement Project #A008, Airport Parking Lot. This adjustment also transfers the unused balance in Fund 6330, County Aircraft Tax, to the Airport Capital Project Fund 6320 for use in future projects. In addition, this action adjusts the revenue budget to equal the amounts received from the FAA Grant and the Passenger Facility Charges.

REVENUES

TO:		
MY6320-440-A008-3613	FAA Capital Grant	561,181
MY6320-440-A008-4405	Passenger Facility Charges	82,667

APPROPRIATIONS

FROM:		
MY6320-440-A008-8014	Airport Parking Lot Project Closeout	(97,027)

TRANSFER BETWEEN FUNDS

FROM;		
MY6330-700-A008-7632	Transfer Out to Fund 6320	(61,095)
TO;		
MY6320-700-A008-9633	Transfer In from Fund 6330	(61,095)

Capital Improvement Project A804, Airport Drainage/Signage/Taxilane, has been completed and the final invoices have been paid. This adjustment will reduce the available budget to equal what has been spent, and adjust the revenue budget to equal the amount received from the FAA.

REVENUES

FROM:		
MY6320-440-A804-3613	FAA Capital Grant	(140,632)
MY6320-440-A804-4405	Passenger Facility Charges	(7,443)

APPROPRIATIONS

FROM:		
MY6320-440-A804-8014	Project Close Out	(125,801)

Capital Improvement Project M275, Airport Apron Resurfacing, has been completed and the final invoices have been paid. This adjustment will reduce the available budget to equal what has been spent, and adjust the revenue budget to equal the amount received from the FAA.

REVENUES

FROM:		
MY6320-440-M275-3613	FAA Capital Grant	(55,093)
MY6320-440-M275-4405	Passenger Facility Charges	30,764

APPROPRIATIONS

FROM:		
MY6320-440-M275-8014	Project Close Out	(14,919)

This budget adjustment recognizes unbudgeted Revenue in the Gas Tax Fund, 0700-430-4380-8122, from the State of California Department of Transportation, for an appraisal reimbursement, and appropriate said revenues in Service City Forces, 0700-430-4380-0255.

REVENUES

TO:		
MY0700-430-4380-8122	Refund	5,000

APPROPRIATIONS

MY0700-430-4380-0255	Service City Forces	5,000

This budget adjustment recognizes unbudgeted revenue in the Gas Tax Fund, 0700-160-E002-8101, for the sale of Real Property, and appropriate said revenues for the 9th and D Street Land Right of Way Acquisition, 0700-430-E002-6030.

REVENUES

TO:		
MY0700-160-E002-8101	Sale of Real Property	34,900

APPROPRIATIONS

MY0700-160-E002-6030	Land Right of Way	34,900

This budget adjustment in Sewer Enterprise is being made to transfer $180,000 from Capital Improvement Project (CIP) A215, DAF Dissolved Air Flotation, 6210-430-A215, to the Celeste/Rose/Scenic Sewer Improvements project A049 to cover legal fess for arbitration negotiation costs related to the project.

APPROPRIATIONS

FROM:		
MY6210-430-A215-6050	Contingency	(90,000)
MY6210-430-A215-6060	Construction Administration	(90,000)
TO:		
MY6210-430-A049-6080	Consultant Charges – CIP	180.000

This budget adjustment in Sewer Enterprise reduces Primary Project B050, Development Reimbursement Water System Fees, and allocates funds to the Secondary Account B052, Village One Extend Sewer Subtrunk Reimbursement Secondary Project to cover agreement costs associated with Village One Specific Plan.

APPROPRIATIONS

FROM;		
6211-430-B050-6052	Dev Reimbursement Wastewtr System Fees	(66,263)

TO:		
6211-430-B052-6040	Village One Extend Sewer Subtrunk	66,263

This budget adjustment in Sewer Enterprise reduces Primary Project B780, Collection System Reliability Improvements, and allocates funds to the Shackelford Crossing, 6210-430-N143-6000, for environmental and engineering/design/administration costs.

APPROPRIATIONS

FROM:		
6210-430-B780-6052	Collection System Reliability Improvements	(16,000)
TO:		
6210-430-N143-6000	Shackelford Crossing	16,000

Capital Improvement Project (CIP) B082, Security Upgrades Jennings Plant, has been closed and the project savings in the amount of $148,858 went into Wastewater Reserves, 6210-800-8000-8003. This budget adjustment appropriates funds from Wastewater Reserves to CIP B079, Security Upgrades Sutter Plant, for construction costs.

APPROPRIATIONS

FROM:		
6210-800-8000-8003	Wastewater Reserves	(149,858)
TO:		
6210-480-B079-6040	Security Upgrades Sutter Plant	149,858

This budget adjustment recognizes unbudgeted revenue in the Wastewater Fund, 6210-430-5200-4304 and 6210-430-5213-4310, and appropriates these revenues in the Wastewater Fund Reserves, 6210-800-8000-8003.

REVENUES

TO:		
6210-430-5200-4304	Commercial Sewer Services	400,000
6210-430-5213-4310	Septic Tank Pumping	98,324

APPROPRIATIONS

TO:		
6210-800-8000-8003	Wastewater Fund Reserves	498,324

This budget adjustment decreases a transfer from the General Fund to Capital Improvement Project (CIP) D001, Storm Drain Rate Analysis, and reallocating these funds to the Storm Drain Fund Reserves, 6280-800-8000-8003.

APPROPRIATIONS

FROM:		
6280-440-D001-6010	Storm Drain Rate Analysis	(49,707)
TO:		
6280-800-8000-8003	Storm Drain Fund Reserves	49,707

TRANSFER BETWEEN FUNDS

FROM:		
MY 6280-700-D001-7010	Transfer Out of General Fund	49,707
TO:		
MY 0100-700-D001-9628	Transfer into Storm Drain Rate Analysis	49,707

This budget adjustment recognizes unbudgeted revenue in the Water Capital Improvement Project (CIP) Fund, MY6180-430-W133-8122, from San Joaquin Valley Unified Air Pollution Control District, for a fee reimbursement, and appropriate said revenues to CIP #W133, Downstream Improvements – West Tank/Pipe Project.

REVENUES

TO:		
MY 6180-430-W133-8122	Refund	648

APPROPRIATIONS

MY 6180-430-w133-6010	Engineering/Design/Administration	648

This budget adjustment transfers funds from Water Fund Reserves, 6100-800-8000-8003, to Water Treatment and Delivery Operating Budget, 6100-480-5024-0321, to adjust the current year estimates for operations and maintenance.

APPROPRIATIONS

FROM:		
6100-800-8000-8003	Water Fund Reserves	(902,163)
TO:		
6100-480-5024-0321	Water Treatment & Delivery	902,163

This budget adjustment transfers funds from Water Reserves, 6100-800-8000-8003, to Water PCE Litigation, 6100-440-5002-0233, for anticipated legal costs through FY 2008-09.

APPROPRIATIONS

FROM:		
6100-800-8000-8003	Water Fund Reserves	(600,000)
TO:		
6100-400-5002-0233	Water Fund – Legal Services	600,000

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-140

RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF AN EXCAVATOR FOR THE PUBLIC WORKS, FLEET SERVICES DIVISION, TO MECOM EQUIPMENT COMPANY, STOCKTON, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR A TOTAL COST OF $172,804

WHEREAS, on October 28, 2008, the City Council, by Resolution No. 2008-592, authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, throughout FY 08/09 through various competitive processes, with the Purchasing Division coming back to Council for award authorization, and

WHEREAS, the excavator for the Water Quality Control Services is included in the FY 08/09 new vehicles and heavy equipment list authorized by Council, and

WHEREAS, on December 18, 2008, the Purchasing Division issued RFB No. 0809-12 for the purchase of an excavator to twenty (20) prospective bidders, posted the bid on the City's web site and formally advertised as required by law, and

WHEREAS, based on providing a responsive and responsible bid, City staff recommends the award of bid and contract for the purchase of an excavator for the Public Works Department, Fleet Services Division, to Mecom Equipment Company, Stockton, CA, and authorizing the Purchasing Manager to issue a purchase order for a total cost of $172,804, and

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

Public Works Department, Fleet Services Division, to Mecom Equipment Company, Stockton, CA, conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted in the amount of $172,804, in the Fleet Equipment Replacement Fund from the Wastewater Replacement Reserve in account 7210-480-5814-5853,

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 an excavator for the Public Works Department, Fleet Services Division, to Mecom Equipment Company, Stockton, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase order for a total cost of $172,804.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of April, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-141

A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF MODESTO AND BROWN AND CALDWELL, DATED MAY 23, 2006, FOR THE PURPOSE OF PROVIDING WASTEWATER RATE ANALYSIS SERVICES, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO THE AGREEMENT

WHEREAS, on May 23, 2006, by Resolution No. 2006-304, the City Council approved an Agreement for Consultant Services with Brown and Caldwell to provide a study on proposed wastewater user rates, and

WHEREAS, the City requires ongoing wastewater rate analysis to be performed in conjunction with the annual operating and capital project budget adoption process, and

WHEREAS, Brown and Caldwell is best suited to provide the required rate analysis through the adaptation of the existing rate model developed previously, and under the terms of the original contract, and

WHEREAS, there are sufficient appropriations in the wastewater operating budget to fund the cost of the rate analysis required as part of the Fiscal Year 2009-2010 budget adoption process,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to the Agreement for Consulting Services between the City of Modesto and Brown and Caldwell for the not to exceed amount of $23,200 per year.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of April, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-142

A RESOLUTION APPROVING AN AGREEMENT WITH NORTH STATE PLAYGROUNDS (NSP3) FOR THE PURCHASE AND INSTALLATION OF SHADE COVERINGS ON EXISTING STRUCTURES IN DAVIS AND DOWNEY COMMUNITY PARKS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, Davis Park is located at 2701 College Avenue and Downey Park is located at 1200 Brighton Avenue, and

WHEREAS, after inspection by Parks Maintenance Supervisors in June 2008, the shade structures at Davis Park and Downey Park were deemed in need of repair, and

WHEREAS, Parks Planning and Development staff completed a RFQ for Design consistent with City policy, and

WHEREAS, three firms responded with North State Playgrounds (NSP3) submitting the lowest responsible quote and design, and

WHEREAS, funding is available in Parks Capital Improvement Account 1400-310-M185 to purchase and install said coverings,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with North State Playgrounds (NSP3) for the purchase and installation of shade coverings on existing structures in Davis and Downey Community Parks.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of April, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-143

A RESOLUTION APPROVING THE CITY OF MODESTO TO SERVE AS THE FISCAL AGENT FOR THE WEST MODESTO KING KENNEDY NEIGHBORHOOD COLLABORATIVE FOR A GRANT APPLICATION FOR $900,000 IN FUNDING TO THE CALIFORNIA LEGISLATED SAFE ROUTES TO SCHOOL (SR2S) FUNDING FOR THE DEVELOPMENT OF THE HELEN WHITE MEMORIAL TRAIL

WHEREAS, the Safe Routes to School Program (Program) came into effect in 1999 with the passage of Assembly Bill 1475, and

WHEREAS, Section 2333.5 of the Streets and Highways Code calls for the California Department of Transportation, in consultation with the California Highway Patrol (CHP), to make grants available to local governmental agencies under the Program based upon the results of a statewide competition, and

WHEREAS, the goals of the Program are to reduce injuries and fatalities to school children and to encourage increased walking and bicycling among students, and

WHEREAS, the West Modesto King Kennedy Neighborhood Collaborative (WMKKNC), staff and community members believe that developing this trail is an excellent match for the Program, and

WHEREAS, the WMKKNC will be responsible for raising the matching grant funds of $90,000, as well as all documentation associated with the grant such as legal documents, land use documents, CEQA documentation and annual reports as necessary, and

WHEREAS, the State of California has called for project proposals to be sent to the California Department of Transportation by April 15, 2009,

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

1. The filing of a grant application for $900,000 from the Safe Routes to School Grant Program is hereby approved.

2. The City Manager, or his designee, is hereby authorized as agent of the applicant to conduct all negotiations and execute and submit all documents including, but not limited to, applications, contracts, amendments, payment requests, and compliance with all applicable current state and federal laws, which may be necessary for the completion of the aforementioned Project upon acceptance of said grant by the City Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of April, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-144

RESOLUTION APPROVING THE PARTIAL REDUCTION OF CURRENT RECREATIONAL PROGRAMS FOR THE BALANCE OF FISCAL YEAR 08/09 AND AMENDING THE FISCAL YEAR 08/09 OPERATING BUDGET

WHEREAS, currently the Modesto Parks, Recreation and Neighborhoods Department provides recreational programs for youth, adults, senior citizens and the disabled, and

WHEREAS, in order to lower general fund spending for the remainder of Fiscal Year 08/09, staff proposes eliminating or reducing some recreation programs and funding that the City currently offers,

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

1. Reduce the Maddux Youth Center hours

Day of the Week	Current Hours	Proposed Hours
Monday through Thursday	9:00 am to 7:00 pm	11:00 am to 7:00 pm
Friday	9:00 am to 5:00pm	11:00 am to 5:00 pm
Saturday	9:00 am to 1:00 pm	9:00 am to 1:00 pm

Additionally, all special events will take place during regular hours of operation.

2. Consolidate special events that take place at King Kennedy Memorial Center, Maddux Youth Center, as well as at the Neighborhood Center at Marshall Park.

3. Adjust the Fiscal Year 08/09 operating budget to reflect the reduction.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of April, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-145

A RESOLUTION AWARDING NON-CONSENSUAL TOWING FRANCHISE CONTRACTS TO TWENTY-ONE (21) TOWING COMPANIES, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACTS

WHEREAS, on April 8, 2008, the City Council authorized the Purchasing Manager to issue a Request for Application (RFA) for City generated Non-Exclusive Non-Consensual Franchise Towing Services, and

WHEREAS, on April 22, 2008, the Purchasing Division solicited Request for Applications No. 0708-10 for City generated Non-Exclusive Franchise Towing Services, and

WHEREAS, on May 20, 2008, applications were opened in the City Clerk's office, and

WHEREAS, a total of twenty-one (21) applications were received, and all twenty-one (21) met the requirements of Phase 1 and Phase 2 of the application process, and

WHEREAS, on January 27, 2009, the City Council, by Resolution No. 2009-051, declared its intention to consider applications for Non-Exclusive Non-Consensual franchise towing services, and gave notice of a public hearing to be held on February 24, 2009, and

WHEREAS, on February 24, 2009, the City Council, by motion, approved the introduction of an Ordinance adding Chapter 10 entitled "Award of Non-Consensual Towing Contracts" to Title 3 of the Modesto Municipal Code, and

WHEREAS, on March 3, 2009, the City Council, by motion, unanimously approved the final adoption of an Ordinance adding Chapter 10, entitled "Award of Non-Consensual Towing Contracts" to Title 3 of the Modesto Municipal Code granting award of Non-Exclusive Non-Consensual Franchise Towing Services to successful applicants for City Generated Non-Exclusive Franchise Towing Services (RFA No. 0708.10), and

WHEREAS, the anticipated start date of the towing contracts is April 13, 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards Non-Consensual Towing Franchise contracts to the following twenty-one (21) towing companies:

1. A&R Tow, Modesto, California
2. Advanced Tow, Modesto, California
3. Anderson's Tow, Ceres, California
4. Central Valley Tow, Ceres, California
5. Ceres pro Tow, Ceres, California
6. City Tow, Modesto, California
7. Craig's Tow, Ceres, California
8. DBM Tow, Modesto, California
9. Del Tow, Ceres, California
10. Dizney & Wise, Modesto, California
11. E-Tow, Modesto, California
12. Myers Towing, Modesto, California
13. Ramont's Tow, Modesto, California
14. Reliable Tow, Modesto, California
15. Scenic Tow, Modesto, California
16. Stanislaus Tow, Modesto, California
17. State Tow, Modesto, California
18. Tow One, Modesto, California
19. Two Tiny Tows, Modesto, California
20. United Tow, Modesto, California
21. WS Towing, Modesto, California

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of April, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-146

A RESOLUTION APPROVING A PURCHASE AND SALE AGREEMENT WITH MINER JOAQUIN BUILDING CORPORATION FOR THE ACQUISITION OF A PORTION OF A PARCEL OF LAND LOCATED AT 4204 DALE ROAD NEAR THE DALE/PELANDALE INTERSECTION (APN 078-018-035), IN THE AMOUNT OF $78,500 FOR THE PELANDALE AVENUE WIDENING PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND ALL RELATED DOCUMENTS REQUIRED TO CLOSE ESCROW

WHEREAS, on August 12, 2008, the City Council, by Resolution No. 2008-476, approved proceeding with the Pelandale Avenue Widening project, and

WHEREAS, as part of the widening project, four additional vehicular traveled lanes will be added to the existing two-lane facility, and

WHEREAS, during construction it was discovered an additional 5,309 square feet of land in fee was required to extend Pelandale Avenue to its ultimate northerly boundary, and

WHEREAS, staff identified that 9,598 square feet of land is needed for a temporary construction easement, and

WHEREAS, staff identified the land (subject property) is owned by Miner Joaquin Building Company (APN 078-018-035), and

WHEREAS, the subject property was appraised at fair market value to determine just compensation, and

WHEREAS, an offer to acquire the subject property at fair market value was made to the landowner that the landowner accepted, and

WHEREAS, an Agreement is needed for the acquisition of the subject property, and

WHEREAS, it has been determined that this project is within the scope of the previously certified Environmental Impact Report with a State Clearinghouse No. 2003072085,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Purchase and Sale Agreement with Miner Joaquin Building Corporation, for a 5,309 square foot portion in fee and 9,598 square foot temporary construction easement of a parcel of land located at 4204 Dale Road near the Dale/Pelandale intersection (APN: 078-018-035), in the amount of $78,500 for the Pelandale Avenue Widening 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 7th day of April, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-147

A RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN CERTIFICATE OF ACCEPTANCE FORMS FOR THE GRANT DEED AND GRANT OF TEMPORARY CONSTRUCTION EASEMENT FOR THE ACQUISITION OF A PORTION OF A PARCEL OF LAND LOCATED AT 4204 DALE ROAD NEAR THE DALE/PELANDALE INTERSECTION, OWNED BY MINER JOAQUIN BUILDING CORPORATION, (APN 078-018-035) TO BE PURCHASED BY THE CITY OF MODESTO FOR THE PELANDALE AVENUE WIDENING PROJECT

WHEREAS, Section 27281 of the Government Code requires a public agency to accept real property prior to the recordation of a deed or adopt a resolution accepting real property, and

WHEREAS, the City of Modesto desires to acquire a 5,309 square foot fee portion and a 9,598 square foot temporary construction easement from a parcel of land located at 4204 Dale Road, owned by Miner Joaquin Building Corporation (APN 078-018-035), to be purchased by the City of Modesto for the Pelandale Avenue Widening 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 Certificate of Acceptance forms on behalf of the City of Modesto for one (1) Grant Deed and one (1) Grant of Temporary Construction Easement for the acquisition of a portion of a parcel of land located at 4204 Dale Road near the Dale/Pelandale intersection, owned by Miner Joaquin Building Corporation, (APN 078-018-035) to be purchased by the City of Modesto for the Pelandale Avenue Widening project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of April, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-148

A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT FOR CONSTRUCTION MANAGEMENT SERVICES WITH TRS CONSULTANTS, INC. FOR THE PROJECT TITLED, "STATE ROUTE 219 WIDENING FROM WEST OF DALE ROAD TO MORROW ROAD" TO COMPLY WITH FUNDING REQUIREMENTS

WHEREAS, Caltrans, the City of Modesto, and Stanislaus County have been planning for the widening of Kiernan Avenue (State Route 219), and

WHEREAS, the State Route 219 (SR 219) project is needed to provide a means of keeping pace with the City's and regional projected growth, and

WHEREAS, the project will include ultimate roadway improvements on the south leg of the SR 219 intersection, and the widening to four (4) lanes of Kiernan Avenue, east and west of the intersection, and

WHEREAS, on April 22, 2008, by Resolution Number 2008-242, City Council approved an agreement with TRS Consultants, Inc. to provide construction management services for the State Route 219 Widening from West of Dale Road to Morrow Road Project, and

WHEREAS, after the agreement was executed, it was determined that portions of the original agreement needed to be modified to comply with the Federal Grant funding requirements, and

WHEREAS, the "no cost" Amendment to Agreement adds and modifies the following areas: 1) Audit requirements and record retention, 2) Cost Principles discussing grant eligibility of costs, 3) Disadvantaged Business Enterprise requirements, and 4) Prevailing wages and associated reports,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to Agreement for Construction Management Services with TRS Consultants, Inc. for the project titled, "State Route 219 Widening from West of Dale Road to Morrow Road".

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of April, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-149

A RESOLUTION APPROVING A SHORT-LIST OF HYDROGEOLOGISTS TO BE USED ON A ROTATING, AS-NEEDED BASIS, CONSISTING OF THE FOLLOWING FIRMS, BROWN & CALDWELL, URS, AND WEST YOST ASSOCIATES, INC., TO PROVIDE DESIGN SERVICES FOR UNDERGROUND WATER WELL DESIGNS AND TO IDENTIFY METHODS OF WELLHEAD TREATMENT, FOR A PERIOD NOT TO EXCEED THREE YEARS

WHEREAS, various new wells are planned to be constructed in the current Capital Improvement Program for the Modesto water system, and

WHEREAS, water is typically found underground in Modesto at varying depths; however, the quantity and quality varies substantially, and

WHEREAS, a hydrogeologist is most qualified to determine which underground layers of soil will produce the cleanest and most abundant water, and

WHEREAS, existing wells that are off-line due to contamination can be brought on-line if the contaminated water layer is identified and blocked off in the design of the well casing, and

WHEREAS, a hydrogeologist is the most knowledgeable in deciding which underground layer to eliminate, and for determining the effect it will have on the wells final delivery capacity, and

WHEREAS, staff proposes compiling a short-list of hydrogeologists to be used on a rotating, as-needed basis, and

WHEREAS, the purpose of a short-list of hydrogeologists is to provide the City with the expertise and experience of successful water well drilling specifications and water well rehabilitation, and

WHEREAS, on October 8, 2008, in compliance with Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, a Request for Proposals was sent to 190 civil engineering firms including local firms, and

WHEREAS, the City received qualification statements from sixteen (16) firms, none of them local, and

WHEREAS, a selection committee, comprised of City staff, determined that three of the firms, Brown & Caldwell, URS, and West Yost Associates, Inc., were the most qualified based on reviewing their Statement of Qualifications and past work experience, and

WHEREAS, the staff Selection Committee recommends that all three firms be included on the list,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a short-list of hydrogeologists to be used on a rotating, as-needed basis, consisting of the following firms, Brown & Caldwell, URS, and West Yost Associates, Inc., to provide design services for underground water well designs and to identify methods of wellhead treatment, 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 7th day of April, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-150

RESOLUTION APPROVING THE CITY OF MODESTO'S SANITARY SEWER MANAGEMENT PLAN (SSMP)

WHEREAS, on May 2, 2006, the State Water Resources Control Board (Regional Board) initiated Order No. 2006-0003-DWQ, which implemented a new Waste Discharge Report (WDR) for Wastewater Collections which identified milestones that the City of Modesto must meet, and

WHEREAS, in order to comply with these new regulations, staff hired HDR Engineering, Inc. to perform a Gap Analysis, which identified the implementation plan and schedule for the new WDR, and

WHEREAS, on July 24, 2007, by Resolution No. 2007-460, the City Council approved the Wastewater Discharge Requirements (WDR) Gap Analysis, and

WHEREAS, the order further requires that the WDR-SSMP and Schedule be approved by City Council, and posted on the Regional Board's website by May 1, 2009, and

WHEREAS, the goal of the SSMP is to provide a plan and schedule to properly manage, operate, and maintain all parts of the sanitary sewer system and help reduce and prevent sanitary sewer overflows (SSOs), as well as mitigate any SSOs that do occur, and

WHEREAS, the SSMP has now been completed,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto that it hereby approves the City of Modesto's Sanitary Sewer Management Plan (SSMP).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of April, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-151

A RESOLUTION APPROVING AN AGREEMENT WITH RRM DESIGN GROUP FOR THE PREPARATION OF A PRELIMINARY DESIGN REPORT FOR AREA 2 STORM DRAIN CROSS CONNECTIONS REMOVAL FOR AN AMOUNT NOT TO EXCEED $229,720 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $22,972 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $252,692, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the scope of services to be provided under this agreement includes completing the 35% design for the Area 2 Storm Drain Cross Connections Removal project and summarizing the project scope and cost estimates in a Preliminary Design Report (PDR), and

WHEREAS, due to direct connections of storm drain runoff to the sanitary sewer system as outlined in the City's Wastewater Master Plan (WWMP), the purpose of this project is to address the current wastewater capacity issues, and

WHEREAS, in many areas of the City, there are no positive storm drain systems, and in some of theses areas, excess storm runoff drains directly into the sanitary sewer collections system by means of cross connections via street surface inlets (catch basins), and

WHEREAS, the WWMP identified a dramatic increase in the Peak Wet Weather Flow (PWWF) into the sanitary sewer collections system and ultimately into the Sutter Avenue Wastewater Treatment Plant following a storm event due to these cross connections, and

WHEREAS, the increase in flow from these cross connections results in surcharging and potential overflows in the sanitary sewer collections system, and could increase the costs of the downstream Capital Improvement Projects, and

WHEREAS, the WWMP designates 10 different wastewater collection tributary areas within the City and in its sphere of influence, and

WHEREAS, due to the near design completion of the Emerald Sewer Trunk Rehabilitation CIP (which primarily serves tributary Area 2), this PDR will only focus on Storm Drain Cross Connections in Area 2 which is located in the north-central section of the City as defined in the WWMP, and

WHEREAS, as a direct result of the storm drain cross connections, the Emerald Sewer Trunk currently experiences significant increases in PWWF after a storm event, and

WHEREAS, consequently, the Emerald Sewer Trunk Rehabilitation project and the Storm Drain Cross Connections Removal project are listed as two of the highest priorities in the WWMP for improving the sanitary sewer collections system, and

WHEREAS, removing the cross connections will mitigate existing surcharging and potential overflow conditions along the Emerald Trunk, and reduce the impacts of both street flooding and water quality, and

WHEREAS, the cost of this project's PDR is substantial due to its complexity, necessary upfront analysis, and data collection, and

WHEREAS, the scope of work includes removing approximately 20 cross connections throughout Area 2, and storm runoff from the cross connections' area of influence must then be diverted into new storm drain piping, and

WHEREAS, the PDR will present different options for storm water runoff disposal, and

WHEREAS, by conducting this considerable upfront analysis, the City can be assured this PDR presents the most efficient and cost effective design options possible, and

WHEREAS, because this project will be the first of its kind in terms of storm water runoff conveyance and storage, the City anticipates this project setting the benchmark for future storm drain cross connections removal and storm water runoff storage projects, and

WHEREAS, the Public Works Department anticipates moving ahead with other storm drain cross connections removal projects in other tributary areas in the near future, 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, in compliance with Administrative Directive 3.1, Selection Procedures for Professional Consultants who Provide Architectural and Engineering Services for Capital Projects, six (6) Request for Proposals (RFPs) were sent to local engineering design firms, and

WHEREAS, the proposals were submitted and subsequently reviewed by the Selection Committee which consisted of Public Works Engineering staff and an Environmental Compliance Inspector, and

WHEREAS, following the consultant interviews, the Selection Committee determined that RRM Design Group (RRM) was the most qualified consultant to prepare the PDR for the Area 2 Storm Drain Cross Connections Removal project, and

WHEREAS, the selection committee would like to possibly award future PDR's for storm drain cross connections removal to other top local consultants resulting from this proposal and interview process, pending the Public Work's Director's approval, and

WHEREAS, this would eliminate the need to resend Requests for Proposals (RFPs) to the same local firms for essentially the same type project, and would save time and funds for the City by not having to review new proposals and re-interview consultants, and

WHEREAS, using outside professional services will enable this project to be completed in a timely manner, and

WHEREAS, City staff recommends an agreement with RRM Design Group as the City does not have the staffing level or subject matter expertise to complete the Preliminary Design Report for the Area 2 Storm Drain Cross Connections Removal 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 for Preliminary Design Report for the Area 2 Storm Drain Cross Connections Removal with RRM Design Group for an amount not to exceed $229,720 for the identified scope of services, plus $22,972 for additional services (if needed), for a maximum total amount of $252,692 for the project titled, "Storm Drain Cross Connections Removal."

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of April, 2009, by Councilmember Keating, 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:	Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-152

A RESOLUTION AMENDING THE FISCAL YEAR 2008-2009 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FULLY FUND THE AGREEMENT FOR THE PRELIMINARY DESIGN REPORT FOR AREA 2 STORM DRAIN CROSS CONNECTIONS REMOVAL

WHEREAS, certain budgetary transactions are necessary in the amount of $211,877, in order to fully fund the Agreement for Preliminary Design Report for Area 2 Storm Drain Cross Connections Removal project including engineering / design / administration for staff support, and

WHEREAS, the Fiscal Year 2008-2009 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 2008-2009 Capital Improvement Program budget as shown in **Exhibit A**.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of April 2009, by Councilmember Keating, 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:	Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit A

FUND:

Wastewater Fund

EXPENDITURES:		Increase/(Decrease)
Storm Drain Cross Conn Removal	6210-430-B150-6040	($211,877)
Storm Drain Cross Conn Removal	6210-430-B150-6010	$211,877

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-153

A RESOLUTION APPROVING A LETTER OF AGREEMENT BETWEEN THE CITY OF MODESTO AND THE MODESTO POLICE OFFICERS' ASSOCIATION (MPOA)

WHEREAS, revenues in the City's General Fund are approximately $2 million short of the Council-adopted 7% reserve for FY 08-09, and

WHEREAS, the City projects significant revenue shortfalls for FY 09-10, and

WHEREAS, the City and MPOA have reached an agreement pertaining to furloughs for FY 08-09,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that an agreement is **attached** hereto as Letter of Agreement and is hereby approved: MPOA (**Attachment 1**). Said Letter of Agreement shall be on file in the City Clerk's Office following final execution by the parties.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)
APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Letter of Agreement

Between

City of Modesto

And

Modesto Police Officers' Association

The City of Modesto and Modesto Police Officers' Association (MPOA) have met and conferred and have agreed to the following regarding Furloughs:

Furloughs

The City and MPOA have agreed to implement thirty-two (32) hours of furloughs as follows:

1. Effective the pay period beginning March 31, 2009, and for a total of six (6) pay periods, each member shall have five and thirty-three hundredths (5.33) unpaid furlough hours deducted from his/her paycheck. This translates to five hours and twenty minutes per pay period (5:20) and is calculated by dividing thirty-two (32) hours by six (6) pay periods.
2. On the pay period ending April 13, 2009 the City shall create for each member a furlough bank of thirty-two (32) hours. Between March 31, 2009 and March 28, 2011, the Police Chief shall ensure that all members exhaust all thirty-two (32) hours in the furlough bank in a manner that does not result in an increase in overtime cost due to the vacancy left by the furloughed employee.
3. Furlough hours that have been deducted and banked but have not been taken as time off by March 28, 2011, shall be forfeited by the employee and shall not be cashed out.
4. Employees who have already taken voluntary unpaid furloughs during FY 08/09 may credit those voluntary furlough hours against this thirty-two (32) hour requirement. These employees will be required to take the remaining hours, if any, to total thirty-two (32) hours of voluntary and mandatory furlough time.
5. During this designated furlough deduction period through June 22, 2009, the City will continue to report each employee's full base pay rate to CalPERS each pay period. In addition, an employee's percentage-based special incentive pay (if any) will continue to be paid based on the employee's regular schedule and will not be impacted by the furlough deductions. Therefore, these percentage-based special pays will be fully reported to CalPERS.

Attachment 1

6. Employees who regularly work a reduced work schedule will have the thirty-two (32) hour furlough requirement reduced in proportion to their reduced work schedule.

7. The parties agree that the City has the sole discretion to assign overtime and that the City shall not allow members of this bargaining unit to require the City to backfill with overtime to cover furlough hours in order to avoid actual reduction of pay by any employee.

8. Before March 28, 2011, the Modesto Police Department will schedule non-statutory required training for at least one training day to allow MPOA represented employees an opportunity to use furlough hours in exchange for their mandatory attendance. At the discretion of the department, additional non-statutory required training days will be scheduled to allow MPOA represented employees an opportunity to use furlough hours in exchanges for their mandatory attendance.

9. The City agrees to maintain allocated and filled positions represented by this bargaining unit, as of March 24, 2009 and continuing to June 30, 2009. Vacancies due to voluntary separation/retirement or involuntary separation (disability/discipline) are to be filled at the department's discretion for the period of March 24, 2009 to June 30, 2009. This is a non-precedent setting provision.

For the City of Modesto:

For Modesto Police Officers' Association:

Attachment 1

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-154

RESOLUTION APPROVING (1) A PURCHASE AGREEMENT WITH ERIC S. SCHMIER, AN UNMARRIED MAN, AS TO AN UNDIVIDED 8.33% INTEREST; KENNETH J. SCHMIER, A MARRIED MAN, AS TO AN UNDIVIDED 8.33% INTEREST, AS TENANTS IN COMMON AND LIBITZKY HOLDINGS, L.P., A CALIFORNIA LIMITED PARTNERSHIP, AS TO AN UNDIVIDED 83.34% INTEREST (COLLECTIVELY HEREINAFTER REFERRED TO AS GRANTOR), FOR A 6.3-ACRE PARCEL IN FEE AND 2.33-ACRE PORTION FOR A TEMPORARY CONSTRUCTION EASEMENT OF A PARCEL LOCATED NEAR THE NORTHEAST CORNER OF THE TULLY ROAD/BANGS AVENUE INTERSECTION (APN 046-012-002), IN THE AMOUNT OF $997,117, AND (2) AN AGREEMENT TO GRANT REVOCABLE CONDITIONAL LICENSE OF EGRESS WITH GRANTOR, FOR THE DOWNSTREAM WATER SYSTEM IMPROVEMENTS, TIER 1-NORTH TANK PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE SAID AGREEMENTS, AND ALL RELATED DOCUMENTS REQUIRED TO CLOSE ESCROW

WHEREAS, on October 11, 2005, the City Council, by Resolution No. 2005-515, approved proceeding with the expansion of the City's water distribution system, and

WHEREAS, as part of the expansion, above-ground water storage tanks must be constructed to support increased water flow, and

WHEREAS, staff identified a 6.3-acre portion of a 38.4-acre parcel of land (hereinafter referred to as PROPERTY) owned by GRANTOR (APN 046-012-002) near the northeast corner of Bangs Avenue and Tully Road, and

WHEREAS, the City Council of the City of Modesto directed staff to enter into negotiations with GRANTOR to purchase the PROPERTY for the Downstream Water System Improvements, Tier 1–North Tank Project, and

WHEREAS, the PROPERTY needs to be acquired for this water tank project, and

WHEREAS, an Agreement is needed for the acquisition of the PROPERTY, and

WHEREAS, the sale of the PROPERTY has the potential of impacting access to and from the remainder parcel of GRANTOR, and

WHEREAS, a Phase I and Phase II environmental review has been completed on the PROPERTY which indicates no known contamination, and

WHEREAS, the City Council, on July 12, 2005, by Resolution No. 2005-378, certified the Subsequent Environmental Impact Report ("SEIR") (SCH No. 2004022013), and

WHEREAS, it has been determined that, pursuant to Sections 15168 (c) and 15182 of the California Environmental Quality Act Guidelines ("CEQA"), this project is within the scope of the SEIR for the Modesto Regional Water Treatment Plant Phase Two Expansion and the City of Modesto Downstream Water System Improvements, and

WHEREAS, the PROPERTY has been appraised and an offer to acquire the property rights at fair market value has been accepted by GRANTOR,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves (1) a Purchase Agreement with Eric S. Schmier, an unmarried man, as to an undivided 8.33% interest; Kenneth J. Schmier, a married man, as to an undivided 8.33% interest, as Tenants in Common and Libitzky Holdings, L.P., a California Limited Partnership, as to an undivided 83.34% interest, for a 6.3-acre parcel in fee and a 2.33-acre portion for a temporary construction easement located near the northeast corner of the Tully Road/Bangs Avenue intersection (APN 046-012-002), in the amount of $997,117, and (2) an Agreement to Grant Revocable Conditional License of Egress with Eric S. Schmier, an unmarried man, as to an undivided 8.33% interest; Kenneth J. Schmier, a married man, as to an undivided 8.33% interest, as Tenants in

Common and Libitzky Holdings, L.P., a California Limited Partnership, as to an undivided 83.34% interest, for the Downstream Water System Improvements, Tier 1-North Tank Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Agreements, 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 7th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-155

A RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN CERTIFICATE OF ACCEPTANCE FORMS FOR THE GRANT DEED AND GRANT FOR TEMPORARY CONSTRUCTION EASEMENT FOR THE ACQUISITION OF A PROPERTY LOCATED NEAR THE NORTHEAST CORNER OF THE TULLY ROAD/BANGS AVENUE INTERSECTION, OWNED BY ERIC S. SCHMIER, AN UNMARRIED MAN, AS TO AN UNDIVIDED 8.33% INTEREST; KENNETH J. SCHMIER, A MARRIED MAN, AS TO AN UNDIVIDED 8.33% INTEREST, AS TENANTS IN COMMON AND LIBITZKY HOLDINGS, L.P., A CALIFORNIA LIMITED PARTNERSHIP, AS TO AN UNDIVIDED 83.34% INTEREST (COLLECTIVELY HEREINAFTER REFERRED TO AS GRANTOR), (APN 046-012-002) TO BE PURCHASED BY THE CITY OF MODESTO FOR THE DOWNSTREAM WATER SYSTEM IMPROVEMENTS, TIER 1-NORTH TANK 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 6.3-acre portion of a 38.4-acre parcel of land located near the northeast corner of the Tully Road/Bangs Avenue intersection, owned by GRANTOR (APN 046-012-002), to be purchased by the City of Modesto for the Downstream Water System Improvements, Tier 1-North Tank 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 Certificate of Acceptance Forms for the Grant Deed and the Grant for Temporary Construction Easement for the acquisitions of a property located near the northeast corner of the Tully Road/Bangs Avenue intersection, owned by Eric S. Schmier, an unmarried man, as to an undivided 8.33% interest; Kenneth J. Schmier, a married man, as to an undivided 8.33% interest, as Tenants in Common and Libitzky Holdings, L.P., a California Limited Partnership, as to an undivided 83.34% interest, (APN 046-012-002) to be purchased by

the City of Modesto for the Downstream Water System Improvements, Tier 1-North Tank Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Stephanie Lopez
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-156

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE CITY OF MODESTO WATER QUALITY CONTROL LAB REMODEL PROJECT, ACCEPTING THE BID AND APPROVING A CONTRACT WITH HUFF CONSTRUCTION COMPANY, INC., IN THE AMOUNT OF $670,982, FOR THE CITY OF MODESTO WATER QUALITY CONTROL LAB REMODEL PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the City of Modesto Water Quality Control Lab Remodel project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the City of Modesto Water Quality Control Lab Remodel project were opened at 11:00 a.m. on February 17, 2009, and later tabulated by the Director of Public Works for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $670,982 received from Huff Construction Company, Inc. be accepted as the lowest responsible bid and the contract be awarded to Huff 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 City of Modesto Water Quality Control Lab Remodel project, accepts the bid of Huff Construction Company, Inc., in the amount of $670,982, and awards Huff Construction Company, Inc. the contract for the City of Modesto Water Quality Control Lab Remodel project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract with Huff Construction Company, Inc., in the amount of $670,982, for the City of Modesto Water Quality Control Lab Remodel project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of April, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-157

A RESOLUTION AMENDING THE FISCAL YEAR 2008-2009 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FULLY FUND THE CONSTRUCTION CONTRACT AND CONTINGENCY, CONSTRUCTION ADMINISTRATION AND EQUIPMENT ACQUISITION COSTS FOR THE CITY OF MODESTO WATER QUALITY CONTROL LAB REMODEL

WHEREAS, a budget adjustment in the amount of $385,062 is necessary to fully fund the contract with Huff Construction and contingency, construction administration and equipment acquisition costs for the City of Modesto Water Quality Control Lab Remodel project, and

WHEREAS, in order to fully fund construction, contingency, construction administration and equipment acquisition costs a transfer from Primary to Secondary account is required, and

WHEREAS, the Fiscal Year 2008-2009 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 2008-2009 Capital Improvement Program budget as shown in **Exhibit A**.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of April, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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

FUND:

Wastewater Fund

EXPENDITURES:		Increase/(Decrease)
Renewal/Replace Sutter TP-Primary	6210-480-B576-6052	($385,062)
WQC Lab Remodel-Secondary	6210-480-B584-6040	$264,192
WQC Lab Remodel-Secondary	6210-480-B584-6050	$55,969
WQC Lab Remodel-Secondary	6210-480-B584-6060	$23,677
WQC Lab Remodel-Secondary	6210-480-B584-6070	$41,224

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-158

A RESOLUTION AMENDING SECTIONS 1 AND 3 OF MODESTO CITY COUNCIL RESOLUTION NO. 2004-425 ENTITLED "A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT PREZONE, P-P-D(567)" (KAISER FOUNDATION HOSPITALS)

WHEREAS, the City Council by Ordinance No. 3356-C.S., which was introduced on August 10, 2004, and which became effective on October 8, 2004, granted approval of Planned Development Zone, P-D(567), to allow development of the Kaiser Medical Center on property located on the west side of Dale Road, north of Bangs Avenue and south of Health Care Way, and

WHEREAS, City Council Resolution No. 2004-425, adopted by the City Council on August 10, 2004, approved the development plan for Planned Development Zone, P-D(567), and contained the conditions of approval thereof, and

WHEREAS, a verified application for an amendment to Planned Development Zone, P-D(567), was filed by Kaiser Foundation Hospitals on March 14, 2008, to allow a farmers market at the Kaiser Medical Center on property located on the west side of Dale Road, north of Bangs Avenue and south of Health Care Way, and

WHEREAS, after a public hearing held on February 23, 2009, 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. 2009-12, that amending the Planned Development Zone, P-D(567), as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The Kaiser sponsored program of hosting farmers markets at their medical facilities will benefit the general public, as well as Kaiser employees and members, by promoting healthy food choices and improving the availability of healthy foods;

2. The proposed amendment to P-D(567) is consistent with the General Plan because, given Kaiser's health-related objectives for establishing this use at its facilities, the farmers market may be classified as an "ancillary use" to the medical and health services allowed within the Medical Campus Subarea of the Kiernan Business Park Specific Plan;

3. The Kiernan Business Park Specific Plan provides for the Community and Economic Development Director to allow other uses determined to be compatible with and of the same general character as those uses explicitly listed as permitted; and

4. The proposed Amendment to Planned Development, P-D(567), is generally within the scope of and adequately described by the Kaiser Medical Center/Cornerstone Business Park Project Final EIR, but required minor and insubstantial changes or additions to the EIR. A Third Addendum to the EIR was prepared and no further environmental documentation is necessary.

WHEREAS, said matter was set for a public hearing of the City Council to be held on April 7, 2009, 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 Kaiser Foundation Hospitals for an amendment to Planned Development Zone, P-D(567) should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2009-12 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3508-C.S. on the 7th day of April, 2009, amending Section 2 of Ordinance No. 3356-C.S. to allow a farmers market at the Kaiser Medical Center on property located on the west side of Dale Road, north of Bangs Avenue and south of Health Care Way,

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

1. All of the farmers market events allowed by this Amendment to P-D(567) shall be subject to the following limitations in location, size, and operation (items "a" through "g", below); however, subsequent minor changes to these limitations may be approved by the Community and Economic Development Director or designee:

    a. Farmers market events shall be held annually from June 1st to September 30th;

    b. The hours of operation for each farmers market event shall be from 7:00 AM to 4:00 PM, including all time necessary to set up and take down vendors booths, tables, tents, canopies, etc, and the time to clean up after the event;

    c. Farmers market events shall be allowed only in those locations designated on the approved plans;

    d. There shall be no more than two farmers market events per week;

    e. All farmers market events shall be limited to a maximum of twenty (20) vendors and an area approximately 120 feet by 120 feet (or 14,400 square feet);

    f. There shall be no cooking of food at farmers market events;

    g. There shall be no use of an amplified sound system, or music or entertainment of any kind.

2. Applicant shall ensure that operation of the farmers market complies with all applicable provisions of the 2007 California Building Code (CBC) for accessibility. The required minimum clearance shall be provided around any tables, booths, canopies, tents, or other obstructions placed upon sidewalk areas.

3. Applicant shall ensure compliance with all requirements of the City Fire Marshal, including the placement, number, and type of fire extinguishers to be available for use during each individual farmers market event.

4. Applicant shall submit a scaled drawing showing the layout of the farmers market, including location of all tables, booths, tents, canopies, and fire lanes, for approval by the City of Modesto Fire Department prior to the start of each event season, and prior to any change to this approved layout, and also to determine the permit requirements based upon the plan submitted.

5. Applicant shall ensure that all necessary permits, licenses, certificates, and other approvals are obtained prior to opening the farmers market; these may include (but may not be limited to) the following:

   a. Permit obtained from the City of Modesto Fire Department for tents or canopies in accordance California Fire Code §105.7.13, as follows: all tents that equal or exceed 200 square feet in area, either individually or collectively, and canopies that equal or exceed 400 square feet in area, either individually or collectively;

   b. Permit obtained from the City of Modesto Fire Department for any use of fueled equipment (such as a generator);

   c. Permit for temporary event signs, obtained from the City of Modesto, Neighborhood Preservation Unit (NPU);

   d. Approvals from other agencies as necessary.

6. Applicant shall ensure that during each individual farmers market event, temporary trash receptacles are provided within and in the vicinity of the designated area for the event and that all trash generated by the event is subsequently disposed of within the existing on-site trash enclosures.

7. Temporary event signage may be provided for each individual farmers market event in accordance with City of Modesto Municipal Code Sections 10-2.2114(b) and (f), except that it will not be limited to a total of twelve (12) times per year as specified in Section 2.2114(b)(1). In addition, temporary directional signage, in the form of A-frame or other free-standing signs, may be provided as appropriate and necessary to ensure effective on-site circulation and to avoid conflict with other hospital related traffic. All temporary event signage (including directional signs) must be located exclusively upon the Kaiser medical facility property where the event is held, and all such signage must be removed at the end of each individual event.

8. Applicant shall, at its 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 or reasonable attorneys fees and costs, by reason of, or rising out of, an amendment to P-D(567) to allow a farmers market at the Kaiser Medical Facility, located at 4601 Dale Road. The obligation to defend, indemnify and hold harmless shall include, but is not limited to, any actions to arbitrate, attack, review, set aside, void or annul on any grounds whatsoever an amendment to P-D(567) to allow a farmers market at the Kaiser Medical Facility, located at 4601 Dale Road. The City of Modesto shall promptly notify the applicant of any such claim, action, or proceeding and shall cooperate fully in the defense.

SECTION 3. CHANGES IN DEVELOPMENT PLAN. Any changes in the above approved development plan shall be made in accordance with the provisions of Section 10-2.1709 of the Modesto Municipal Code and in accordance with the provisions of Condition No. 1 as specified in Section 1 above.

SECTION 5. EFFECTIVE DATE. This resolution shall not become effective unless and until the ordinance amending Planned Development Zone, P-D(567), to allow a farmers market at the Kaiser Medical Center on property located on the west side of Dale Road, north of Bangs Avenue and south of Health Care Way, becomes effective.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of April, 2009, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-159

A RESOLUTION CALLING A SPECIAL ELECTION FOR THE PURPOSE OF SUBMITTING THE LEVY OF THE CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2007-2 (KIERNAN BUSINESS PARK WEST) SPECIAL TAXES TO THE QUALIFIED ELECTORS OF THE TERRITORY PROPOSED TO BE ANNEXED TO THE DISTRICT (ANNEXATION NO. 1)

WHEREAS, this Council did, on February 24, 2009, adopt its Resolution No. 2009-081 (the "Resolution of Intention to Annex") to indicate its intention to annex certain territory to the City's Community Facilities District No. 2007-2 (Kiernan Business Park West) (the "District") and authorize the levy of the District special taxes within the territory proposed to be annexed (the "Annexed Territory"), pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5 (commencing with Section 53311) of the California Government Code, commonly known as the "Mello-Roos Community Facilities Act of 1982" (the "Act"), and set a hearing thereon, and

WHEREAS, a notice of the hearing was duly published as required by law, as evidenced by the proof of publication on file with the City Clerk, and

WHEREAS, a map of the Annexed Territory, entitled "Annexation Map No. 1 of Community Facilities District No. 2007-2 (Kiernan Business Park West) of the City of Modesto, County of Stanislaus, State of California," was recorded on February 26, 2009, in the Office of the County Recorder of the County of Stanislaus, in Book 5 of Maps of Assessment and Community Facilities Districts, at page 1, and

WHEREAS, at the time and date set for the hearing (April 7, 2009) pursuant to the Resolution of Intention to Annex, this Council held the public hearing, as required by the Act, related to the proposed annexation and the levy of the District special taxes

within the Annexed Territory, and all other matters set forth in the Resolution of Intention to Annex, and

WHEREAS, at the hearing all persons desiring to be heard on all matters pertaining to the proposed annexation and the levy of the District special taxes within the Annexed Territory, and all other matters set forth in the Resolution of Intention to Annex, including all interested persons for or against the proposed annexation to the District and the levy of the District special taxes within the Annexed Territory were heard and considered, and a full and fair hearing was held thereon, and

WHEREAS, at the hearing evidence was presented to this Council on the matters before it, and this Council, at the conclusion of the hearing, was fully advised as to all matters related to the proposed annexation and the levy of the District special taxes within the Annexed Territory, and all other matters set forth in the Resolution of Intention to Annex, and

WHEREAS, written protests against the proposed annexation and the levy of the District special taxes within the Annexed Territory have not been filed with the City Clerk by 50 percent or more of the registered voters or six registered voters, whichever is more, residing within the District or residing within the Annexed Territory, or the owners of one-half or more of the land in the District, or in the Annexed Territory, and

WHEREAS, the Stanislaus County Registrar of Voters has certified there are less than 12 registered voters residing in the Annexed Territory; accordingly, the qualified electors are the landowners, and

WHEREAS, the City Clerk, being the Council's designated election official for purposes of the election herein called, has concurred in the election date herein set forth for the election,

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

SECTION 1. The foregoing recitals are true and correct.

SECTION 2. All prior proceedings taken with respect to the annexation of the Annexed Territory to the District, and the levy of the District special taxes within the Annexed Territory were valid and in conformity with the requirements of the Act. This determination shall be final and conclusive upon all persons.

SECTION 3. The proposed annexation of the Annexed Territory to the District and the levy of the District special taxes within the Annexed Territory have not been precluded by majority protest pursuant to Section 53339.5 of the Act.

SECTION 4. As stated in the Resolution of Intention to Annex, it is the intention of this Council, subject to the approval of the qualified electors of the Annexed Territory, to annex the Annexed Territory to the District and levy the District special taxes within the Annexed Territory. Upon such approval the Council will be authorized to levy the District special taxes within the Annexed Territory.

SECTION 5. A special election is hereby called at which the question of levying the District special taxes within the Annexed Territory shall be submitted to the qualified electors of the Annexed Territory. The election shall be held in accordance with and subject to the Act, all of the terms of which shall, unless waived as herein provided, be

applicable to such election. The ballot measure shall be substantially in the form **attached** hereto as **Exhibit A**.

SECTION 6. Fewer than 12 persons have been registered to vote within the Annexed Territory for each of the 90 days preceding the close of the hearing referenced herein. Accordingly, the vote shall be by the landowners of the Annexed Territory, and each such landowner shall have one vote for each acre or portion thereof that he or she owns within the Annexed Territory. The ballots shall be distributed by mail with return postage prepaid, or by personal service, to each landowner, all as provided in Section 53326 of the Act.

Since the City Clerk has received an appropriate waiver of time limits and other requirements pertaining to the conduct of the election by the owner of all of the land in the Annexed Territory (the "Landowner"), the election shall be held on the 7th day of April 2009. The election shall be conducted by the City Clerk in the manner required by this resolution, the Act and applicable laws.

The hour on such date when the ballots are required to be received in the office of the City Clerk is 5:30 p.m., Pacific Time, provided that if all qualified electors have voted prior to such time, the election shall be closed upon the receipt of all of the ballots.

SECTION 7. In accordance with Section 53327(b) of the Act, analysis and arguments, as required by Section 53327(a) of the Act are hereby waived, as the City Clerk has received the unanimous consent to such waivers from the Landowner.

SECTION 8. The publication of this Resolution as notice of the special election is hereby waived as the City Clerk has received the unanimous consent to such waiver from the Landowner.

SECTION 9. The Annexed Territory shall constitute a single election precinct for the purpose of holding the election.

SECTION 10. The City Clerk is hereby authorized to take any and all steps necessary for the holding of the election, and to perform and render all services and proceedings incidental to and in connection with the election.

SECTION 11. The City Clerk shall canvass the returns and certify the results of the election to this Council. If two-thirds or more of the votes cast are in favor of levying the District special taxes in the Annexed Territory, this Council may thereafter order the annexation of the Annexed Territory to the District and levy the District special taxes in the Annexed Territory in the amount and for the purposes specified in Resolution No. 2007-584 adopted by this Council on October 2, 2007 (the "Resolution of Formation").

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th of April, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD City Attorney

SAMPLE

OFFICIAL BALLOT

BALLOT NO. 1

CITY OF MODESTO
COMMUNITIES FACILITIES DISTRICT NO. 2007-2
(KIERNAN BUSINESS PARK WEST)

ANNEXATION NO. 1

SPECIAL TAX ELECTION

April 7, 2009

100% OF LAND IN TERRITORY PROPOSED TO BE ANNEXED TO DISTRICT
NUMBER OF VOTES ENTITLED TO BE CAST : 13
(VOTER MAY REMOVE AND RETAIN THIS STUB)

INSTRUCTIONS TO VOTERS

To vote, make a mark (x) in the voting area to the right of the word "YES" or "NO."

All distinguishing marks or erasures are forbidden and make the ballot void. If you wrongly mark, tear or deface this ballot, telephone the Office of the City Clerk of the City of Modesto for instructions as soon as possible at (209) 577-5398, Monday through Friday, between the hours of 9:00 a.m. and noon

MARK YOUR CHOICE IN THIS MANNER ONLY: ☒

MEASURE SUBMITTED TO VOTE OF VOTERS

Proposition A. Shall special taxes, with maximum rates, method of apportionment, and manner of collection as provided in Exhibit A to the City's Resolution No. 2007-584 entitled "A Resolution of the City Council of the City of Modesto of Formation, Establishing City of Modesto Community Facilities District No. 2007-2, Authorizing the Levy of Special Taxes within the District, Preliminarily Establishing an Appropriations Limit for the District, and Calling an Election for the Purpose of Submitting the Levy of the Special Tax and the Establishment of the Appropriations Limit to the Qualified Electors of the District (Kiernan Business Park West)" (the "Resolution of Formation"), adopted by the City Council on October 2, 2007, which is incorporated herein by this reference, be levied within the territory proposed to be annexed to City of Modesto Community Facilities District No. 2007-2 (Kiernan Business Park West) pursuant to the City Resolution No. 2009-081, entitled "A Resolution of Intention to Annex Territory to Community Facilities District No. 2007-2 (Kiernan Business Park West) and to authorize the levy of Special Taxes therein. (Annexation No. 1) (the "Resolution of Intention to Annex") adopted by the City Council of the City of Modesto on February 24, 2009, for the purposes set for in the Resolution of Formation.

YES ☐

NO ☐

BALLOT NO. 1

100% of land in territory proposed to be annexed to District
THIS BALLOT HAS A VALUE OF 13 VOTES

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-160

A RESOLUTION CANVASSING THE RESULTS OF THE APRIL 7, 2009, ELECTION HELD WITHIN THE TERRITORY PROPOSED TO BE ANNEXED TO CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2007-2 (KIERNAN BUSINESS PARK WEST), AND ORDERING ANNEXATION OF THE TERRITORY TO THE DISTRICT (ANNEXATION NO. 1)

WHEREAS, this Council is conducting proceedings pertaining to the annexation of certain territory to the City's Community Facilities District No. 2007-2 (Kiernan Business Park West) (the "District") and the levy of the District special taxes (the "District Special Taxes") within such territory, as described in its Resolution No. 2009-081, entitled "A Resolution of the City Council of the City of Modesto of Intention to Annex Territory to Community Facilities District No. 2007-2 (Kiernan Business Park West) and to Authorize the Levy of Special Taxes therein (Annexation No. 1)" adopted on February 24, 2009, pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5 (commencing with Section 53311) of the California Government Code, commonly known as the "Mello-Roos Community Facilities Act of 1982" (the "Act"), and

WHEREAS, the owners of all the property within the territory proposed to be annexed to the District waived those provisions related to the timing and conduct of the election referenced in Sections 5, 6, 7 and 8 of this Council's Resolution No. 2009-159, adopted on April 7, 2009, and, as a result, this Council called an election within the territory proposed to be annexed to the District (the "Election") for April 7, 2009, or as soon thereafter as practicable, relative to the foregoing, and

WHEREAS, on April 7, 2009, the Election was held, and

WHEREAS, the City Clerk has certified that at the Election the proposition of levying the District Special Taxes within the territory proposed to be annexed to the District was approved by more than two-thirds (2/3) of the votes cast at the Election,

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

SECTION 1. The Election was duly and validly conducted in conformity with all applicable laws pertaining thereto. It is hereby determined that the owner or owners of the territory proposed to be annexed are as set forth in the Certificate of City Clerk as to Distribution of Official Ballots, submitted to this Council and on file with the City Clerk.

SECTION 2. The ballot proposition presented to the qualified electors of the territory proposed to be annexed at the Election received at least two-thirds (2/3) of the votes cast at the Election. A copy of the City Clerk's certificate of election results is **attached**.

SECTION 3. Pursuant to Section 53339.8 of the Act, it is hereby ordered that the territory proposed to be annexed to the District pursuant to Resolution No. 2009-081 be annexed to and be a part of the District with full legal effect, and that the District Special Taxes be levied within the territory.

SECTION 4. The City Clerk is hereby directed to enter this resolution on the minutes of this City Council, which shall constitute the official declaration of the result of the Election.

SECTION 5. The City Clerk is further authorized and directed to record an amendment to the Notice of Special Tax Lien with the County Recorder of the County of Stanislaus, within 15 days from the date hereof, in accordance with the provisions of Sections 3114.5 and 3117.7 of the California Streets and Highways Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of April, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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 CITY CLERK

I, STEPHANIE LOPEZ, City Clerk of the City of Modesto, hereby certify that, pursuant to Resolution No. 2009-159, A Resolution of the City Council of the City of Modesto Calling an Election for the Purpose of Submitting the Levy of the City of Modesto Community Facilities District No. 2007-2 (Kiernan Business Park West) Special Taxes to the Qualified Electors of the Territory Proposed to be Annexed to the District (Annexation No. 1) adopted on February 24, 2009, by the City Council of the City of Modesto, I did conduct the Special Tax Election on April 7, 2009, and that the election was conducted by mail or in person at the City Hall of the City of Modesto.

I further certify that the following shows the full text of the measure submitted to the voters at the election and the full and true totals of all votes cast for and against the measure.

Proposition A. Shall special taxes, with maximum rates, method of apportionment, and manner of collection as provided in Exhibit A to the City's Resolution No. 2007-584 entitled "A Resolution of the City Council of the City of Modesto of Formation, Establishing City of Modesto Community Facilities District No. 2007-2, Authorizing the Levy of Special Taxes within the District, Preliminarily Establishing an Appropriations Limit for the District, and Calling an Election for the Purpose of Submitting the Levy of the Special Tax and the Establishment of the Appropriations Limit to the Qualified Electors of the District (Kiernan Business Park West)" (the "Resolution of Formation"), adopted by the City Council on October 2, 2007, which is incorporated herein by this reference, be levied within the territory proposed to be annexed to City of Modesto Community Facilities District No. 2007-2 (Kiernan Business Park West) pursuant to the City Resolution No. 2009-081, entitled "A Resolution of Intention to Annex Territory to Community Facilities District No. 2007-2 (Kiernan Business Park West) and to authorize the levy of Special Taxes therein. (Annexation No. 1) (the "Resolution of Intention to Annex") adopted by the City Council of the City of Modesto on February 24, 2009, for the purposes set for in the Resolution of Formation?

TOTAL VOTES CAST: YES 13 NO 0

Stephanie Lopez
City Clerk of the City of Modesto

Dated: April 7, 2009

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-161

A RESOLUTION DENYING THE APPEAL OF MR. BRADY POST, ON BEHALF OF MODESTO VIRTUAL, TO A DECISION BY THE CHIEF OF POLICE TO DENY AN APPLICATION FOR A DANCE HALL PERMIT, DBA MODESTO VIRTUAL, FOR A DANCE HALLPERMIT APPLICATION DENIAL BY THE POLICE CHIEF

WHEREAS, In August of 2008 the City Council enacted Ordinance number 3492 which created the Entertainment Commission and granted to the Commission the authority to accept, review and conduct all hearings for applications of the entertainment establishment permits, which also include dance permits, and

WHEREAS, as part of it's adoption of the ordinance, Council acknowledged that until such time as the Entertainment Commission were requested to apply, interviewed and appointed, there would be an interim period of time where existing dance permits, or applications for dance permits would have to continue to be handled by staff, and

WHEREAS, staff implemented this direction by issuing dance permits and extensions of dance permits until such time as the Entertainment Commission has been seated and could take over such applications, and

WHEREAS, The City Council has jurisdiction to hear this appeal pursuant to Modesto Municipal code section 1-4.01, which provides that any appeal of an administrative decision made by any official of the City can be heard by the City Council, and

WHEREAS, on February 28, 2009, the Police Chief sent a Letter of Intent to deny Brady Post, dba Modesto Virtual, a dance hall permit, and

WHEREAS, on March 17, 2009, Modesto Virtual submitted a Notice of Appeal, and

WHEREAS, said appeal was set for a duly noticed public hearing before the City Council at its regular meeting place in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at 5:30 p.m. on April 7, 2009, at which date and time said public hearing was held and evidence both oral and documentary by the appellant and the City staff was received and considered, and

WHEREAS, the Council heard testimony from various members of the Modesto Police Department regarding the numerous incidents that have occurred at the subject premises that required police response, and involved violations of State alcoholic beverage control laws and illegal substances usage.

WHEREAS, the Council also heard evidence about prior attempts by the Police Department staff to seek cooperation with the owner of Modesto Virtual; however, efforts by the owner have fallen short and have not addressed the problems set forth above.

WHEREAS, the evidence also demonstrates that there is insufficient barriers to prevent minors from interacting or entering upon the portions of the premises where alcoholic beverages are sold, and that fact further exacerbates the problem of trying to keep alcohol away from the minors.

WHEREAS, as a result of the inability to adequately address existing problems and illegal activity on the premises as it is currently being operated, it would be inappropriate at this time to allow further expansion of the operation to include dancing.

WHEREAS, after said public hearing the Council found and determined that said appeal should be denied, and the decision of the Chief of Police should be affirmed,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the appeal of Brady Post, on behalf of Modesto Virtual, to a decision by the Chief of Police to deny an application for a dance permit, is hereby affirmed.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of April, 2009, by Councilmember Hawn, who moved its adoption, which being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-162

RESOLUTION APPROVING REDUCTIONS TO MODESTO AREA EXPRESS (MAX) BUS SERVICE EFFECTIVE AUGUST 15, 2009, TO SAVE APPROXIMATELY $104,000 IN OPERATING EXPENSES DURING FY 2009/10

WHEREAS, approximately 52% of the revenues used to operate the City of Modesto's transit services are obtained under the State Transportation Development Act (TDA), and

WHEREAS, other major sources of operating revenues include Federal Transit Administration (FTA) funds (25% of total) and fare revenues (22%), and

WHEREAS, TDA funds are also the primary source of revenues used to meet the local match required for FTA capital funds, and

WHEREAS, TDA funds are composed of two different revenue programs, the Local Transportation Fund (LTF) and the State Transit Assistance (STA) Fund, and

WHEREAS, funding for these two sources has declined in the past two fiscal years due to the poor economy and the state budget crisis, and the state budget for FY 2009/10 does not include any funding for the STA program, and

WHEREAS, the recently enacted American Recovery and Reinvestment Act (ARRA) will help offset some of the lost funding, and

WHEREAS, because the duration and intensity of the economic downturn is not predictable, it is prudent to eliminate some bus service at the beginning of FY 2009/10 to preserve revenues for coming fiscal years, and

WHEREAS, Transit staff, in conjunction with the MAX operations contractor (MV Transit) has identified service reductions that would appear to impact very few

customers while saving approximately $119,000 annually in non-FTA funded operating expenses ($104,000 in FY 2009/10), and

WHEREAS, the proposed reductions include small changes to locations and start/end times, as well as eliminating infrequently used trips on certain routes, and

WHEREAS, service reductions would be made effective August 15, 2009 to allow staff and the operating contractor time to get all of the ground work done that is necessary for a schedule change,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves reductions to Modesto Area Express (MAX) bus service effective August 15, 2009, to save approximately $104,000 in operating expenses during FY 2009/10.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of April, 2009, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmember:	Hawn, Keating, Lopez, Marsh, Olsen, Mayor Ridenour
NOES:	Councilmember:	None
ABSENT:	Councilmember:	O'Bryant

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-163

A RESOLUTION APPROVING THE ADOPTION OF THE INTERNATIONAL CITY MANAGEMENT ASSOCIATION RETIREMENT CORPORATION (ICMA-RC) VANTAGECARE RETIREMENT HEALTH SAVINGS PLAN, EFFECTIVE APRIL 15, 2009, AND AUTHORIZING THE CITY MANAGER OR DESIGNEE TO EXECUTE NECESSARY DOCUMENTS

WHEREAS, the City of Modesto offers deferred compensation programs for its employees, and

WHEREAS, The International City Management Association Retirement Corporation (ICMA-RC) has worked with the City of Modesto to administer the City's current deferred compensation plans, and

WHEREAS, the ICMA-RC has established a retiree health savings plan titled the VantageCare Retirement Health Savings Plan, and

WHEREAS, the VantageCare Retirement Health Savings Plan allows governmental employers and employees to accumulate assets to pay for health insurance and out-of-pocket medical expenses in retirement or following separation from City service, and

WHEREAS, the City of Modesto desires to adopt the VantageCare Retirement Health Saving Plan for its employees, and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the adoption of the ICMA Retirement Corporation's VantageCare Retirement Health Savings Plan (Plan), Plan Number: 803063, for employees of the City of Modesto, a municipality in the State of California.

BE IT FURTHER RESOLVED that the assets of the Plan shall be held in trust for the exclusive benefit of Plan participants and their survivors, and the assets of the Plan

shall not be diverted to any other purpose prior to the satisfaction of all liabilities of the Plan. The City has executed the Declaration of Trust of the City of Modesto Integral Part Trust and designates the City of Modesto to serve as trustee. The City Manager shall act as trustee on behalf of the City of Modesto.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager, or designee, to execute all necessary documents for the implementation and administration of the Plan.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of April, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	O'Bryant

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-164

RESOLUTION APPROVING A CONSOLIDATION OF ALL TRAFFIC-RELATED FUNCTIONS IN THE PUBLIC WORKS AND COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENTS UNDER THE COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT

WHEREAS, to promote the City's vision/goal of all major development-related services under a one-stop shop, all traffic service program elements will be consolidated into the Community and Economic Development Department, as more fully described in **EXHIBIT 2, attached** hereto and incorporated herein by reference, and

WHEREAS, the consolidation of these program elements in the Community and Economic Development Department will result in the elimination of two positions within the Public Works Department as more fully described in **EXHIBIT 2, attached** hereto and incorporated herein by reference, and

WHEREAS, while the transition of reporting relationship shall be implemented with approval of this action, the budgetary actions related to this action shall be deferred to coincide with Fiscal Year 2009-10 budget adoption,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the consolidation of all traffic service program elements into the Community and Economic Development Department, as more fully described in **EXHIBIT 2, 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 7th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

GOAL:
Improve the development review process by consolidating all traffic service program elements under the umbrella of the Community and Economic Development Department (CEDD).

ACTION:
This action consolidates all traffic service program areas in Public Works to CEDD. This includes traffic operations (signals, signs, and markings), traffic engineering and transportation planning functions.

Layoffs related to this action will occur four weeks after Council action with transition of reporting relationships beginning at the same time. Budget related changes will coincide with adoption of the Fiscal Year 2009-10 budget.

FISCAL IMPACT:
The management structure within CEDD does not include a formal Deputy Director level position. Rather, the department is organized under four senior-level managers as shown in the attached organization chart. Thus, this reorganization will result in the layoff of two filled positions in the Public Works Department. Both of these positions are allocated in the General Fund. The savings derived from these position reductions are as follows:

Position	Org.	Savings 2008-09	Savings 2009-10
Sr. Admin. Office Asst. Conf.	4301	9,961	63,466
Deputy Director	4301	26,964	170,988
Total Position Savings*		**36,925**	**234,454**

* These savings are partially offset by the loss of service credit revenue to the General Fund from Gas Tax, Local Transportation Funds, and capital projects.

SERVICE LEVEL IMPACTS:

The proposed merger of the traffic services from Public Works and Community and Economic Development Department provides benefits to both the City organization and the community.

- It promotes the City's vision/goal of all major development related services under a one-stop shop. Traffic analysis is an integral part of each development plan review. It is imperative that such analysis be in sync with all other development review comments to provide clear direction to the customer. The one-stop shop will provide a better orchestrated plan review from beginning to end, resulting in a more expedient plan review process.
- The merger results in a more balanced perspective with regard to traffic engineering solutions applied to development projects. Historically, system-wide improvements often took precedent over individual project needs. This will provide a more balanced approach without sacrificing or diminishing standards.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-165

RESOLUTION AMENDING THE FISCAL YEAR 2008-09 GAS TAX OPERATING BUDGET TO REDUCE EXPENDITURES THROUGH THE ELIMINATION OF EIGHT ALLOCATED POSITIONS AND RELATED FLEET EQUIPMENT

WHEREAS, the Gas Tax Fund has insufficient revenues to continue operating at the current level of spending, and

WHEREAS, due to the loss of State Transit Assistance funding this year and the expected loss of this funding for next year, there is no expectation that the City will receive Local Transportation Funds for FY 2009-10, and

WHEREAS, in order to reduce expenditures it is necessary to eliminate eight (8) allocated positions in the Gas Tax Fund, as more fully described in **EXHIBIT 1**, **attached** hereto and incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the elimination of eight (8) allocated positions in the Gas Tax Fund, as described in **EXHIBIT 1 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 7th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

GOAL:
Bring Gas Tax Fund expenditures in line with current revenues and with projected revenues for Fiscal Year 2009-10.

ACTION:
This action eliminates eight (8) allocated positions in the Gas Tax Fund due to declining Gas Tax Fund revenues.

Layoffs will be effective four weeks from the date of Council action.

FISCAL IMPACT:
This action provides approximately $800,000 in benefit to the Gas Tax Fund through the expenditure reductions and the potential resale of equipment.

Position	Org.	Savings 2008-09	Savings 2009-10
Engineering Assistant II	1601	13,624	86,396
Electrician – Traffic/Buildings (2)	1612	22,424	142,200
Maintenance Worker II	4622	8,045	51,018
Maintenance Worker II (2)	4724	18,601	117,960
Equipment Operator (2)	4612	18,550	117,637
Total Position Savings		**81,244**	**515,211**

Fleet Savings	Org.	Estimated Resale Costs	Replacement Cost Savings*
Vehicle #40677	1612	27,848	18,857
Dump Truck #49703	4612	9,941	45,557
4-Ton Roller #50138	4612	2,546	18,923
Paver #79939	4612	4,200	0
Paver Trailer #89940	4612	2,235	9,115
Vehicle #40579	4622	10,618	23,564
Vehicle #40759	4724	9,499	8,234
Vehicle #40793	4724	5,687	7,805
Total Fleet Savings		**72,574**	**132,055**

SERVICE LEVEL IMPACTS:
Engineering Assistant II – This position is responsible for maintaining various maps including the speed limit map, traffic flow map, and truck flow map. This reduction will result in a reduced ability to establish radar enforceable speed limits and investigate traffic requests/complaints. The Disadvantaged Business Enterprises (DBE) Program and the drafting of detail pages in Standard Specifications will be reassigned. Activities required by Federal or State law will be reassigned to remaining staff. Other non-mandated activities will be delayed or eliminated.

Electricians (2) – These Electricians are responsible for electrical work on traffic signals and in city-owned facilities and buildings. Modesto's ratio is currently one Electrician for every 45.8 signals, which is below the recommended ratio of 40 to 1. This reduction will increase the City's ratio to one Electrician for every 57.3 signals and the response time for signal work would extend from the current

average of 30-45 minutes to as much as 90 minutes. It is anticipated that the focus will shift from preventive maintenance to a more reactive response model.

Maintenance Worker II in Traffic Operations – This position is one of five (5) employees responsible for maintaining traffic signs and pavement markings and for the collection of traffic volumes and speed data throughout the City. With this reduction, the replacement of damaged or non-functioning traffic controls will be delayed. Less current data may be available for responses to citizen concerns, and for the preparation of annual reports.

Maintenance Worker II in Curbs, Gutters, & Sidewalks (2) – The reduction of these positions and represents a 25% reduction in productivity in the Curb, Gutter, and Sidewalk program. This will lengthen the amount of time it takes for staff to respond to complaints about raised sidewalks, root damage and other hazards. The current backlog of repairs is estimated at five years.

Equipment Operator in Streets (2) – These positions are allocated to the Street Maintenance Program area. The loss of two positions represents a 12.5% reduction in productivity. This reduction will result in a priority being placed on potholing and paving, with less resources available to address alley repairs and island cleaning.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-166

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF JEANNIE MACDONALD FROM THE GOLF COURSES ADVISORY COMMITTEE

WHEREAS, JEANNIE MACDONALD was appointed a member of the Golf Courses Advisory Committee, on September 23, 2008, and

WHEREAS, JEANNIE MACDONALD has tendered her resignation from the aforementioned committee.

NOW, THEREFORE, BE IT RESOLVED that the resignation of JEANNIE MACDONALD from the Golf Courses Advisory Committee hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of this City, hereby expresses its sincere appreciation to JEANNIE MACDONALD 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 28th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Stephanie Lopez
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-167

RESOLUTION AUTHORIZING THE MODESTO FIRE DEPARTMENT TO PARTICIPATE IN THE PURCHASE OF RADIO COMMUNICATIONS EQUIPMENT THROUGH THE SALIDA FIRE PROTECTION DISTRICT AS ADMINISTRATOR AND HOST OF THE ASSISTANCE TO FIREFIGHTERS GRANT

WHEREAS, in March of 2008, Salida Fire Protection District, as the communications contractor for the Stanislaus Regional Fire Authority, applied for and received a Department of Homeland Security Assistance to Firefighters Grant valued at $1.4 million, and

WHEREAS, the grant is specifically for county-wide radio communications equipment and requires twenty percent (20%) matching funds from the participating agencies, and

WHEREAS, the communications equipment will provide for county-wide inter-operability, thus enhancing the County's regional infrastructure insuring the safety of firefighters when involved in mutual aid operations within the County, and

WHEREAS, the need for new radio equipment is related to the narrow banding and P25 digital requirements, and

WHEREAS, although these requirements go into effect, on a Federal level, in January of 2013, California has given local agencies until January of 2010 to switch to the new standard in order to communicate with the State and Cal Fire, and

WHEREAS, communication with Cal Fire is critical on wildland strike team assignments, and

WHEREAS, by participating in the Assistance to Firefighters Grant the City will be able to purchase the communication equipment necessary to meet the new standards at twenty percent (20%) of the actual value, and

WHEREAS, the Fire Department's current communication equipment ranges in age of up to 15 years, and

WHEREAS, with Council approval, the Fire Department intends to make two separate purchases of equipment over two fiscal years, and

WHEREAS, the first purchase would be made in May of 2009, at a cost of approximately $35,000, and

WHEREAS, the second purchase would be made in August of 2009, at a cost of approximately $20,000, and

WHEREAS, the twenty percent (20%) match funding would be paid directly to the Salida Fire Protection District, as the host agency of this grant,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Modesto Fire Department to participate in the purchase of radio communication equipment through the Salida Fire Protection District, as Administrator and host of the Assistance to Firefighters Grant.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-168

RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN THE MEMORANDUM OF UNDERSTANDING BETWEEN SALIDA FIRE DISTRICT, AS ADMINISTRATOR AND HOST OF THE ASSISTANCE TO FIREFIGHTERS GRANT, AND THE CITY OF MODESTO

WHEREAS, in March of 2008, the Salida Fire Protection District, as the communications contractor for the Stanislaus Regional Fire Authority, applied for and received a Department of Homeland Security Assistance to Firefighters Grant valued at $1.4 million, and

WHEREAS, the grant is specifically for county-wide radio communications equipment and requires twenty percent (20%) matching funds from the participating agencies, and

WHEREAS, the communications equipment will provide for county-wide inter-operability, thus enhancing the County's regional infrastructure insuring the safety of firefighters when involved in mutual aid operations within the County, and

WHEREAS, the need for new radio equipment is related to the narrow banding and P25 digital requirements, and

WHEREAS, although these requirements go into effect, on a Federal level, in January of 2013, California has given local agencies until January of 2010 to switch to the new standard in order to communicate with the State and Cal Fire, and

WHEREAS, communication with Cal Fire is critical on wildland strike team assignments, and

WHEREAS, by participating in the Assistance to Firefighters Grant the City will be able to purchase the communication equipment necessary to meet the new standards at twenty percent (20%) of the actual value, and

WHEREAS, the Fire Department's current communication equipment ranges in age of up to 15 years, and

WHEREAS, with Council approval, the Fire Department intends to split this purchase between two fiscal years, and

WHEREAS, the first purchase would be made in May of 2009, at a cost of approximately $35,000, and

WHEREAS, the second purchase would be made in August of 2009, at a cost of approximately $20,000, and

WHEREAS, the twenty percent (20%) match funding would be paid directly to Salida Fire Protection District, as the host agency of this grant,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizing the City Manager to sign the Memorandum of Understanding between the Salida Fire District, as Administrator and host of Assistance to Firefighters Grant and the City of Modesto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-169

RESOLUTION APPROVING AN APPLICATION IN THE AMOUNT OF $150,000 TO THE SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT FOR THE REMOVE II GRANT PROGRAM FOR THE CONSTRUCTION OF PHASE V OF THE VIRGINIA CORRIDOR CLASS I BIKE TRAIL

WHEREAS, the San Joaquin Valley Air Quality Control District (SJVAQCD") has made funding available through the REMOVE II Grant Program, which provides funding for the Class I bike trails/paths, and

WHEREAS, development of the Virginia Avenue Corridor Trail Project (the "Project") Class I bike/trail path is consistent with the SJAQCD's requirements for the Remove II Grant, and

WHEREAS, said procedures established by the SJVAQCD require the City Council to certify by resolution the approval of the application before submission of said application to the State, and

WHEREAS, if selected, the City of Modesto will enter into a contract with the SJVAQDC for the Project,

NOW THERFORE BE IT RESOLVED by the Council of the City of Modesto that the Council hereby:

1. Approves the filing of an application for $150,000 from the San Joaquin Valley Air Quality Control District through the Remove II Grant Program, and

2. Certifies that the application has or will have sufficient funds to operate and maintain the Project, and

3. Certifies that the applicant has reviewed, understands, and agrees to the General Provisions contained in the contract shown in the Procedural Guide, and

4. Authorizes the City Manager, or his designee, as agents to contract all negotiations, execute and submit all documents including, but not limited to, applications, agreements, payment requests and so on, which may be necessary for the completion of the Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-170

RESOLUTION APPROVING A CONTRACT WITH CALLANDER AND ASSOCIATES FOR $191,861 TO PROVIDE THE CITY OF MODESTO WITH CONSTRUCTION DOCUMENTS FOR PHASE VI OF THE VIRGINIA CORRIDOR PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL NECESSARY DOCUMENTS

WHEREAS, the City of Modesto has applied for, and received, a transportation grant from the State of California in the amount of $200,000 for the development of Phase VI of the Virginia Corridor, and

WHEREAS, these grant funds have been appropriated in the City's CIP budget in account 2300-310-A087-6010 for the Virginia Corridor, and

WHEREAS, Callander Associates have the required credentials to work on this project and have agreed to create the Construction Documents for Phase VI of the Virginia Corridor Project in the amount of $191,861,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a contract with Callander Associates in the amount of $191,861 to provide the City with Construction Documents for Phase VI of the Virginia Corridor Project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-171

RESOLUTION AMENDING THE FY 08-09 CAPITAL IMPROVEMENT BUDGET TO TRANSFER $200,000 IN REVENUE FROM FUND 2300-310-A087 - 3133 TO 2300-310- P366 - 3133 AND APPROPRIATING EXPENDITURES OF $200,000 TO 2300 310-P3666-6010 TO REFLECT FUNDING FOR THE VIRGINIA CORRIDOR PHASE VI

WHEREAS, the City has applied for, and received, a transportation grant from the State of California in the amount of $200,000 for the development of Phase VI on the Virginia Corridor, and

WHEREAS, these grant funds have been appropriated in the City's CIP budget in 2300-310-A087 for the Virginia Corridor, and

WHEREAS, in order to recognize the CIP revenue the revenue funds will be transferred from CIP fund 2300-310-A087-3133 to 2300 -310 P366-3133, which transfers funds to Phase VI of the Virginia Corridor from the Virginia Corridor Primary Account, and

WHEREAS, expenditures of $200,000 will be appropriated to CIP fund 2300-310-P366-6010

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approved amending the FY 08-09 Capital Improvement Budget to transfer $200,000 in Virginia Corridor Funds from 2300-310-A087-3133 to Virginia Corridor Phase VI funds 2300-310-P336-3133 and appropriate expenditures of $200,000 to 2300-310-P366-6010.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 28th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-172

A RESOLUTION REJECTING THE LATEST COUNTER PROPOSAL FROM COVANTA STANISLAUS FOR A CONTRACT EXTENSION UNDER NEW TERMS, AUTHORIZING THE CITY MANAGER TO EXECUTE A NOTICE OF EXTENSION OF THE CONTRACT WITH COVANTA STANISLAUS FOR THE OPERATION OF THE STANISLAUS RESOURCE RECOVERY FACILITY THROUGH 2016 PURSUANT TO SECTION 11.01 OF THE SERVICE AGREEMENT, AND AUTHORIZING STAFF TO CONTINUE NEGOTIATIONS WITH COVANTA STANISLAUS

WHEREAS, the County of Stanislaus and the City of Modesto have a Service Agreement with Covanta Stanislaus for the operation of the Waste-to-Energy Facility, and

WHEREAS, the operation of this facility, which burns garbage to produce electricity, is an essential component of the City's AB 939 plan, which required a reduction of disposal by 50% by the year 2000, and

WHEREAS, the facility accounts for 10% of the City's diversion from disposal, and

WHEREAS, since it began operating in 1989, the facility has burned over five million tons of garbage, keeping it out of landfills and preserving landfill space, and

WHEREAS, the facility produces enough green energy each day to power approximately 20,000 homes, and

WHEREAS, the Service Agreement between Covanta Stanislaus, the City of Modesto, and the County of Stanislaus will expire on December 31, 2009, and

WHEREAS, the decisions regarding the future of the facility are highly complex and subject to fluctuations in market pricing for power as well as regulatory changes, and

WHEREAS, because of these factors, the Waste-to-Energy Financing Agency and Executive Committee directed staff to put together a group of experts to assist in the end-of-contract decision making process, and

WHEREAS, with the assistance of these experts, staff has conducted several rounds of negotiations with Covanta, but has been unable to reach an acceptable agreement among the parties, and

WHEREAS, in order to invoke their rights under Section 11.01 of the Service Agreement to extend the Agreement through 2016 under the current terms and conditions, the City and County must notify Covanta of their intent to do so by June 30, 2009, and

WHEREAS, outside legal counsel to the project has prepared a Notice of Extension for the City and County to execute, and

WHEREAS, said Notice of Extension is shown as **Exhibit 1** to this resolution, and

WHEREAS, in order to proceed, the City Council and County Board of Supervisors must authorize the execution of this Notice of Extension,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby rejects the latest counter proposal from Covanta Stanislaus for a contract extension under new terms.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute a Notice of Extension of the Contract with Covanta Stanislaus for the operation of the Stanislaus Resource Recovery Facility through 2016 pursuant to Section 11.01 of the Service Agreement.

BE IT FURTHER RESOLVED that staff is hereby authorized to continue negotiations with Covanta on a new contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

NOTICE OF EXTENSION PURSUANT TO SECTION 11.01 OF THE SERVICE AGREEMENT

TO: Covanta Stanislaus, Inc.
(as successor to Ogden Martin Systems of Stanislaus, Inc.)
40 Lane Road
Fairfield, New Jersey 07004
Attention: President

REFERENCE IS HEREBY MADE to the Amended and Restated Agreement for the Supply and Acceptance of Solid Waste, dated as of June 1, 1986, as amended by Amendment No. 1 to the Agreement dated September 27, 1988, Amendment No. 2 to the Agreement dated May 17, 1990, Amendment No. 3 to the Agreement dated February 2, 2000 and Amendment No. 4 to the Agreement dated May 21, 2001 (collectively the "Service Agreement"), among Ogden Martin Systems of Stanislaus, Inc. as successor to the Stanislaus Waste Energy Company (the "Company"), the County of Stanislaus (the "County") and the City of Modesto (the "City").

Pursuant to Section 11.01(b) of the Service Agreement, the City and County, being the Contracting Communities, hereby give notice that they elect to extend the term of the Service Agreement to January 1, 2016.

Date: _____, 2009

APPROVED AS TO FORM:

_____
Stanislaus County Counsel

COUNTY OF STANISLAUS

By: _____
[_____], Chairman
of the Board of Supervisors

ATTEST:

By: _____
[_____]
Clerk of Board of Supervisors

APPROVED AS TO FORM:

CITY OF MODESTO

_____
Modesto City Attorney

By: _____
[_____], City Manager

ATTEST:

By: _____
[_____], City Clerk

ACKNOWLEDGED:

COVANTA STANISLAUS INC.

By: _____
[Name, Title]

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-173

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO CONDUCT A SOLE SOURCE PROCUREMENT OF TWENTY-FOUR (24) HADRONEX SMARTCOVER SYSTEMS, FOR A ONE-TIME PURCHASE OF $86,016 AND AN ANNUAL SERVICE FEE OF $14,400 FOR TWO YEARS FROM 3T EQUIPMENT COMPANY, SANTA ROSA, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE AGREEMENT FOR A TOTAL ESTIMATED COST OF $100,416

WHEREAS, on May 2, 2006, the State Water Resources Control Board (Regional Board) initiated Order No. 2006-0003-DWQ, which implemented a new Waste Discharge Requirement (WDR) for Wastewater Collections, and

WHEREAS, under Section D-Provisions of the WDR, it states, "the Enrollee shall take all feasible steps to eliminate Sanitary Sewer Overflows (SSOs)", and

WHEREAS, in an effort to reduce and/or eliminate the amount of SSOs in environmentally sensitive areas, such as along Dry Creek and the Tuolumne River, staff requested authorization to purchase twenty-four (24) Hadronex SmartCover Systems, and

WHEREAS, 3T Equipment Company is the sole and exclusive dealer for Hadronex SmartCover Systems in Northern California, and

WHEREAS, staff requested authorization for a sole source purchase because unit pricing is the same throughout the United States, and

WHEREAS, staff anticipates purchasing twelve (12) SmartCover Systems for immediate installation and another twelve (12) within the next two years, 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, "Where the Purchasing Agency's requirements can be met

solely by a single article or process." The sole source procurement of Hadronex SmartCover Systems for the Public Works Department, Water Quality Control Services Division, conforms to this section of the MMC,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to conduct a sole source procurement of twenty-four (24) Hadronex SmartCover Systems for a one-time purchase of $86,016, and an annual service fee of $14,400 for two years from 3T Equipment Company, Santa Rosa, CA.

BE IT FURTHER RESOLVED that the Council authorizes the Purchasing Manager to prepare a purchase agreement for the total estimated cost of $100,416.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Stephanie Lopez
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-174

A RESOLUTION APPROVING AN AGREEMENT WITH NORTHSTAR ENGINEERING GROUP, INC. FOR THE PREPARATION OF A PRELIMINARY DESIGN REPORT FOR THE CARPENTER ROAD RELIEF TRUNK PROJECT FOR AN AMOUNT NOT TO EXCEED $576,772.60 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $57,677.00 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $634,449.60, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the scope of services to be provided under this agreement includes completing 35% design services for the Carpenter Road Relief Trunk project and summarizing the project scope and cost estimates in a Preliminary Design Report (PDR), and

WHEREAS, the purpose of the project is to construct a sewer trunk line to provide capacity relief for the Emerald Sewer Trunk, and

WHEREAS, the Emerald Sewer Trunk currently handles approximately 13% of the City's total sewer flow and is in poor condition experiencing deterioration and capacity/overflow problems, and

WHEREAS, the 2007 City of Modesto Waste Water Master Plan (WWMP) identified the need for additional capacity for the Emerald Trunk in order to avoid potential sewer overflows, and

WHEREAS, the WWMP predicts that by constructing a relief sewer trunk, 60% of the Emerald Sewer Trunk's flow will be diverted to the new relief trunk which would eliminate the threat of sewer overflow in the Emerald Trunk, and

WHEREAS, the new trunk would also provide additional capacity for new development such as the Gateway Commons project, 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, in compliance with Administrative Directive 3.1, Selection Procedures for Professional Consultants who Provide Architectural and Engineering Services for Capital Projects, Request for Qualifications (RFQs) were sent to over one hundred consultants, and

WHEREAS, City staff received twenty-eight (28) Statements of Qualifications (SOQs) for underground utilities, and

WHEREAS, fifteen (15) firms were shortlisted for the Carpenter Road Relief Trunk project based on experience with projects with similar scope and magnitude, and

WHEREAS, in October 2008, staff issued Request for Proposals (RFPs) to the prequalified consultants and received seven (7) proposals, and

WHEREAS, the proposals were reviewed by a Selection Committee comprised of Public Works' Engineering Design staff and Mayor Ridenour, and

WHEREAS, following the consultant interviews, the Selection Committee determined that NorthStar Engineering Group, Inc. of Modesto is the most qualified consultant to prepare this PDR, and

WHEREAS, the selection committee would like to possibly award future PDR's for sanitary sewer design to other top local consultants resulting from this proposal and interview process, pending the Public Work's Director's approval, and

WHEREAS, this would eliminate the need to resend Requests for Proposals (RFPs) to the same local firms for essentially the same type project, and would save time and funds for the City by not having to review new proposals and re-interview consultants, and

WHEREAS, using outside professional services will enable this project to be completed in a timely manner, and

WHEREAS, City staff recommends an agreement with NorthStar Engineering Group, Inc. as the City does not have the staffing level or subject matter expertise to complete the Preliminary Design Report for the Carpenter Road Relief Trunk 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 for Preliminary Design Report for the Carpenter Road Relief Trunk with NorthStar Engineering Group, Inc. for an amount not to exceed $576,772.60 for the identified scope of services, plus $57,677.00 for additional services (if needed), for a maximum total amount of $634,449.60 for the project titled, "Carpenter Road Relief Trunk."

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-175

RESOLUTION AUTHORIZING THE SOLICITATION OF REQUEST FOR PROPOSALS (RFP) TO PROVIDE AN AIRPORT TERMINAL ADVERTISING AND DISPLAY SERVICE CONCESSION AT THE MODESTO CITY-COUNTY AIRPORT

WHEREAS, the Modesto Airport terminal currently has one paid advertising area consisting of a back-lighted advertising board with courtesy phone connections available for advertising businesses, and

WHEREAS, there are currently only six local advertisers, yielding approximately $2,400 per year in revenue, and

WHEREAS, experienced advertising concessionaires provide services that could improve marketing options at the terminal, and increase airport advertising revenues without financial risk to the airport, and

WHEREAS, advertising concessionaires typically provide all services needed to attract advertisers and improve passenger options in the airport terminal, are responsible for soliciting and contracting with advertisers, and handling all related communications and financial transactions, and

WHEREAS, the airport is generally paid a percentage of gross revenue collected from advertisers, and sometimes a flat fee for the advertising rights,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the solicitation of Request for Proposals (RFP) to provide an airport terminal advertising and display service concession 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 28th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-176

RESOLUTION APPROVING TRANSFER OF HANGAR #6 FROM MODESTO EXECUTIVE AIR CHARTER (MEAC) TO D.C. AIR, LLC

WHEREAS, by Resolution No. 2000-387, the City Council approved a lease agreement between Modesto Executive Air Charter (MEAC) and the City of Modesto for use of airport property to build a corporate aircraft hangar at Modesto City-County Airport, and

WHEREAS, the land was leased for a term of 35 years (September 1, 2000-August 30, 2035), and

WHEREAS, at the expiration of the 35-year lease, the land, along with buildings and any improvements made on the property, was to revert back to the City of Modesto, and

WHEREAS, MEAC has not been able to secure a major tenant for this property for the past several years, and

WHEREAS, D.C. Air, LLC, is proposing to purchase Hangar #6 and base a medium-large corporate jet at Modesto Airport,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the transfer of Hangar #6 from Modesto Executive Air Charter (MEAC) to D.C. Air, LLC.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmember:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmember:	None
ABSENT:	Councilmember:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-177

RESOLUTION EXTENDING THE GROUND LEASE ON HANGAR #6 CONTINGENT UPON THE SALE OF HANGAR #6 TO D.C. AIR, LLC

WHEREAS, by Resolution No. 2000-387, the City Council approved a lease agreement between Modesto Executive Air Charter (MEAC) and the City of Modesto for use of airport property to build a corporate aircraft hangar at Modesto City-County Airport, and

WHEREAS, the land was leased for a term of 35 years (September 1, 2000-August 30, 2035), and

WHEREAS, at the expiration of the 35-year lease, the land, along with buildings and any improvements made on the property, was to revert back to the City of Modesto, and

WHEREAS, MEAC has not been able to secure a major tenant for this property for the past several years, and

WHEREAS, D.C. Air, LLC, is proposing to purchase Hangar #6 and base a medium-large corporate jet at Modesto Airport, and

WHEREAS, D.C. Air, LLC is requesting a full 35-year lease term, which would extend the lease from 2009 to 2044, and

WHEREAS, the proposed new lease term extends approximately nine years past the term of the lease signed by MEAC in 2000, and

WHEREAS, extending the terms of the lease will cost the Airport nine years worth of revenue potential from this asset between years 2035-2044, and

WHEREAS, the County would receive aircraft possessory tax revenue from new aircraft brought in by the D.C. Air, LLC, and

WHEREAS, additional aircraft could also increase local aviation fuel sales and Air Traffic Control traffic counts.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the extension of the ground lease on Hangar #6 at Modesto City-County Airport contingent upon the sale of Hangar #6 to D.C. Air, LLC.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmember:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmember:	None
ABSENT:	Councilmember:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-178

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE 2009 SANITARY LIFT STATION REHABILITATION PROJECT, ACCEPTING THE BID, AND APPROVING A CONTRACT WITH BRC CONSTRUCTION, INC. IN THE AMOUNT OF $447,700, FOR THE 2009 SANITARY LIFT STATION REHABILITATION PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the 2009 Sanitary Lift Station Rehabilitation Project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the 2009 Sanitary Lift Station Rehabilitation Project were opened at 11:00 a.m. on March 17, 2009, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $447,700.00 received from BRC Construction, Inc. be accepted as the lowest responsible bid and the contract be awarded to BRC 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 2009 Sanitary Lift Station Rehabilitation Project, accepts the bid of BRC Construction, Inc. in the amount of $447,700.00, and awards BRC Construction, Inc. the contract for the 2009 Sanitary Lift Station Rehabilitation Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract with BRC Construction, Inc., in the amount of $447,700.00, for the 2009 Sanitary Lift Station Rehabilitation Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-179

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO WASTEWATER MASTER PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 2006052076): JEFFERSON LIFT STATION IMPROVEMENTS

WHEREAS, on May 27, 1997, the City Council, by Resolution No. 97-290 certified the Master Environmental Impact Report ("EIR") for the Modesto Wastewater Master Plan (SCH No. 2006052076), and

WHEREAS, the City of Modesto proposes to construct Jefferson Lift Station Improvements as identified on the adopted Wastewater Collection System Master Plan and in the Wastewater Master Plan Master EIR, and

WHEREAS, Section 15177 of the CEQA Guidelines, relating to reviewing subsequent projects within the scope of a Master EIR, states that the lead agency shall prepare an initial study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR, whether any new additional mitigation measures or alternatives will be required in conjunction with the project, and whether the subsequent project was described in the Master EIR as being within the scope of the project, and

WHEREAS, the City's Public Works Department by Environmental Assessment Initial Study EA/PW 2009-02 reviewed the proposed Jefferson Lift Station Improvements project to determine whether the project is within the scope of the project covered by the Wastewater Master Plan Master EIR, and made the determination that the proposed project will have no additional significant effect on the environment that was not identified in the Master EIR and, further, that no new or additional mitigation measures

or alternatives are required, and that therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines on February 17, 2009, 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 April 28, 2009, 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:

1. The type of Project under consideration is described in the Master EIR (MEIR).

2. All applicable policies, regulations, and mitigation measures identified in the MEIR have been applied to the project.

3. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR. It has been determined that the project was described in the MEIR and is within the scope of the MEIR (SCH No. 2006052076), which analyzed the potential impacts of build out of the Wastewater Master Plan.

4. Based on the Initial Study, the City of Modesto finds and determines:

    a. That the proposed subsequent project will have no additional significant effect that was not identified in the MEIR.
    b. That no new or additional mitigation measures or alternatives are required.

5. The Initial Study, Environmental Assessment No. EA/PW 2009-02, provides the substantial evidence to support findings 1 through 4, above.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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/PW 2009-02

City of Modesto

Finding of Conformance to Wastewater Master Plan Update Master EIR

Initial Study Environmental Checklist
PW No. 2009-02

For the proposed:

Jefferson Lift Station Improvements

Prepared by:
City of Modesto
Public Works Department
Capital Improvement Services Division

February, 2009

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: Jefferson Lift Station Improvements

B. Address or Location: corner of Jefferson St. and 8th St., Modesto, Stanislaus County, CA. Lat 37.64 N, Long 121.01 W

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): Redevelopment District

F. Current Zoning Classification(s): C-M

G. Surrounding Land Uses: the site is surrounded by light industrial uses including the City's Corporation Yard and Bus Maintenance facilities.

H. Project Description (Attach additional maps/support materials as needed for complete record):

The project consists of the rehabilitation and upgrade of the Jefferson Lift Station to replace pumps, valves, and piping, and to minimize confined space entries by removing elevator access. The dry pit pumps will be replaced with wet pit, slide rail submersible pumps. The project will increase pump capacity in conformance with capacity identified and planned for in the Wastewater Collection System Master Plan and associated MEIR, all within the confines of the existing wet pit within the lift station. All work will be within the existing developed area back of curb. Bollards will be installed to protect the facility. See Figure 1 for location map.

I. Other Public Agencies Whose Approval is Required: none

LOCATION MAP

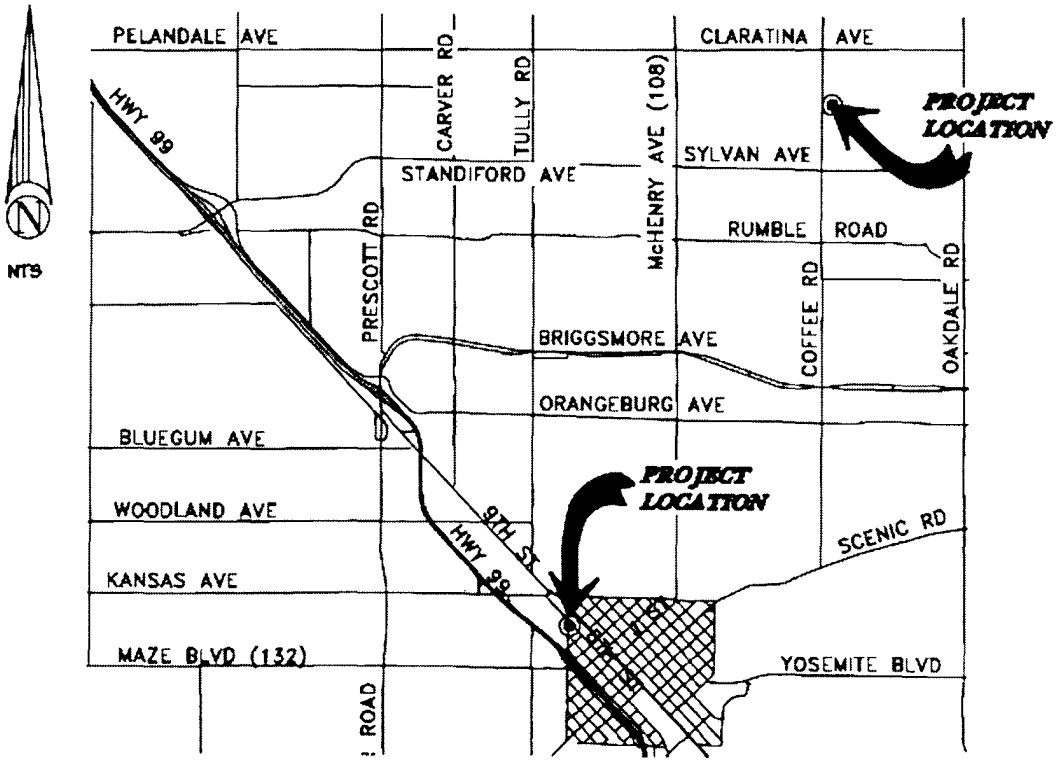

Figure 1.

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.

William S. Wong	Senior Civil Engineer	2/13/09
Project Manager	Title	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.	☒	☐
(2)	City policies which reduce, avoid or mitigate environmental effects, will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template.	☒	☐
(3)	Federal, State, Regional and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).	☒	☐
(4)	No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	☒	☐
(5)	The project will occur within the boundaries of the planning area as established in the Wastewater Master Plan.	☒	☐
(6)	Development within the project will comply with all mitigation measures identified in the Wastewater Master Plan Master EIR.	☒	☐

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed sections 1 through 20 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any no response must be discussed.

		YES	NO
(1)	Certification of the Wastewater Master Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.	☒	☐
(2)	This project was described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings.	☒	☐
(3)	No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.	☒	☐
(4)	No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available.	☒	☐

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 4.1 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.1 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.	☐	☒
(2)	The project would have a substantial adverse effect on a scenic vista or scenic resources.	☐	☒
(3)	The project would substantially degrade the existing visual character or quality of the project site and its surroundings.	☐	☒
(4)	The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area.	☐	☒

Discussion:

(1) The project is specifically provided for in the Modesto Wastewater Master Plan.

(2) The project is rehabilitation of a lift station. The project is entirely within an existing fenced and paved area.

(3) The project is rehabilitation of a lift station. The project is entirely within an existing fenced and paved area.

(4) No new lighting will be included with this project.

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. ☐ ☒

(2) The project will directly result in the development of land outside the Modesto Urban Area General Plan planning area boundaries. ☐ ☒

(3) The project will conflict with existing zoning for agricultural use, or a Williamson Act contract. ☐ ☒

(4) The project will involve other changes in the existing environment which, due to their location or nature, could result in additional conversion of Farmland to non-agricultural use. ☐ ☒

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 PM_{10} 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.	☐	☒
(2)	The project does not comply with the air quality policies of the Modesto Urban Area General Plan.	☐	☒
(4)	The project would expose sensitive receptors to substantial pollutant concentrations.	☐	☒
(5)	The project would create objectionable odors affecting a substantial number of people.	☐	☒

Discussion:

(1) 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. The project site is in a commercial-industrial area not adjacent to sensitive receptors.

(4) The project is rehabilitation of an existing lift station, and will not increase air pollutant emissions when in operation. The project site is in a commercial-industrial area not adjacent to substantial populations.

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.	☐	☒
(2)	Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species.	☐	☒
(3)	The project would conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	☐	☒

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 an already-developed 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.	☐	☒
(2)	The project would adversely affect a cultural (historical or archaeological) resource pursuant to § 15064.5.	☐	☒
(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.	☐	☒

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.	☐	☒
(2)	The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.	☐	☒

Discussion:

(1) 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.	☐	☒
(2)	The project does not comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.	☐	☒
(3)	The project contains a contaminated site not identified as of December 2006.	☐	☒
(4)	The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	☐	☒
(5)	The project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	☐	☒

Discussion:

(1) 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. No Hazardous materials will be stored in conjunction with the facility.

(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. No hazardous materials or emissions will be associated with this facility. The site is not listed on the Envirostor database.

(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.	☐	☒
(2)	The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	☐	☒
(3)	The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures.	☐	☒
(4)	The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	☒

Discussion:

(1) 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.	☐	☒
(2)	The project includes a substantive amendment to the Modesto Urban Area General Plan or any Specific Plan.	☐	☒
(3)	The project would physically divide an established community	☐	☒

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.	☐	☒
(2)	The project would result in the loss of availability of a known mineral resource, either locally important or of regional/statewide significance.	☐	☒

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:

No sensitive receptors are located in proximity to the project.

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.	☐	☒
(2)	The project will exceed the noise policies of the Modesto Urban Area General Plan.	☐	☒
(3)	The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☒
(4)	The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.	☐	☒

Discussion:

(1) 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 or periodic 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.	☐	☒

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.	☐	☒
(2)	Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).	☐	☒
(3)	Result in inadequate emergency access.	☐	☒

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.	☐	☒

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:

None.

Community Services Measures:

None.

Transportation/Traffic Measures:

None.

Utility and Service System Measures:

None.

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MODESTO CITY COUNCIL
RESOLUTION NO. 2009-180

A RESOLUTION AMENDING THE FISCAL YEAR 2008-2009 CAPITAL IMPROVEMENT PROGRAM BUDGET, IN ORDER TO FULLY FUND THE 2009 SANITARY LIFT STATION REHABILITATION PROJECT

WHEREAS, certain budgetary transactions are necessary in the amount of $282,057, in order to provide funding necessary for construction, contingencies, and construction administration for the 2009 Sanitary Lift Station Rehabilitation project, and

WHEREAS, the Fiscal Year 2008-2009 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 2008-2009 Capital Improvement Program budget as shown in **Exhibit A**.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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

FUND:

Wastewater Fund

EXPENDITURES:		Increase/(Decrease)
Chemical Coating Program	6210-430-B154-6010	($100,000)
Chemical Coating Program	6210-430-B154-6040	($164,000)
Jefferson Lift Station	6210-480-B437-6050	($638)
Coffee Lift Station	6210-480-B446-6050	($14,092)
Coffee Lift Station	6210-480-B446-6060	($3,327)
Jefferson Lift Station	6210-480-B437-6010	$3,729
Jefferson Lift Station	6210-480-B437-6040	$188,043
Jefferson Lift Station	6210-480-B437-6060	$15,293
Coffee Lift Station	6210-480-B446-6010	$3,914
Coffee Lift Station	6210-480-B446-6040	$71,078

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MODESTO CITY COUNCIL
RESOLUTION NO. 2009-181

A RESOLUTION ACCEPTING THE CALIFORNIA GANG REDUCTION, INTERVENTION AND PREVENTION (CALGRIP) GRANT, FROM THE GOVERNOR'S OFFICE OF EMERGENCY SERVICES (OES) FOR $383,423 TO COMBAT GANG VIOLENCE; AND AUTHORIZING THE CITY MANAGER, OR HIS AUTHORIZED DESIGNEE, TO EXECUTE THE NECESSARY AWARD DOCUMENTS

WHEREAS, on October 20, 2008, the Governor's Office of Emergency Services (OES) announced to all California cities that it was accepting Request for Proposals (RFP) for the California Gang Reduction, Intervention and Prevention (CalGRIP) program, and

WHEREAS, the purpose of the CalGRIP program is to assist selected cities with gang prevention, intervention, and suppression, and to promote re-entry, education, job training and skills development, and family and community services, and

WHEREAS, the City of Modesto Police Department submitted a proposal and on March 26, 2009, the City of Modesto was award $383,423 in CalGRIP funds, and

WHEREAS, in addition to funding received under the CalGRIP program, three California foundations have pooled $1,000,000 in order to provide technical assistance to five CalGRIP awarded cities, and

WHEREAS, the City of Modesto was one of five cities chosen to receive technical assistance, and

WHEREAS, the existing Gang Coordinator and Criminal Intelligence Analyst are making up the City of Modesto's required match of $383,423 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 $383,423 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 28th day of April, 2009, by Councilmember Marsh, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

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MODESTO CITY COUNCIL
RESOLUTION NO. 2009-182

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 October 20, 2008, the Governor's Office of Emergency Services (OES) announced to all California cities that it was accepting Request for Proposals (RFP) for the California Gang Reduction, Intervention and Prevention (CalGRIP) program, and

WHEREAS, the purpose of the CalGRIP program is to assist selected cities with gang prevention, intervention, and suppression, and to promote re-entry, education, job training and skills development, and family and community services, and

WHEREAS, the City of Modesto Police Department submitted a proposal and on March 26, 2009, the City of Modesto was award $383,423 in CalGRIP funds, and

WHEREAS, in addition to funding received under the CalGRIP program, three California foundations have pooled $1,000,000 in order to provide technical assistance to five CAGRIP awarded cities, and

WHEREAS, this additional assistance will promote the development of evidence-based strategies that reduce gang and youth gun violence through focused deterrence and employment, and

WHEREAS, the City of Modesto was one of five cities chosen to receive technical assistance, and

WHEREAS, the existing Gang Coordinator and Criminal Intelligence Analyst are making up the City of Modesto's required match of $383,423 for this grant, and

WHEREAS, the grant's two-year term will be from April 1, 2009 through March 31, 2011.

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 A1** and **A2**, 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 28th day of April, 2009, by Councilmember Marsh, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Attachment A1: Budget Adjustment for FY 08/09

Fund 0410:

	Expense:		
To:	0410-190-2911-0130	112,608	Overtime
	0410-190-2911-0209	13,410	Training/Conferences
	0410-190-2911-0260	62,400	Consultant service
	0410-190-2911-0235	5,000	Grant Audit
	0410-190-2911-0240	383,423	Intergov'tal Svcs (InKind)
	0410-190-2911-0255	7,669	Indirect Admin Costs
	0410-190-2911-0350	9,636	Computers
	0410-190-2911-0301	25,028	Office/Promotional
	0410-190-2911-0205	9,000	Printing
	0410-190-2911-0308	3,708	Camera, Scanner, etc
	0410-190-2911-5000	5,637	Laptop, license, etc
	Revenue:		
	0410-190-2911-3490	383,423	
	State Grant		
	0410-190-2911-3490	383,423	
	In Kind Revenue		

Attachment A2: Budget Adjustment for FY 09/10

Budget Transfer:

To:	0100-700-1942-9041	63,011
From:	0410-700-2911-7010	63,011

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-183

A RESOLUTION RATIFYING THE MEMORANDUM OF AGREEMENT BETWEEN THE COUNTY OF STANISLAUS AND THE CITY OF MODESTO FOR THE RECOVERY ACT: EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) FORMULA PROGRAM: LOCAL SOLICITATION AWARD AUTHORIZING A JOINT APPLICATION WITH THE COUNTY OF STANISLAUS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE GRANT APPLICATION UPON AWARD

WHEREAS, the allocation of Edward Byrne Memorial Justice Assistance Grants (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 receives 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 $669,436 and Stanislaus County is eligible to apply for $413,009, and

WHEREAS, the City of Modesto Police Department is a "disparate" allocation because the City is receiving one and one-half times (150 percent) more than a 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 $1,082,445, and

WHEREAS, recommended distribution of the 2009 JAG funds is as follows:

District Attorney	$170,309
Probation	$170,309
Sheriff	$ 60,000
Sheriff (Administrative Fee)	$ 32,474

Modesto Police Department $649,353

WHEREAS, the City of Modesto will use its allocation to fund three police officer positions for two years, which would otherwise be eliminated due to lack of funding, and the remaining funds will be utilized for technology upgrades, and

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 $20,083 to cover the reporting costs associated with the grant, and

WHEREAS, the administrative fee reduces the City's total projected grant award to $649,353 ($669,436 less the 3% administrative fee of $20,083), and

WHEREAS, the grant requires that a trust fund be established for fund deposits, and funds from any award under this Recovery Act solicitation cannot be commingled with funds from any other source, and

WHEREAS, the 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 eligibility deadlines required the City Manager to sign the Agreement prior to the opportunity for formal Council action, which the City Manager did based on general direction provided to the City Manager by the City Council to fully pursue all available federal funding available under the Recovery Act, and

WHEREAS, by taking this action, the Council ratifies and formally approves the Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby ratifing the Memorandum of Agreement between the County of Stanislaus and the City of Modesto for the Recovery Act: Edward Byrne Memorial Justice Assistance Grant (JAG) Formula Program: Local Solicitation Award 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 28th day of April, 2009, by Councilmember Marsh, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-184

RESOLUTION APPROVING A FIVE-YEAR AGREEMENT BETWEEN VALLEYCREST AND THE CITY OF MODESTO TO PROVIDE GOLF COURSE MAINTENANCE SERVICES AT THE CITY'S THREE MUNICIPAL GOLF COURSES, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City owns, operates and manages the Municipal Golf Course ("Municipal Course"), Dryden Park Municipal Golf Course ("Dryden Course"), and Creekside Municipal Golf Course ("Creekside Course"), and

WHEREAS, on December 11, 2003, the City Council, by Resolution No. 2003-647, approved a five-year Agreement between the City of Modesto and ValleyCrest to provide maintenance services at the City's three golf courses, and

WHEREAS, this contract is due to expire on June 30, 2009, and the City of Modesto wishes to renew the contract which includes ValleyCrest increase funding for capital projects at the golf courses, and

WHEREAS, on June 3, 2008, by Resolution No. 2008-324, the City Council authorized City staff to enter into negotiations with ValleyCrest ,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a five-year agreement between ValleyCrest and the City of Modesto to provide golf course maintenance services at the City's three municipal golf courses.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-185

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND FM GOLF, TO PROVIDE GOLF PROFESSIONAL SERVICES AT THE THREE MUNICIPAL GOLF COURSES, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto owns, operates and manages the Municipal Golf Course ("Municipal Course"), Dryden Park Municipal Golf Course ("Dryden Course"), Dryden Park Municipal Golf Course Driving Range ("Dryden Range"), Creekside Municipal Golf Course ("Creekside Course") and Creekside Municipal Golf Course Driving Range ("Creekside Range"), and

WHEREAS, on November 13, 2003, the City Council, by Resolution No. 2003-606, approved an agreement between the City of Modesto and FM Golf retaining FM Golf as golf course professional to provide golf professional services at Municipal Course, Dryden Course, Dryden Range, Creekside Course, and Creekside Range, and

WHEREAS, on November 13, 2003, the City Council, by Resolution No. 2003-606, retained FM Golf to provide food and beverage concession services at Municipal Course and Dryden Course Clubhouse, and

WHEREAS, on May 25, 2004, the City Council, by Resolution No. 2004-274, approved an amendment to the Agreement with FM Golf for FM Golf to provide food and beverage concession services at Creekside Municipal Golf Course, and

WHEREAS, on June 3, 2008, the City Council, by Resolution 2008-324, authorized staff to enter into negotiations with FM Golf and to exercise the City of Modesto's right to offer contract extensions to FM Golf as of June 20, 2008, and

WHEREAS, at its March 23, 2009 meeting, the Finance Committee

recommended exercising the City's extension option and entering into a five-year agreement with FM Golf,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves extending the Agreement with FM Golf to provide golf professional services at Municipal Course, Dryden Course, Dryden Range, Creekside Course, Creekside Range, and to provide concession services at Municipal Course, Dryden Course Clubhouse, and Creekside Clubhouse for a five-year period commencing on July 1, 2009, and terminating on June 30, 2014, with the option to extend the Agreement for two additional five-year periods.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-186

A RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN AND FILE, FOR AND ON BEHALF OF THE CITY OF MODESTO, A FINANCIAL ASSISTANCE APPLICATION, TO CERTIFY THAT THE CITY OF MODESTO HAS AND WILL COMPLY WITH ALL APPLICABLE STATE AND FEDERAL STATUTORY AND REGULATORY REQUIREMENTS, AND TO NEGOTIATE AND EXECUTE A FINANCIAL ASSISTANCE AGREEMENT FROM THE STATE WATER RESOURCES CONTROL BOARD, AND ANY AMENDMENTS OR CHANGE ORDERS THERETO, AND CERTIFY FINANCING AGREEMENT DISBURSEMENTS ON BEHALF OF THE CITY OF MODESTO

WHEREAS, the City of Modesto has the authority to construct, operate, and maintain the City of Modesto Wastewater Collection and Treatment System, and

WHEREAS, the City of Modesto desires to address water quality problems and to prevent pollution of the waters of the State,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes and directs the City Manager, or his designee, to sign and file, for and on behalf of the City of Modesto, a Financial Assistance Application for a financing agreement from the State Water Resources Control Board for the planning, design, and construction of the wastewater infrastructure projects.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it agrees and authorizes the City Manager, or his designee, to certify that the City of Modesto has and will comply with all applicable state and federal statutory and regulatory requirements related to any financing or financial assistance received from the State Water Resources Control Board.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to negotiate and execute a financial assistance agreement from the State Water

Resources Control Board and any amendments or change orders thereto, and certify financing agreement disbursements on behalf of the City.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-187

A RESOLUTION AUTHORIZING SUBMITTAL OF AN APPLICATION TO THE STATE OF CALIFORNIA DEPARTMENT OF PUBLIC HEALTH FOR FUNDING, AND AUTHORIZING AND DIRECTING THE CITY MANAGER, OR HIS DESIGNEE, TO CAUSE THE NECESSARY DATA TO BE PREPARED, AND APPLICATION TO BE SIGNED AND FILED WITH THE STATE OF CALIFORNIA DEPARTMENT OF PUBLIC HEALTH

WHEREAS, the City of Modesto has the authority to construct, operate, and maintain the City of Modesto Water System, and

WHEREAS, the City of Modesto desires to enhance the provision and protection of the drinking water supplied to the consumers of the City of Modesto Water System,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that, pursuant and subject to all of the terms and provisions of the American Recovery and Reinvestment Act (ARRA) and amendments thereto, it hereby authorized submittal of an application to the State of California Department of Public Health for funding.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized and directed to cause the necessary data to be prepared and application to be signed and filed with the State of California Department of Public Health.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-188

RESOLUTION APPROVING A PURCHASE AGREEMENT WITH BEARD LAND IMPROVEMENT COMPANY, FOR A 5.3-ACRE PARCEL LOCATED BETWEEN 415 AND 555 CODONI AVENUE (APN 009-018-054), IN THE AMOUNT OF $1,619,000 FOR THE DOWNSTREAM WATER SYSTEM IMPROVEMENTS, TIER 2-INDUSTRIAL TANK PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND ALL RELATED DOCUMENTS REQUIRED TO CLOSE ESCROW

WHEREAS, the City Council of the City of Modesto previously resolved to proceed with the expansion of the City's water distribution system, and

WHEREAS, as part of the expansion, aboveground water storage tanks must be constructed to support increased water flow, and

WHEREAS, a 4-million gallon water storage tank is required to be located in the South Modesto / Industrial area, and

WHEREAS, staff identified a 5.3-acre parcel of land (subject property) owned by Beard Land Improvement Company (APN 009-018-054) located between 415 and 555 Codoni Avenue, and

WHEREAS, the City Council of the City of Modesto directed staff to enter into negotiations with Beard Land Improvement Company to purchase the subject property for the Downstream Water System Improvements, Tier 2–Industrial Tank Project, and

WHEREAS, the subject property needs to be acquired for this water tank project, and

WHEREAS, an Agreement is needed for the acquisition of the subject property, and

WHEREAS, a Phase I environmental review has been completed on the subject property which indicates no known contamination, and

WHEREAS, the City Council, on July 12, 2005, by Resolution No. 2005-378, certified the Subsequent Environmental Impact Report ("SEIR") (SCH No. 2004022013), and

WHEREAS, it has been determined that, pursuant to Sections 15168 (c) and 15182 of the California Environmental Quality Act Guidelines ("CEQA"), this project is within the scope of the SEIR for the Modesto Regional Water Treatment Plant Phase Two Expansion and the City of Modesto Downstream Water System Improvements, and

WHEREAS, the property has been appraised and an offer to acquire the property rights at fair market value has been accepted by Beard Land Improvement Company,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the Purchase Agreement for the acquisition of 5.3 acres of the subject property located between 415 and 555 Codoni Avenue, owned by Beard Land Improvement Company (APN 009-018-054), to be purchased by the City of Modesto for the Downstream Water System Improvements, Tier 2–Industrial Tank Project in the amount of $1,619,000.

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 28th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-189

RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN AN ACCEPTANCE FORM FOR THE GRANT DEED FOR THE ACQUISITION OF THE PROPERTY LOCATED BETWEEN 415 AND 555 CODONI AVENUE, OWNED BY BEARD LAND IMPROVEMENT COMPANY (APN: 009-018-054) FOR THE DOWNSTREAM WATER SYSTEM IMPROVEMENTS, TIER 2-INDUSTRIAL TANK 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 5.3-acre parcel of land located between 415 and 555 Codoni Avenue, owned by Beard Land Improvement Company (APN 009-018-054), to be purchased by the City of Modesto for the Downstream Water System Improvements, Tier 2-Industrial Tank Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign an acceptance form on behalf of the City of Modesto for one (1) Grant Deed for the acquisition of a property located between 415 and 555 Codoni Avenue, owned by Beard Land Improvement Company (APN 009-018-054), to be purchased by the City of Modesto for the Downstream Water System Improvements, Tier 2-Industrial Tank Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-190

RESOLUTION AMENDING THE FISCAL YEAR 2008-2009 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FULLY FUND THE PURCHASE AGREEMENT FOR THE DOWNSTREAM WATER SYSTEM IMPROVEMENTS, TIER 2-INDUSTRIAL TANK PROJECT, INCLUDING THE PRELIMINARY COST ESTIMATE FOR CLOSING COSTS

WHEREAS, certain budgetary transactions are necessary in the amount of $129,052, in order to fully fund the Purchase Agreement with Beard Land Improvement Company, for a 5.3-acre parcel located between 415 and 555 Codoni Avenue (APN 009-018-054) for the Downstream Water System Improvements, Tier 2-Industrial Tank Project, including preliminary cost estimate for closing costs, and

WHEREAS, the Fiscal Year 2008-2009 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 2008-2009 Capital Improvement Program budget as shown in **Exhibit A**.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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

FUND:

Water Fund - CIP

EXPENDITURES:		Increase/(Decrease)
Downstream Improvements Industrial Tank/Pipelines	6180-430-W003-6010	($129,052)
Downstream Improvements Industrial Tank/Pipelines	6180-430-W003-6030	$129,052

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-191

A RESOLUTION AMENDING SECTION 2 OF MODESTO CITY COUNCIL RESOLUTION NO. 89-777 ENTITLED "A RESOLUTION GRANTING THE APPEAL FILED BY MID-VALLEY ENGINEERING, INC., RELATING TO CONDITION NO. 6 OF PLANNING COMMISSION RESOLUTION NO. 89-89, WHICH GRANTED A REVISED DEVELOPMENT PLAN AND NEW DEVELOPMENT SCHEDULE FOR PLANNED DEVELOPMENT ZONE P-D(53), AND AMENDING SECTIONS 1 AND 2 OF CITY COUNCIL RESOLUTION NO. 68-1148 ENTITLED "A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PREZONED PLANNED DEVELOPMENT ZONE, P-D(53)" AS AMENDED BY RESOLUTION NOS. 75-365, 75-442, 77-771 AND 81-477. (SYLVAN SQUARE SHOPPING CENTER)." (M & M STONE, INC.)

WHEREAS, the City Council by Ordinance No. 942-C.S., which was introduced on December 16, 1968, and which became effective on February 5, 1969, granted approval of Planned Development Zone, P-D(53), to allow development of a 10-acre neighborhood shopping center at the northeast corner of Coffee Road and Sylvan Avenue, and

WHEREAS, City Council Resolution No. 68-1148, adopted by the City Council on December 16, 1968, approved the development plan and schedule for Planned Development Zone, P-D(53), and contained the conditions of approval thereof for the development of said uses on the P-D(53) property, and

WHEREAS, City Council Ordinance No. 2046-C.S., which was introduced on June 9, 1981, and which became effective on July 9, 1981, amended the uses permitted in said P-D(53) Zone, and

WHEREAS, City Council Resolution No. 81-477, adopted on June 9, 1981, contained the conditions of approval for said P-D(53), including the uses permitted by Ordinance No. 2046-C.S., and

WHEREAS, on December 7, 1981, by Resolution 81-255, the Planning Commission recommended to the City Council an amendment to the P-D(53) to allow inclusion of a Family Amusement Machine Center, and

WHEREAS, on January 5, 1982, by Resolution 82-5, the City Council overruled the Planning commission and denied the requested amendment, citing "...proximity of the proposed Amusement Machine Center to Beyer High School", and

WHEREAS, on January 19, 1982, William Hughes, representing the applicants, requested a rehearing and the City Council by Resolution 82-136, waived the one year waiting period allowing for a reapplication, and

WHEREAS, on March 15, 1982, by Resolution No. 82-60, the Planning Commission recommended to the Council an amendment to P-D(53) to allow establishment of a Family Amusement Machine Center, as requested by the applicant, and

WHEREAS, City Council Resolution No. 82-310, adopted on April 13, 1982, overruled the recommendation to approve the amendment to P-D(53) to allow establishment of a Family Amusement Machine Center in conjunction with a skate shop in an existing building in P-D(53), due to the proximity of the proposed Amusement Machine Center to Beyer High School, and

WHEREAS, a verified application for an amendment to Planned Development Zone, P-D(53), was filed by M & M Stone, Inc. on behalf of Sylvan Square Shopping Center, LLC on December 31, 2008, to allow for a medical dialysis center to be included as a permitted use for property located at 3500 Coffee Road, and

WHEREAS, after a public hearing held on March 23, 2009, 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. 2009-13, that amending the Planned Development Zone, P-D(53), as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed amendment to P-D(53) will not increase the intensity of the current use of the property or development beyond that which is already allowed by the existing zoning of the site; and

2. The recommended conditions of approval will insure the proposed project will comply with all appropriate development standards and be compatible with surrounding land uses.

WHEREAS, said matter was set for a public hearing of the City Council to be held on April 28, 2009, 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 M & M Stone, Inc. for an amendment to Planned Development Zone, P-D(53) should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2009-13 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3509-C.S. on the 28th day of April, 2009, amending Section 2 of Ordinance No. 2046-C.S. to allow Neighborhood Commercial (C-1) uses and restaurants with bars on property located on the northeast corner of Coffee Road and Sylvan Avenue,

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

SECTION 1. AMENDMENT OF RESOLUTION NO. 89-777. Section 2 of Resolution No. 89-777 is hereby amended to read as follows:

"AMENDMENT OF RESOLUTION NO. 68-1148. Section 1 of Resolution No. 68-1148, as amended by Resolution Nos. 75-365, 75-442, 77-771, 81-477 and 89-777, is hereby amended to read as follows:

SECTION 1. DEVELOPMENT PLAN. The development plan for Planned Development Zone, P-D(53), is hereby approved subject to the following conditions:

1. All development shall conform to the site plan and parking survey titled "For Satellite HC, Space #21 – 3500 Coffee Road, Modesto, CA" as amended in red, stamped approved by the Planning Commission on March 23, 2009. The dialysis center will be allowed to operate utilizing 40 spaces.

2. Prior to issuance of a Building Permit, applicant shall submit a plan to upgrade the fire protection from being underground to above ground with a Double Check Detector Assembly with tamper switches and a metered by-pass in series with a double check valve per 2006 City of Modesto Standard Specifications 6.02 G-5, as acceptable to the City Engineer.

3. All Improvement plans shall be prepared, stamped and signed by a California Licensed Civil Engineer, acceptable to the City Engineer.

4. For all work within the public right-of-way, the owner/developer shall obtain an Encroachment Permit. Prior to issuance of this permit, all improvements plans shall be designed to Current City of Modesto Standard Specifications acceptable to the City Engineer.

5. Prior to the issuance of a Building Permit, all applicable Connection, Wastewater Capacity and Plan Check Fees shall be paid in full to the City of Modesto as acceptable to the City Engineer. Fees will be determined at the time of plan site design and/or plan approval.

6. All medical and pharmaceutical waste must be disposed of in accordance with all Health and Safety codes and not discharged to the wastewater system without prior written approval from the City. Any identified proprietary generating waste streams within the facility should be plumbed separate prior to a final single connection into the City's wastewater system to accommodate pretreatment requirements. Purpose is to provide suitable monitoring and capture of potential wastewater impact discharges.

7. Prior to issuance of a Building Permit, the developer shall contact MID to coordinate service requirements for individual metered electric service for the proposed tenant(s), as required by the utility companies and the City Engineer or designee.

8. 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.

9. All conditions of Resolution 89-777 not in conflict with this action herein shall remain in full force and effect.

SECTION 2. CHANGES IN DEVELOPMENT PLAN. Any changes in the above approved development plan shall be made in accordance with the provisions of Section 10-2.1709 of the Modesto Municipal Code and in accordance with the provisions of Condition No. 1 as specified in Section 1 above.

SECTION 3. EFFECTIVE DATE. This resolution shall not become effective unless and until the ordinance amending Planned Development Zone, P-D(53), to allow Neighborhood Commercial (C-1) uses and restaurants with bars on property located on the northeast corner of Coffee Road and Sylvan Avenue, becomes effective.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2009, by Councilmember Marsh, 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:	Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-192

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 2007072023): AMENDMENT TO PLANNED DEVELOPMENT ZONE, P-D(53), PROPERTY LOCATED ON THE NORTHEAST CORNER OF COFFEE ROAD AND SYLVAN AVENUE, 3500 COFFEE ROAD (M & M STONE, INC)

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, M & M Stone, Inc. on behalf of Sylvan Square Shopping Center, LLC, has proposed an amendment to Planned Development Zone, P-D(53) to allow all C-1 uses, including a medical dialysis center, property located on the northeast corner of Coffee Road and Sylvan Avenue, and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for a Master EIR, states that the lead agency shall prepare an Initial Study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the Master Environmental Impact Report and whether the subsequent project was described in the Master Environmental Impact Report as being within the scope of the project, and

WHEREAS, the City's Community & Economic Development Department by Environmental Assessment Initial Study EA/C&ED 2009-06 ("Initial Study") reviewed the proposed amendment to P-D(53) to determine whether the project is within the scope of the project covered by the Modesto Urban Area General Plan Master EIR ("Master EIR"), and concluded that the proposed project is within the scope of the Master EIR and will have no additional significant effect on the environment that was not identified in the

Master EIR, and further, that no new additional mitigation measures or alternatives are required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines, beginning on April 8, 2009, the City caused to be published a 20-day notice of the City's intent to make a finding that the proposed project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on April 28, 2009, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, and

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(53), a copy of which is **attached** hereto as **Exhibit "A"**, and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. That the proposed project is contemplated and described in the Master EIR (SCH No. 2007072023) as being within the scope of the Master EIR.

2. That the project will have no new significant effects on the environment not identified or examined in the Master EIR, and no new or additional mitigation measures are required.

3. That, as per Section 21157.1 of the Public Resources Code, no new environmental document or findings are required by the California Environmental Quality Act (CEQA).

4. That there are no specific features which are unique to the proposed project that require project specific mitigation measures. Accordingly, the certified mitigation measures identified in the Master EIR will be sufficient for this project.

5. That all feasible mitigation measures set forth in the Master EIR which are appropriate to the project shall be incorporated in the project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April 2009, by Councilmember Marsh, 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:	Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

Initial Study

EA/C&ED 2009-06

City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study Environmental Checklist C&ED No. 2009-06

For the proposed:

P-D(53) Planned Development Zone Amendment

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

March 11, 2009

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 **Planned Development PDA-08-005** 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: PDA – Sylvan Square Shopping Center

B. Address or Location: Northeast Corner of Coffee Road and Sylvan Avenue

C. Applicant: M & M Stone, Inc., 5757 Pacific Avenue, Suite 220, Stockton, CA 95207

D. City Contact Person: Rita S. Doscher

Project Manager: Rita S. Doscher
Department: Community & Economic Development
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(53)

G. Surrounding Land Uses:

North: Planned Development, P-D(418) with P-O Professional Office & P-D(347) Transitional R-2 Medium-Density Residential uses

South: P-D(461) C-1 Neighborhood Commercial & P-O Professional Office uses
East: R-2 Medium-Density Residential & P-O Professional Office uses
West: P-O Professional Office uses

H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR:

This is an application to amend the above existing Planned Development Zone, P-D (53) to allow the additional use of a medical dialysis center to Sylvan Square Shopping Center. The applicant's request is to allow the dialysis center to occupy 12,828 square feet of an existing 27,825 square foot vacant grocery store building. The remainder is to be occupied by another tenant. The proposed project will include only those uses affiliated with the dialysis center, which will include an approximate 3,700 square foot, 25 patient treatment room for dialysis treatment, and the remaining areas will be developed to support the clinic use (medical offices, home treatment training rooms, meeting rooms and low-hazard storage functions).

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 MEIR 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 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 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 MEIR were reviewed (section 5 below) and it was determined that the MEIR 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 MEIR. 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 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. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the MEIR. 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 MEIR. 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 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. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the MEIR. New or additional mitigation measures or alternatives are required as a result.

Original signed copy on file with CEDD

_____	Associate Planner	March 16, 2009
Project Manager	Title	Date

4. Within the Scope Analysis of this Document:

The MEIR permits 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 MEIR.	☒	☐
(2)	City policies which reduce, avoid, or mitigate environmental effects will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template.	☒	☐
(3)	Federal, State, regional, and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (that is, would not offer the same level of protection assumed under the MEIR).	☒	☐
(4)	No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	☒	☐
(5)	The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.	☒	☐
(6)	Development within the project will comply with all appropriate mitigation measures contained and enumerated in the General Plan MEIR.	☒	☐

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 MEIR 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 MEIR occurred less than five years prior to the filing of the application for this subsequent project.	☒	☐
(2)	This project is described in the MEIR and its approval will not affect the adequacy of the MEIR 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 MEIR was certified.	☒	☐
(b)	No new information, which was not known and could not have been known at the time the MEIR was certified as complete, has become available.	☒	☐
(c)	Policies remain in place that require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development.	☒	☐

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, discloses whether the proposed project may cause any project-specific significant effect on the environment that was not examined in the Final MEIR (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 MEIR.

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 MEIR.

The environmental impact analysis in the MEIR 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 MEIR. 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 MEIR identified the following significant and unavoidable traffic and circulation impacts:

Effect: Increased traffic will result in certain roadway segments operating at LOS D or worse.

Effect: The Substantial increase in traffic relative to the existing load and capacity of the street system will cause, violation, either individually or cumulatively, of an LOS standard established by the County CMP for designated roads and highways.

Effect: Creation of need for Capacity-enhancing modifications to existing facilities.

Effect: Increase in energy consumption associated with the operation of highway projects, rail improvements, and aviation facilities.

Effect: Severe contrast with existing neighborhood or area character caused by highway and transit projects.

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

Traffic and Circulation mitigation measures that are pertinent to this project are found on MEIR pages V-1-15 through V-1-21. All feasible measures appropriate to the project – including any new measures - will be incorporated into or made conditions of approval of this project and will be listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

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

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

		YES	NO
(1)	The project exceeds the MEIR's traffic generation assumptions for this site and City Engineering and Transportation staff has determined that the project would have additional project-specific effects that are not avoided or reduced by the MEIR's program of mitigation measures.	☐	☒
(2)	Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).	☐	☒
(3)	Result in inadequate emergency access.	☐	☒
(4)	Result in inadequate parking capacity.	☐	☒

Discussion:

(1) Engineering and Transportation Staff reviewed the proposed project and have the following comments:

A. The proposed project will not generate traffic impacts to the adjacent roadways in excess of what was assumed under the MEIR. No traffic study is required.

B. A site access study is not required for this project.

(2) The project will not substantially increase hazards due to a design feature (for example, sharp curves or dangerous intersections) or incompatible uses.

(3) Police and Fire staff have reviewed this proposal. The project will not result in, cause, or provide inadequate emergency access.

(4) The project has been evaluated for compliance to the City of Modesto Parking regulations. Based on studies submitted regarding required parking for dialysis centers and the percentage of patients who are unable to drive and/or seek alternate methods of transportation, the project will provide 40 parking spaces as opposed to the 64 parking spaces required on site in compliance with both City standards and the site is in compliance with the ADA (Americans with Disability Act) standards.

2. DEGRADATION OF AIR QUALITY

a. Significant Effects Identified in the Master EIR

The MEIR identified the following significant environmental impacts relative to air quality:

Effect: Projected traffic levels will result in increased ambient carbon monoxide (CO) levels in the project area. This is a significant and unavoidable impact.

Effect: Projected traffic levels will result in increased ROG and NOX levels in the project area. This is a significant and unavoidable impact.

These are also cumulative impacts on air quality.

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

Air Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-2-11 through V-2-18 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes AQ-17 from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-2.B of the MEIR provides analysis of Air Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) adopted CEQA Guidelines.	☐	☒
(2)	The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD.	☐	☒
(3)	The project does not comply with the air quality policies of the Modesto Urban Area General Plan.	☐	☒
(4)	The project would expose sensitive receptors to substantial pollutant concentrations.	☐	☒
(5)	The proposed project would create objectionable odors affecting a substantial number of people.	☐	☒

Discussion:

(1) The project was referred to the San Joaquin Valley Unified Air Pollution Control District who determined that the project would not exceed their Thresholds of Significance for these emissions.

(2) This project incorporates the best management practices for PM10 reduction established by the SJVUAPD (see mitigation measures above).

(3) Applicable General Plan Policies will be applied to the project; therefore, project-specific effects will be less than significant for this impact (see mitigation measures above).

(4) The 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 tenant improvement construction activities will be mitigated as called for by the MEIR with the mitigation measure listed above.

(5) The proposed project will not produce objectionable odors.

3. GENERATION OF NOISE

a. Significant Effects Identified in the Master EIR

The MEIR identified the following significant and unavoidable environmental impacts relative to noise:

Effect: Traffic noise levels for future conditions in the plan area have the potential to result in exceedances of the City's Noise Significance Standards (see Table 3-3 of the MEIR).

Effect: Noise level projections based on the traffic levels anticipated in the General Plan indicate that noise will exceed the City's General Plan and noise ordinance standards.

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

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-10 through V-3-15 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. and any new measures are listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes N-4, N-5, N-6, and N-9 from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-3.B of the MEIR provides analysis of noise impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	☐	☒
(2)	The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.	☐	☒
(3)	The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☒
(4)	The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.	☐	☒

Discussion:

(1) The City's noise policy is incorporated into conditions of approval as mitigations.

(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 this 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 MEIR identified the following significant environmental impacts relative to agricultural lands:

Effect: Development within the urbanized Baseline Developed Area and Redevelopment Area will have a less-than-significant impact on agricultural lands.

Effect: Conversion of agricultural land will occur as available developable land is occupied within the City. This is a significant and unavoidable impact.

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County. This is a significant and unavoidable cumulative impact.

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

Agricultural Land mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-4-7 and V-4-8 of the MEIR. All feasible measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The 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.

c. Project-Specific Effects

Section V-4.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project will directly result in the development of land outside the March 2003 planning area boundaries.	☐	☒
(3)	The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract.	☐	☒
(4)	The project will Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use.	☐	☒

Discussion:

(1) The project is consistent with the General Plan land use policies. It is a commercial development that is consistent in intensity to what was assumed by the General Plan.

(2) The project is located 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 located within the Baseline Developed Area and is completely surrounded by developed urban area.

5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES

a. Significant Effects Identified in the Master EIR

The MEIR identified the following significant environmental impacts relative to water supply:

Effect: Urban Area General Plan policies are established to limit groundwater extractions to the safe yield of the aquifer and thereby avoid aquifer over drafting. In addition, the UWMP requires that new urban development would proceed in conjunction with the availability of water supplies and distribution facilities. It is assumed that increased entitlement of surface water supplies such as a water transfer from another water purveyor would undergo independent environmental review pursuant to CEQA. This is a less-than-significant impact.

Effect: Development to the future projected City population would require expansion of the MRWTP to its full 60 mgd capacity, development of additional groundwater wells, and construction of additional water distribution and treatment facilities. Construction of some of the required facilities would most likely require site-specific environmental impact assessments to be conducted under CEQA. Consequently, the potential environmental impacts of the Urban Area General Plan are considered less than significant.

Effect: During drought years, despite available options, significant water shortages are forecast for the San Joaquin River basin by the year 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions. This is a significant and unavoidable cumulative impact.

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

Water Supply mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-5-7 through V-5-8 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

Mitigation measures appropriate to this project include a fair contribution to a new well. This mitigation measure is addressed by Conditions of Approval.

c. Project-Specific Effects

Section V-5.B of the MEIR provides analysis of Water Supply impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed.	☐	☒

Discussion:

(1) The proposed project is consistent with the City of Modesto Urban Area General Plan, because the project site is located within a Regional Commercial area which accommodates the type of development proposed, and it does not represent an increase in intensity of use or development beyond that which is already allowed by the existing zoning of the site.

(2) The project was referred to the Capital Services Division of the Engineering Department for comment. An in depth analysis was performed on the project to determine the needs of a project and the impact the new development will have to City services. City staff indicated that based on the analysis performed that there is sufficient capacity to serve the project, however, South Modesto has water supply and quality issues. Calculations that demonstrated adequate flows for the new use were submitted to the Engineering Department and found to be in conformance with City Standards.

6. INCREASED DEMAND FOR SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The MEIR 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 MEIR. The WMP MEIR 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 MEIR and do not need to be considered under this Initial Study. Refer to the WMP MEIR for details.

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

Sewer Service mitigation measure(s) pertinent to the project being analyzed in this Initial Study. are found on pages V-6-4 through V-6-7 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

There are no mitigation 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.	☐	☒
(2)	The project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	☐	☒

Discussion:

(1) The proposed project is consistent with the City of Modesto Urban Area General Plan, because the project site is located within a Commercial area which accommodates the type of development proposed, and it does not represent an increase in intensity of use or development beyond that which is already allowed by the existing zoning of the site.

(2) The project is within the scope of the Modesto Urban Area General Plan and will not generate demands beyond that already anticipated for the area. Land Development staff evaluated the project and determined that adequate pipe capacity and wastewater treatment plant capacity exists to serve the proposed development on P-D(53).

7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The MEIR identified the following significant environmental impacts relative to sensitive wildlife and plant habitat:

Effect: Although many sensitive species live in riparian habitats within the planning area, the policies of the plan will ensure that impacts of the Urban Area General Plan will be less than significant.

Effect: Requiring higher residential density than the suburban norm and a compact pattern of growth within the designated planning area to the year 2025 will minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

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

Wildlife and Plant Habitat mitigation measure pertinent to the project being analyzed in this Initial Study are found on pages V-7-19 through V-7-21. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

There are no mitigation measures applicable to this project regarding sensitive wildlife and plant habitat.

c. Project-Specific Effects

Section V-7.B of the MEIR provides analysis of Wildlife and Plant Habitat impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species.	☐	☒

(3) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. ☐ ☒

Discussion:

(1) The proposed project is consistent with the City of Modesto Urban Area General Plan, because the project site is located within a Commercial area which accommodates the type of development proposed, and it does not represent an increase in intensity of use or development beyond that which is already allowed by the existing zoning of the site.

(2) 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 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 MEIR identified the following significant environmental impacts relative to archaeological or historical sites:

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.

Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

Effect: The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. This would be a less-than-significant impact with the imposition of new mitigation measure Cultural-1.

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

Archaeological or Historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-13 and V-8-14 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes AH-9 and AH-10 from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-8.B of the MEIR provides analysis of Archaeological/Historical impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site.	☐	☒

Discussion:

(1) The proposed project is consistent with the City of Modesto Urban Area General Plan, because the project site is located within a Commercial area which accommodates the type of development proposed, and it does not represent an increase in intensity of use or development beyond that which is already allowed by the existing zoning of the site.

(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.

9. INCREASED DEMAND FOR STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The MEIR identified the following significant environmental impacts relative to storm drainage:

Effect: The potential impacts on storm water drainage that could occur from the project were qualitatively evaluated with respect to several factors including: extent of the projected increase in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions; regulatory criteria and guidelines; and professional judgment. Because the Urban Area General Plan includes policies that require new development in all three sections of the planning area to install approved drainage facilities, the potential impacts of the Urban Area General Plan on storm water drainage are considered less than significant.

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

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

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes SD-7 from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-9.B of the MEIR provides analysis of Storm Drainage impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite.	☐	☒
(3)	Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	☒

Discussion:

(1) The proposed project is consistent with the City of Modesto Urban Area General Plan, because the project site is located within a Commercial site which accommodates the type of development proposed, and it does not represent an increase in intensity of use or development beyond that which is already allowed by the existing zoning of the site.

(2) The project proposes to increase the rate or amount of impervious surface, but not beyond that which is anticipated by the MEIR, in that the land use and intensity is consistent with that which is assumed under the MEIR. 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 MEIR identified the following significant environmental impacts relative to flooding and water quality:

Effect: Increased runoff can accelerate soil erosion, stream channel scouring, and sedimentation of channels, and also increase pollutant transport to waterways. The potential impacts of the project on flooding are considered less than significant because the Urban Area General Plan Update includes policies to restrict development in the floodplain and therefore would avoid exposing persons and property to flood hazards. In addition, new development under the Urban Area General Plan is required to install storm water drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions.
Effect: The potential impacts of the project on surface-water quality are considered less than significant because the City policies and capital improvement projects for storm water drainage facilities would minimize discharges of urban pollutants to natural waterways. The City drainage program policies require new development to prepare drainage plans and implement urban runoff control measures; larger Specific Plan developments must have storm drainage systems designed to control pollutant runoff. The City's implementation policies for the municipal NPDES storm water permit require new development to implement an appropriate selection of permanent pollution control measures. Permanent erosion control measures such as seeding and planting vegetation for new cut-and-fill slopes, directing runoff through vegetation, or otherwise reducing the offsite discharge of particulates and sediment are the most effective method of controlling offsite discharges of urban pollutants.

Effect: The City's future development will contribute to cumulative water quality effects. EPA regulations for NPDES storm water permits and new proposed regulatory additions to the rules have become much more comprehensive in recent years and are being implemented to reduce pollutant runoff from both large- and small-scale activities. Implementation of NPDES-permitting programs throughout the county will reduce potential water-quality impacts to a less-than-significant level.

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

Flooding and Water Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-10-7 through V-10-10 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes FWQ-14 from the MEIR, and no new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

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

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	☐	☒

(3) The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures. ☐ ☒

(4) The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff. ☐ ☒

Discussion:

(1) The proposed project is consistent with the City of Modesto Urban Area General Plan, because the project site is located within a Commercial area which accommodates the type of development proposed, and it does not represent an increase in intensity of use or development beyond that which is already allowed by the existing zoning of the site.

(2) The proposed project would comply with the Federal Clean Water Act and the Porter Cologne Act requirements.

(3) No Mitigation Measures were called for, for the proposed project.

(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 MEIR 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.	☐	☒

Discussion:

(1) The proposed project is consistent with the City of Modesto Urban Area General Plan, because the project site is located within a Commercial area which accommodates the type of development proposed, and it does not represent an increase in intensity of use or development beyond that which is already allowed by the existing zoning of the site.

12. INCREASED DEMAND FOR SCHOOLS

a. Significant Effects Identified in the Master EIR

The MEIR 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 MEIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan.). As long as all anticipated subsequent projects apply these policies, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995). The proposed additional school policy will address the situation that would arise should AB 50 be repealed. It will authorize impact fees or other methods to finance additional school facilities.
The following schools mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See pages V-12-4 through V-12-7 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project:

Discussion:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-12.B of the MEIR provides analysis of Schools impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which provide that compliance results in less-than-significant impacts on schools.	☐	☒

Discussion:

(1) The proposed project is consistent with the City of Modesto Urban Area General Plan, because the project site is located within a Commercial area which accommodates the type of development proposed, and it does not represent an increase in intensity of use or development beyond that which is already allowed by the existing zoning of the site.

(2) The project was referred to Modesto City Schools who indicated no opposition to the project. The project includes no residential student-gathering component.

13. INCREASED DEMAND FOR POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The MEIR identified the following significant environmental impacts relative to police services:

Effect: The 1995 MEIR 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:

There are no mitigation measures 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.	☐	☒
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	☒

Discussion:

(1) The proposed project is consistent with the City of Modesto Urban Area General Plan, because the project site is located within a Commercial area which accommodates the type of development proposed, and it does not represent an increase in intensity of use or development beyond that which is already allowed by the existing zoning of the site.

(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 MEIR 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 MEIR 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 significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	☒

Discussion:

(1) The proposed project is consistent with the City of Modesto Urban Area General Plan, because the project site is located within a Commercial area which accommodates the type of development proposed, and it does not represent an increase in intensity of use or development beyond that which is already allowed by the existing zoning of the site.

(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 MEIR identified the following significant environmental impacts relative to solid waste:

Effect: It is projected that by 2025, the City will have generated and disposed of 1.5 million tons of solid waste in a landfill. Stanislaus County and its other cities are projected to generate another 3.3 million tons by 2025, for a total of 4.8 million tons requiring disposal. This total takes into consideration current diversion rates and use of the Stanislaus Resource Recovery Facility (SRRF) waste-to-energy facility for the majority of solid waste that is not source reduced, recycled, or composted. At the current loading rate, the Fink Road Landfill has a remaining life of 41 years. This landfill's remaining capacity of 6 million tons can accommodate the projected cumulative total of 4.8 million tons, and some of this total may go to other landfills. Since continued development under the Urban Area General Plan would not exceed

the existing landfill capacity, and a 129-acre future expansion of the landfill has been approved, the General Plan's potential impact on solid waste disposal is considered less than significant.

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

Solid Waste Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study. are found on pages V-15-5 and V-15-6 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.	☐	☒
(2)	The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity.	☐	☒

Discussion:

(1) The proposed project is consistent with the City of Modesto Urban Area General Plan, because the project site is located within a Commercial area which accommodates the type of development proposed, and it does not represent an increase in intensity of use or development beyond that which is already allowed by the existing zoning of the site.

(2) The proposed project was referred to the City's Solid Waste Division and the County for review, and there was no indication of a problem in serving the project.

16. GENERATION OF HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The MEIR 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 MEIR 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.	☐	☒
(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.	☐	☒
(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.	☐	☒
(4)	The proposed project would be constructed on a contaminated site not known to the State of California as of March 2008.	☐	☒

Discussion:

(1) The proposed project is consistent with the City of Modesto Urban Area General Plan, because the project site is located within a Commercial area which accommodates the type of development proposed, and it does not represent an increase in intensity of use or development beyond that which is already allowed by the existing zoning of the site.

(2) The project has been evaluated for compliance to the City of Modesto Wastewater Regulatory Compliance Division. All medical and pharmaceutical waste must be disposed of in accordance with all Health and Safety Codes and not discharged to the wastewater system without prior written approval from the City. Any identified proprietary generating waste streams within the facility should be plumbed separate prior to a final single connection into the City's wastewater system to accommodate pretreatment requirements. Purpose is to provide suitable monitoring and capture of potential wastewater impact discharges.

(3) 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.

(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 MEIR 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 MEIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Landslide and Seismic Activity Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-17-6 and V-17-7 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-17.B of the MEIR provides analysis of landslides and seismic impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.
Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.	☐	☒

Discussion:

(1) The proposed project is consistent with the City of Modesto Urban Area General Plan, because the project site is located within a Commercial area which accommodates the

type of development proposed, and it does not represent an increase in intensity of use or development beyond that which is already allowed by the existing zoning of the site.

(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 MEIR identified the following significant environmental impacts relative to energy:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less than significant.

Effect: Build out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kilowatt hours (kwh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation, which ensures that the project will not exceed local, state, and federal energy standards. The impact is less than significant.

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

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project:

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-18.B of the MEIR provides analysis of energy impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒

Discussion:

The proposed project is consistent with the City of Modesto Urban Area General Plan, because the project site is located within a Commercial area which accommodates the type of development

proposed, and it does not represent an increase in intensity of use or development beyond that which is already allowed by the existing zoning of the site.

19. EFFECTS ON VISUAL RESOURCES

a. Significant Effects Identified in the Master EIR

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

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.

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 MEIR. 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 MEIR 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 MEIR.

Significance Criteria: 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 proposed project is inconsistent with policies relating to visual resources in the Urban Area General Plan.	☐	☒
(2)	The proposed project would degrade views from riverside areas and parks to a greater degree than assumed in the Urban Area General Plan.	☐	☒
(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.	☐	☒

Discussion:

(1) The proposed project is not inconsistent with policies relating to visual resources in the Urban Area General Plan.

(2) The proposed project is not located within view from any riverside areas or parks.

(3) The proposed project is not located where it could affect the view of any riverside areas or parks from public roadways or nearby properties.

20. LAND USE AND PLANNING

a. Significant Effects Identified in the Master EIR

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

Effect: No residual significant direct or cumulative impacts were disclosed in the MEIR.

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 MEIR. 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 MEIR 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 MEIR.

Significance Criteria: 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 proposed project is inconsistent with land use and planning policies in the Urban Area General Plan.	☐	☒
(2)	The proposed project would physically divide an established community in a way not assumed in the Urban Area General Plan.	☐	☒
(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.	☐	☒
(4)	The proposed project conflicts with an applicable habitat conservation plan or natural community conservation plan.	☐	☒

Discussion:

(1) The retail center is consistent with the City of Modesto Urban Area General Plan, because the project site is located within a Commercial area which accommodates the type of development proposed, and it does not represent an increase in intensity of use or development beyond that which is already allowed by the existing zoning of the site.

(2) The project is tenant improvement development within an existing building, which will not divide an established community.

(3) The proposed project 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 project 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 MEIR 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 MEIR.

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 MEIR. 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 MEIR 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 MEIR.

Significance Criteria: 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 proposed project is inconsistent with policies relating to climate change in the Urban Area General Plan.	☐	☒
(2)	The proposed project would result in average automobile trip lengths or CO_2 emissions higher than those assumed in the MEIR.	☐	☒
(3)	The proposed project would conflict with the Sustainable Communities Strategy that the Air Resources Board has agreed will achieve the goals of AB 32.	☐	☒

Discussion:

(1) The proposed project is not inconsistent with policies relating to climate change in the Urban Area General Plan.

(2) The proposed project would not result in average automobile trip lengths or CO_2 emissions higher than those assumed in the MEIR.

(3) The proposed project would not conflict with the Sustainable Communities Strategy that the Air Resources Board has agreed will achieve the goals of AB 32.

V. MITIGATION MEASURES APPLIED TO THE PROJECT

If the Initial Study results in a determination that a Finding of Conformance can be adopted for the proposed project, Section A below applies. If the Initial Study results in a determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration/EIR must be prepared for the project, 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 MEIR appropriate to the project shall be incorporated into the project. The following adopted General Plan Policies and MEIR Mitigation Measures shall be made part of the project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan:

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

Traffic and Circulation:

N/A

Degradation of Air Quality:

N/A

Generation of Noise:

1. The City's Noise Ordinance (Modesto Municipal Code Section 4-9.101) prohibits "loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine." Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

2. The Noise Ordinance prohibits also the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (or before 9:00 a.m. or after 9:00 p.m. on Saturdays and Sundays and State or Federal holidays):

    a. A hammer, or any other device or implement used to pound or strike an object.

    b. An impact wrench, or other tool or equipment powered by compressed air.

    c. A hand-powered saw.

d. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.

e. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.

f. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to tamper, pneumatic hammer, pavement breaker, or compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, hot kettle pump, and concrete truck.

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.

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

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 MEIR for all applicable categories in this Initial Study. The following additional project-specific mitigation measures are necessary to reduce the identified new significant effect: ***none***.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-193

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 2007072023): WIRELESS TELECOMMUNICATION FACILITIES ORDINANCE (INTIATED BY 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, the City of Modesto has initiated the proposed Wireless Telecommunication Facilities Ordinance, and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for a Master EIR, states that the lead agency shall prepare an Initial Study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the master environmental impact report and whether the subsequent project was described in the master environmental impact report as being within the scope of the project, and

WHEREAS, the City's Community & Economic Development Department by Environmental Assessment Initial Study EA/C&ED 2009-11 ("Initial Study") reviewed the proposed Wireless Telecommunication Facilities Ordinance to determine whether the project is within the scope of the project covered by the Modesto Urban Area General Plan Master EIR ("Master EIR"), and concluded that the proposed project is within the scope of the Master EIR and will have no additional significant effect on the environment that was not identified in the Master EIR, and further, that no new additional mitigation

measures or alternatives are required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines beginning on April 8, 2009, the City caused to be published a 20-day notice of the City's intent to make a finding that the proposed project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on April 28, 2009, 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 Wireless Telecommunication Facilities Ordinance, a copy of which is **attached** hereto as **Exhibit "A"**, and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. That the proposed project is contemplated and described in the Master EIR (SCH No. 2007072023) as being within the scope of the Master EIR.

2. That the project will have no new significant effects on the environment not identified or examined in the Master EIR, and no new or additional mitigation measures are required.

3. That, as per Section 21157.1 of the Public Resources Code, no new environmental document or findings are required by the California Environmental Quality Act (CEQA).

4. That there are no specific features which are unique to the proposed project that require project specific mitigation measures. Accordingly, the certified mitigation measures identified in the Master EIR will be sufficient for this project.

5. That all feasible mitigation measures set forth in the Master EIR which are appropriate to the project shall be incorporated in the project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of April, 2009, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

Initial Study

EA/C&ED 2009-11

City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study Environmental Checklist
C&ED No. 2009-11

For the proposed:

Wireless Telecommunication Facilities Ordinance
CODE-09-001

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

April 6, 2009

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 (MEIR). This Initial Study Environmental Checklist ("Initial Study") is used in determining whether Wireless Telecommunication Facilities Ordinance, CODE-09-009, is "within the scope" of the project analyzed in the Modesto Urban Area General Plan MEIR (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 MEIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the MEIR; 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 MEIR. (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: Wireless Telecommunication Facilities Ordinance

B. Address or Location: City of Modesto

C. Applicant: City of Modesto, 1010 Tenth Street, Modesto, CA 95353

D. City Contact Person: Paul Liu, Senior Planner

Project Manager: Paul Liu
Department: Community and Economic Development Department
Phone Number: 209 577 5282
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):

Over the past few years, the City of Modesto has reviewed multiple proposals for wireless telecommunication (telecom) facilities. The City of Modesto does not currently have specific standards addressing telecom facilities and the City review has been based on height requirements in the Zoning Ordinance. The review of telecom facilities by the City has been without the benefit of any adopted standards. The proposed Telecom Ordinance provides specific provisions and standards for telecom facilities within the City of Modesto. The ordinance proposes the addition of new Article 31 to Chapter 2 of Title 10 of the Modesto Municipal Code. There is also a minor change to Article 25 Variances and Conditional Use Permits, regarding new variance provisions for telecom facilities, and amendment to Article 23 General Provisions, regarding telecom facilities within the right-of-way of utility and railroad companies.

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 MEIR 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 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 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 MEIR were reviewed (section 5 below) and it was determined that the MEIR 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 MEIR. 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 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. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the MEIR. 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 MEIR. 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 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. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the MEIR. New or additional mitigation measures or alternatives are required as a result.

Original signed copy on file with CEDD

_____	Senior Planner	April 6, 2009
Project Manager	Title	Date

4. Within the Scope Analysis of this Document:

The MEIR permits 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 MEIR.	☒	☐
(2)	City policies which reduce, avoid, or mitigate environmental effects will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template.	☒	☐
(3)	Federal, State, regional, and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (that is, would not offer the same level of protection assumed under the MEIR).	☒	☐
(4)	No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	☒	☐
(5)	The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.	☒	☐
(6)	Development within the project will comply with all appropriate mitigation measures contained and enumerated in the General Plan MEIR.	☒	☐

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 MEIR 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 MEIR occurred less than five years prior to the filing of the application for this subsequent project.	☒	☐
(2)	This project is described in the MEIR and its approval will not affect the adequacy of the MEIR 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 MEIR was certified.	☒	☐
(b)	No new information, which was not known and could not have been known at the time the MEIR was certified as complete, has become available.	☒	☐
(c)	Policies remain in place that require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development.	☒	☐

Discussion:

The project is an amendment to the Zoning Code. The Zoning Code is implicit in the General Plan and none of the topics of the proposed amendment will alter the Code in such a fashion as to create new environmental issues.

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, discloses whether the proposed project may cause any project-specific significant effect on the environment that was not examined in the Final MEIR (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 MEIR.

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 MEIR.

The environmental impact analysis in the MEIR 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 MEIR. 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 MEIR identified the following significant and unavoidable traffic and circulation impacts:

Effect: Increased traffic will result in certain roadway segments operating at LOS D or worse.

Effect: The Substantial increase in traffic relative to the existing load and capacity of the street system will cause, violation, either individually or cumulatively, of an LOS standard established by the County CMP for designated roads and highways.

Effect: Creation of need for Capacity-enhancing modifications to existing facilities.

Effect: Increase in energy consumption associated with the operation of highway projects, rail improvements, and aviation facilities.

Effect: Severe contrast with existing neighborhood or area character caused by highway and transit projects.

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

Traffic and Circulation mitigation measures that are pertinent to this project are found on MEIR pages V-1-15 through V-1-21. All feasible measures appropriate to the project – including any

new measures - will be incorporated into or made conditions of approval of this project and will be listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

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

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

		YES	NO
(1)	The project exceeds the MEIR's traffic generation assumptions for this site and City Engineering and Transportation staff has determined that the project would have additional project-specific effects that are not avoided or reduced by the MEIR's program of mitigation measures.	☐	☒
(2)	Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).	☐	☒
(3)	Result in inadequate emergency access.	☐	☒
(4)	Result in inadequate parking capacity.	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code providing regulation of telecom facilities and will have no effect on traffic and transportation issues.

(2) The project will have no effect on traffic hazards due to a design feature (for example, sharp curves or dangerous intersections) or incompatible uses.

(3) The project will have no effect the adequacy of emergency access.

(4) The project will have no effect on parking capacity.

2. DEGRADATION OF AIR QUALITY

a. Significant Effects Identified in the Master EIR

The MEIR identified the following significant environmental impacts relative to air quality:

Effect: Projected traffic levels will result in increased ambient carbon monoxide (CO) levels in the project area. This is a significant and unavoidable impact.

Effect: Projected traffic levels will result in increased ROG and NOX levels in the project area. This is a significant and unavoidable impact.

These are also cumulative impacts on air quality.

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

Air Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-2-11 through V-2-18 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

No new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-2.B of the MEIR provides analysis of Air Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) adopted CEQA Guidelines.	☐	☒
(2)	The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD.	☐	☒
(3)	The project does not comply with the air quality policies of the Modesto Urban Area General Plan.	☐	☒
(4)	The project would expose sensitive receptors to substantial pollutant concentrations.	☐	☒
(5)	The proposed project would create objectionable odors affecting a substantial number of people.	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code providing regulation of telecom facilities and will have no effect on emissions thresholds.

(2) The project will have no effect on PM10 reduction provisions established by the SJVUAPD.

(3) The project will have no effect on air quality practices of the General Plan Policies.

(4) The project will have no effect on air pollution levels.

(5) The project will not create objectionable odors.

3. GENERATION OF NOISE

a. Significant Effects Identified in the Master EIR

The MEIR identified the following significant and unavoidable environmental impacts relative to noise:

Effect: Traffic noise levels for future conditions in the plan area have the potential to result in exceedances of the City's Noise Significance Standards (see Table 3-3 of the MEIR).

Effect: Noise level projections based on the traffic levels anticipated in the General Plan indicate that noise will exceed the City's General Plan and noise ordinance standards.

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

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-10 through V-3-15 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. and any new measures are listed in Section V, Mitigation Applied to Project:

Discussion:

No new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-3.B of the MEIR provides analysis of noise impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	☐	☒
(2)	The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.	☐	☒
(3)	The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☒
(4)	The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code providing regulation of telecom facilities and will have no effect on noise levels.

(2) The project will have no effect on the noise policies of the General Plan.

(3) The project will not result in permanent increase in noise levels.

(4) The project will not result in temporary or periodic increase in ambient noise levels.

4. EFFECTS ON AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The MEIR identified the following significant environmental impacts relative to agricultural lands:

Effect: Development within the urbanized Baseline Developed Area and Redevelopment Area will have a less-than-significant impact on agricultural lands.

Effect: Conversion of agricultural land will occur as available developable land is occupied within the City. This is a significant and unavoidable impact.

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County. This is a significant and unavoidable cumulative impact.

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

Agricultural Land mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-4-7 and V-4-8 of the MEIR. All feasible measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

No new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-4.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project will directly result in the development of land outside the March 2003 planning area boundaries.	☐	☒
(3)	The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract.	☐	☒
(4)	The project will Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use.	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code providing regulation of telecom facilities and will have no effect on the General Plan land use policies as it relates to agricultural lands.

(2) The project will have no effect on the development of land outside the March 2003 planning area boundaries.

(3) The project will have no effect on land zoned for agriculture or land under Williamson Act contract.

(4) The project will have no effect on the conversion of farmland to non-agricultural uses.

5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES

a. Significant Effects Identified in the Master EIR

The MEIR identified the following significant environmental impacts relative to water supply:

Effect: Urban Area General Plan policies are established to limit groundwater extractions to the safe yield of the aquifer and thereby avoid aquifer over drafting. In addition, the UWMP requires that new urban development would proceed in conjunction with the availability of water supplies and distribution facilities. It is assumed that increased entitlement of surface water supplies such as a water transfer from another water purveyor would undergo independent environmental review pursuant to CEQA. This is a less-than-significant impact.

Effect: Development to the future projected City population would require expansion of the MRWTP to its full 60 mgd capacity, development of additional groundwater wells, and construction of additional water distribution and treatment facilities. Construction of some of the required facilities would most likely require site-specific environmental impact assessments to be conducted under CEQA. Consequently, the potential environmental impacts of the Urban Area General Plan are considered less than significant.

Effect: During drought years, despite available options, significant water shortages are forecast for the San Joaquin River basin by the year 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions. This is a significant and unavoidable cumulative impact.

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

Water Supply mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-5-7 through V-5-8 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

No new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-5.B of the MEIR provides analysis of Water Supply impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed.	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code providing regulation of telecom facilities and will have no effect on the Modesto Urban Area General Plan water supply policies.

(2) The project will have no effect on the water supply.

6. INCREASED DEMAND FOR SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The MEIR 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 MEIR. The WMP MEIR 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 MEIR and do not need to be considered under this Initial Study. Refer to the WMP MEIR for details.

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

Sewer Service mitigation measure(s) pertinent to the project being analyzed in this Initial Study. are found on pages V-6-4 through V-6-7 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

No new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-6.B of the MEIR provides analysis of Sanitary Sewer Service impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code providing regulation of telecom facilities and will have no effect on the Modesto Urban Area General Plan sanitary sewer services policies.

(2) The project will have no effect on sanitary sewer capacity.

7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The MEIR identified the following significant environmental impacts relative to sensitive wildlife and plant habitat:

Effect: Although many sensitive species live in riparian habitats within the planning area, the policies of the plan will ensure that impacts of the Urban Area General Plan will be less than significant.

Effect: Requiring higher residential density than the suburban norm and a compact pattern of growth within the designated planning area to the year 2025 will minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

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

Wildlife and Plant Habitat mitigation measure pertinent to the project being analyzed in this Initial Study are found on pages V-7-19 through V-7-21. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

No new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-7.B of the MEIR provides analysis of Wildlife and Plant Habitat impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species.	☐	☒
(3)	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code providing regulation of telecom facilities and will have no effect on the Modesto Urban Area General Plan wildlife and plant habitat policies.

(2) The project will have no effect on special status species.

(3) The project will have no effect on local policies or ordinances protecting biological resources.

8. DISTURBANCE OF ARCHAEOLOGICAL/HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The MEIR identified the following significant environmental impacts relative to archaeological or historical sites:

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.

Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

Effect: The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. This would be a less-than-significant impact with the imposition of new mitigation measure Cultural-1.

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

Archaeological or Historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-13 and V-8-14 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

No new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-8.B of the MEIR provides analysis of Archaeological/Historical impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site.	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code providing regulation of telecom facilities and will have no effect on the Modesto Urban Area General Plan archaeological and historical sites policies.

(2) The project will have no effect on a cultural resource listed under the California Register of Historical Resources, or listed by the City of Modesto as a Designated Landmark Preservation Site.

9. INCREASED DEMAND FOR STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The MEIR identified the following significant environmental impacts relative to storm drainage:

Effect: The potential impacts on storm water drainage that could occur from the project were qualitatively evaluated with respect to several factors including: extent of the projected increase in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions; regulatory criteria and guidelines; and professional judgment. Because the Urban Area General Plan includes policies that require new development in all three sections of the planning area to install approved drainage facilities, the potential impacts of the Urban Area General Plan on storm water drainage are considered less than significant.

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

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

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

No new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-9.B of the MEIR provides analysis of Storm Drainage impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite.	☐	☒
(3)	Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code providing regulation of telecom facilities and will have no effect on the Modesto Urban Area General Plan storm drainage facilities policies.

(2) The project will have no effect on the amount of surface runoff.

(3) The project will have no effect on the amount of water runoff.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The MEIR identified the following significant environmental impacts relative to flooding and water quality:

Effect: Increased runoff can accelerate soil erosion, stream channel scouring, and sedimentation of channels, and also increase pollutant transport to waterways. The potential impacts of the project on flooding are considered less than significant because the Urban Area General Plan Update includes policies to restrict development in the floodplain and therefore would avoid exposing persons and property to flood hazards. In addition, new development under the Urban Area General Plan is required to install storm water drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions.

Effect: The potential impacts of the project on surface-water quality are considered less than significant because the City policies and capital improvement projects for storm water drainage facilities would minimize discharges of urban pollutants to natural waterways. The City drainage program policies require new development to prepare drainage plans and implement urban runoff control measures; larger Specific Plan developments must have storm drainage systems designed to control pollutant runoff. The City's implementation policies for the municipal NPDES storm water permit require new development to implement an appropriate selection of permanent pollution control measures. Permanent erosion control measures such as seeding and planting vegetation for new cut-and-fill slopes, directing runoff through vegetation, or otherwise reducing the offsite discharge of particulates and sediment are the most effective method of controlling offsite discharges of urban pollutants.

Effect: The City's future development will contribute to cumulative water quality effects. EPA regulations for NPDES storm water permits and new proposed regulatory additions to the rules have become much more comprehensive in recent years and are being implemented to reduce pollutant runoff from both large- and small-scale activities. Implementation of NPDES-permitting programs throughout the county will reduce potential water-quality impacts to a less-than-significant level.

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

Flooding and Water Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-10-7 through V-10-10 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

No new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

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

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	☐	☒
(3)	The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures.	☐	☒
(4)	The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code providing regulation of telecom facilities and will have no effect on the Modesto Urban Area General Plan flooding and water quality policies.

(2) The project will have no effect on the Federal Clean Water Act and the Porter Cologne Act requirements.

(3) The project will have no effect on the Guidance Manual for New Development Storm Water Quality Control Measures.

(4) The project will have no effect on storm water drainage systems or polluted runoff.

11. INCREASED DEMAND FOR PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The MEIR 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:

No new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-11.B of the MEIR provides analysis of Parks and Recreation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code providing regulation of telecom facilities and will have no effect on with the Modesto Urban Area General Plan parks and recreation facilities and services policies.

12. INCREASED DEMAND FOR SCHOOLS

a. Significant Effects Identified in the Master EIR

The MEIR 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 MEIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan.). As long as all anticipated subsequent projects apply these policies, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995). The proposed additional school policy will address the situation that would arise should AB 50 be repealed. It will authorize impact fees or other methods to finance additional school facilities.

The following schools mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See pages V-12-4 through V-12-7 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project:

Discussion:

No new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-12.B of the MEIR provides analysis of Schools impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which provide that compliance results in less-than-significant impacts on schools.	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code providing regulation of telecom facilities and will have no effect on the City of Modesto Urban Area General Plan school policies.

(2) The project will have no effect on school funding provisions.

13. INCREASED DEMAND FOR POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The MEIR identified the following significant environmental impacts relative to police services:

Effect: The 1995 MEIR 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 new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-13.B of the MEIR provides analysis of police services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code providing regulation of telecom facilities and will have no effect on the Modesto Urban Area General Plan police services policies.

(2) The project will not result in the need for construction of new or significantly altered facilities in order to maintain acceptable service ratios, response times or other performance objectives.

14. INCREASED DEMAND FOR FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The MEIR 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 MEIR 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 new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-14.B of the MEIR provides analysis of fire services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code providing regulation of telecom facilities and will have no effect on the Modesto Urban Area General Plan fire services policies.

(2) The project will not result in the need for construction of new or significantly altered facilities in order to maintain acceptable service ratios, response times or other performance objectives.

15. GENERATION OF SOLID WASTE

a. Significant Effects Identified in the Master EIR

The MEIR identified the following significant environmental impacts relative to solid waste:

Effect: It is projected that by 2025, the City will have generated and disposed of 1.5 million tons of solid waste in a landfill. Stanislaus County and its other cities are projected to generate another 3.3 million tons by 2025, for a total of 4.8 million tons requiring disposal. This total takes into consideration current diversion rates and use of the Stanislaus Resource Recovery Facility (SRRF) waste-to-energy facility for the majority of solid waste that is not source reduced, recycled, or composted. At the current loading rate, the Fink Road Landfill has a remaining life of 41 years. This landfill's remaining capacity of 6 million tons can accommodate the projected cumulative total of 4.8 million tons, and some of this total may go to other landfills. Since continued development under the Urban Area General Plan would not exceed the existing landfill capacity, and a 129-acre future expansion of the landfill has been approved, the General Plan's potential impact on solid waste disposal is considered less than significant.

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

Solid Waste Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-15-5 and V-15-6 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 new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-15.B of the MEIR provides analysis of solid waste impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity.	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code providing regulation of telecom facilities and will have no effect on the Modesto Urban Area General Plan solid waste policies.

(2) The project will have no effect on the solid waste disposal capacity.

16. GENERATION OF HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The MEIR 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 MEIR 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 new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-16.B of the MEIR provides analysis of hazardous materials impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The 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.	☐	☒
(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.	☐	☒
(4)	The proposed project would be constructed on a contaminated site not known to the State of California as of March 2008.	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code providing regulation of telecom facilities and will have no effect on the Modesto Urban Area General Plan hazardous materials policies.

(2) The project will have no effect on hazardous emissions or hazardous materials issues.

(3) The project will have no effect on sites included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.

(4) The project will have no effect on the issue of a development located on a contaminated site.

17. GEOLOGY, SOILS, AND MINERAL RESOURCES

a. Significant Effects Identified in the Master EIR

The MEIR 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 MEIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Landslide and Seismic Activity Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-17-6 and V-17-7 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

No new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-17.B of the MEIR provides analysis of landslides and seismic impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code providing regulation of telecom facilities and will have no effect on the Modesto Urban Area General Plan geology, soils, and mineral resources polices.

(2) The project will have no effect on the issue of development 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 MEIR identified the following significant environmental impacts relative to energy:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less than significant.

Effect: Build out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kilowatt hours (kwh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time

sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation, which ensures that the project will not exceed local, state, and federal energy standards. The impact is less than significant.

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

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project:

Discussion:

No new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-18.B of the MEIR provides analysis of energy impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒

Discussion:

The project is an amendment to the Zoning Code providing regulation of telecom facilities and will have no effect on the Modesto Urban Area General Plan energy policies.

19. EFFECTS ON VISUAL RESOURCES

a. Significant Effects Identified in the Master EIR

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

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.

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 MEIR. 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 new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-18.B of the MEIR 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 MEIR.

Significance Criteria: 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 proposed project is inconsistent with policies relating to visual resources in the Urban Area General Plan.	☐	☒
(2)	The proposed project would degrade views from riverside areas and parks to a greater degree than assumed in the Urban Area General Plan.	☐	☒
(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.	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code providing regulation of telecom facilities and will have no effect on policies relating to visual resources in the Urban Area General Plan.

(2) The project will have no effect on the views from riverside areas or parks. The proposed ordinance allows telecom facilities on parks but encourages the facilities to be camouflage or located on existing structures with an easier review process to minimize the visual impacts.

(3) The project will have no effect on the view of any riverside areas or parks from public roadways or nearby properties. See item 2 above.

20. LAND USE AND PLANNING

a. Significant Effects Identified in the Master EIR

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

Effect: No residual significant direct or cumulative impacts were disclosed in the MEIR.

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 MEIR. 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 new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-20.B of the MEIR 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 MEIR.

Significance Criteria: 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 proposed project is inconsistent with land use and planning policies in the Urban Area General Plan.	☐	☒
(2)	The proposed project would physically divide an established community in a way not assumed in the Urban Area General Plan.	☐	☒
(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.	☐	☒
(4)	The proposed project conflicts with an applicable habitat conservation plan or natural community conservation plan.	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code providing regulation of telecom facilities and will have no effect on the Modesto Urban Area General Plan land use policies.

(2) The project will not divide an established community.

(3) The project will have no effect on 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 project will have no effect on any habitat conservation plan or natural community conservation plan.

21. CLIMATE CHANGE

a. Significant Effects Identified in the Master EIR

The MEIR 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 MEIR.

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 MEIR. 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 new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-18.B of the MEIR 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 MEIR.

Significance Criteria: 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 proposed project is inconsistent with policies relating to climate change in the Urban Area General Plan.	☐	☒
(2)	The proposed project would result in average automobile trip lengths or CO_2 emissions higher than those assumed in the MEIR.	☐	☒
(3)	The proposed project would conflict with the Sustainable Communities Strategy that the Air Resources Board has agreed will achieve the goals of AB 32.	☐	☒

Discussion:

(1) The project is an amendment to the Zoning Code providing regulation of telecom facilities and will have no effect on the policies relating to climate change in the Urban Area General Plan.

(2) The project will have no effect in the average automobile trip lengths or CO_2 emissions.

(3) The project will have no effect on the Sustainable Communities Strategy that the Air Resources Board has agreed will achieve the goals of AB 32.

V. MITIGATION MEASURES APPLIED TO THE PROJECT

If the Initial Study results in a determination that a Finding of Conformance can be adopted for the proposed project, Section A below applies. If the Initial Study results in a determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration/EIR must be prepared for the project, 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 MEIR appropriate to the project shall be incorporated into the project. The following adopted General Plan Policies and MEIR Mitigation Measures shall be made part of the project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan:

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

Traffic and Circulation:

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

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 MEIR for all applicable categories in this Initial Study. The following additional project-specific mitigation measures are necessary to reduce the identified new significant effect: ***none***.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-194

A RESOLUTION ADOPTING THE NEIGHBORHOOD COMPATIBILITIY GUIDELINES AND DIRECTING STAFF TO PREPARE AMENDMENTS TO THE MUNICIPAL CODE AS DETERMINED NECESSARY FOR THE EFFECTIVE IMPLEMENTATION OF SAID GUIDELINES

WHEREAS, in 2007 a group of residents approached the City with concerns regarding the compatibility of new construction in existing neighborhoods and a request that the City formulate new regulations to deal with neighborhood compatibility issues, and

WHEREAS, the Planning Commission considered this request on June 4, 2007 and August 6, 2007, and recommended to the City Council that staff be directed to prepare guidelines to address neighborhood compatibility, multi-family design guidelines, and heritage trees, and

WHEREAS, the City Council, on November 11, 2007, directed staff to prepare the following three efforts:

1. Neighborhood Compatibility Guidelines to address compatibility issues created by new homes and additions in existing neighborhoods;
2. Multi-Family Residential Design Guidelines to ensure that new multi-family projects are compatible with the surrounding neighborhoods and are of quality design;
3. A Heritage Tree Ordinance to preserve heritage trees on private property; and

WHEREAS, staff has prepared draft "Neighborhood Compatibility Guidelines" for residential development in order to:

1. Ensure that new two-story residential development is consistent and compatible with the design and character of existing neighborhoods by providing guidelines for privacy, scale and massing, architectural consistency, and lot pattern, size and configuration;
2. Provide flexibility to allow for individual circumstances of specific projects;

3. Provide a comprehensive set of guidelines early in the development process regarding City expectations for builders, investors and residents; and

WHEREAS, public workshops were held by the Planning Commission and Board of Zoning Adjustment on October 23, 2008, and February 19, 2009, in Room B300, Tenth Street Place, 1010 Tenth Street, Modesto, California, at which public comments were received and considered, and

WHEREAS, after a public hearing held on April 6, 2009, 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. 2009-14, that the proposed "Neighborhood Compatibility Guidelines" conform to the City of Modesto Urban Area General Plan and are necessary for the general health, safety, and welfare of the community for the following reasons:

1. The "Neighborhood Compatibility Guidelines" document is consistent with the Overall Mission Statement of the Urban Area General Plan, which states, in part, ". . . The Urban Area General Plan presents a blueprint for the preservation of Modesto's 'quality of life' while providing direction for the growth of business and industry to meet the needs of the future generations . . ." page I-2 of the Urban Area General Plan;

2. The "Neighborhood Compatibility Guidelines" is a general policy document and is not a project pursuant to Section 15378(b)(2) of the CEQA Guidelines; and

WHEREAS, said matter was set for a public hearing of the City Council to be held on April 28, 2009, 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 proposed "Neighborhood Compatibility Guidelines" should be adopted as consonant with the public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2009-14 and quoted above,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby adopts the "Neighborhood Compatibility Guidelines," a copy of which is on file with the City Clerk's office.

BE IT FURTHER RESOLVED that City staff is hereby directed to prepare amendments to the Municipal Code as determined necessary for the effective implementation of the "Neighborhood Compatibility Guidelines."

The foregoing resolution was introduced at the regular meeting of the Council of the City of Modesto held on the 28th day of April, 2009, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

Ayes:	Councilmembers:	Hawn, Marsh, Olsen, Mayor Ridenour
Noes:	Councilmembers:	Keating, Lopez
Absent:	Councilmembers:	O'Bryant

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-195

A RESOLUTION ADOPTING THE MULTI-FAMILY RESIDENTIAL DESIGN GUIDELINES AND DIRECTING STAFF TO PREPARE AMENDMENTS TO THE MUNICIPAL CODE AS DETERMINED NECESSARY FOR THE EFFECTIVE IMPLEMENTATION OF SAID GUIDELINES

WHEREAS, in 2007 a group of residents approached the City with concerns regarding the compatibility of new construction in existing neighborhoods and a request that the City formulate new regulations to deal with neighborhood compatibility issues, and

WHEREAS, the Planning Commission considered this request on June 4, 2007 and August 6, 2007, and recommended to the City Council that staff be directed to prepare guidelines to address neighborhood compatibility, multi-family residential design guidelines, and protection of heritage trees, and

WHEREAS, the City Council, on November 11, 2007, directed staff to prepare the following three efforts:

1. Neighborhood Compatibility Guidelines to address compatibility issues created by new homes and additions in existing neighborhoods;
2. Multi-Family Residential Design Guidelines to ensure that new multi-family development is compatible with the surrounding neighborhoods and is of high-quality design;
3. A Heritage Tree Ordinance to preserve heritage trees on private property; and

WHEREAS, staff has prepared draft "Multi-Family Residential Design Guidelines" in order to:

1. Ensure that new multi-family residential development is consistent and compatible with surrounding neighborhoods and is of high-quality design;
2. Provide flexibility to allow for individual circumstances of individual projects;
3. Provide a comprehensive set of design guidelines early in the development process regarding expectations for developers and citizens; and

WHEREAS, public workshops were held by the Planning Commission and Board of Zoning Adjustment on October 23, 2008, and February 19, 2009, in Room B300, Tenth Street Place, 1010 Tenth Street, Modesto, California, at which public comments were received and considered, and

WHEREAS, after a public hearing held on April 6, 2009, 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. 2009-15, that the proposed "Multi-Family Residential Design Guidelines" conform to the City of Modesto Urban Area General Plan and are necessary for the general health, safety, and welfare of the community for the following reasons:

1. The "Multi-Family Residential Design Guidelines" document is consistent with the Overall Mission Statement of the Urban Area General Plan, which states, in part, ". . . The Urban Area General Plan presents a blueprint for the preservation of Modesto's 'quality of life' while providing direction for the growth of business and industry to meet the needs of the future generations . . ." page I-2 of the Urban Area General Plan;

2. The "Multi-Family Residential Design Guidelines" is a general policy document and is not a project pursuant to Section 15378(b)(2) of the CEQA Guidelines; and

WHEREAS, said matter was set for a public hearing of the City Council to be held on April 28, 2009, 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 proposed "Multi-Family Residential Design Guidelines" should be adopted as consonant with the public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2009-15 and quoted above,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby adopts the "Multi-Family Residential Design Guidelines," a copy of which is on file with the City Clerk's office.

BE IT FURTHER RESOLVED that City staff is hereby directed to prepare amendments to the Municipal Code as determined necessary for the effective implementation of the "Multi-Family Residential Design Guidelines."

The foregoing resolution was introduced at the regular meeting of the Council of the City of Modesto held on the 28th day of April, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

Ayes:	Councilmembers:	Hawn, Keating, Lopez, Marsh, Olsen, Mayor Ridenour
Noes:	Councilmembers:	None
Absent:	Councilmembers:	O'Bryant

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-196

RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE FURNISHING OF PEST CONTROL SERVICES FOR CITYWIDE USE, TO TRUE VALUE PEST CONTROL, TURLOCK, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE AGREEMENT FOR TWO (2) YEARS, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF $16,433

WHEREAS, on May 27, 2008, the City Council, by Resolution No. 2008-299, authorized the Purchasing Manager to issue formal Request for Bids for the furnishing of pest control services for Citywide use, for a two (2) year agreement with three (3) one-year extension options at the sole discretion of the City, and

WHEREAS, on January 5, 2009, the Purchasing Division issued Request for Bid No. 0809-03 Pest Control Services to twenty-five (25) companies, eleven (11) of which were local companies, posted the bid on the City's website and formally advertised as required by law, and

WHEREAS, on February 10, 2009, RFB's were formally opened in the City Clerk's office. Of the twenty-five (25) prospective bidders, eight (8) companies chose to respond, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid and contract for the furnishing of pest control services for Citywide use, to True Value Pest Control, Turlock, CA, and

WHEREAS, authorizing the Purchasing Manager to issue a purchase agreement for a period of two (2) years with three (3) one-year extension options at the sole discretion of the City, for an estimated annual cost of $16,433, 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. The award of bid and contract for the furnishing of pest control services for Citywide use, to True Value Pest Control, Turlock, CA, conforms to the Modesto Municipal Code, and

WHEREAS, sufficient funds will be budgeted in Fiscal Year 2009-10 in Appropriation Units: 0100-180-1810-0214, 0100-190-1930-0235, 0100-340-3415-0235, 6000-350-3583-0235, 6000-350-3584-0235, 6000-350-3585-0235, 6100-480-5012-0214, 6100-480-5013-0214, 6210-480-5213-0235, 6210-480-5214-0235, 6290-355-5222-0235, 6310-440-5412-0214, 6530-165-1674-0214, 6700-340-3412-0214, 7800-350-3513-0214, and 8850-190-1975-0235

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the furnishing of pest control services for Citywide use, to True Value Pest Control, Turlock, CA,

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase agreement for two (2) years, with three (3) one-year extension options at the sole discretion of the City, for an estimated annual cost of $20,125.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of May, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-197

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND THE DOUBLETREE HOTEL FOR CATERING AND CONCESSIONAIRE SERVICES PROVIDED AT THE MODESTO CENTRE PLAZA, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City operates and manages the Modesto Centre Plaza as a destination conference center and community facility, and

WHEREAS, on March 9, 1999, the City Council, by Resolution No. 99-987, approved a ten-year agreement with the Doubletree Hotel to provide the catering and concessionaire services for the Modesto Centre Plaza, and

WHEREAS, it is the desire of the City and the Doubletree Hotel to continue providing the catering and concessionaire services for the Modesto Centre Plaza.

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 the Doubletree Hotel for catering and concessionaire services at the Modesto Centre Plaza for a ten-year period commencing on May 5, 2009, and terminating on tenth anniversary of the commencement date, with the option to extend the agreement for a total of four consecutive ten-year terms.

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 May, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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 BY MODESTO CITY COUNICL RESO 2010-284
JULY 6, 2010

Print

MODESTO CITY COUNCIL
RESOLUTION NO 2009-198

A RESOLUTION APPROVING THE FY 2009-2010 BUDGET FOR THE STANISLAUS RESOURCE RECOVERY ("WASTE-TO-ENERGY") FACILITY, AND RESCINDING RESOLUTION NO. 2008-435

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

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

WHEREAS, the Agreement established a Solid Waste-to-Energy Executive Committee ("Executive Committee"), which prepares an annual budget for each fiscal year, and submits said annual budget to the City Council and Board of Supervisors for approval by August 1st of a year, and

WHEREAS, said Executive Committee may also recommend adjustments to an approved annual budget as necessary to provide sufficient funding for project activities, and

WHEREAS, at its March 26, 2009, meeting the Executive Committee also considered the proposed FY 2009/2010 Budget as shown in **Attachment "A", attached** hereto and incorporated herein by reference, and the Executive Committee unanimously approved forwarding this proposed FY 2009-2010 Budget to the Modesto City Council and the Stanislaus County Board of Supervisors for approval.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the FY 2009-2010 Waste-to-Energy Project Budget, a copy of which is **attached** hereto as **Attachment "A"** and incorporated herein by reference, as recommended by the Executive Committee.

BE IT FURTHER RESOLVED that Resolution No 2008-435 is hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of May, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

ATTACHMENT A
Stanislaus Waste to Energy Project
Proposed Budget Detail FY 2009-2010

Fiscal Year Ending June 30.	Row/Notes	2006 Actual	2007 Actual	2008 Actual	2009 Projected	**2010 Proposed Budget**
Assumptions						
Solid Waste Delivered (tons)	1	245,275	249,576	244,691	243,500	**243,300**
Ferrous Metals (tons)	2	5,278	5,250	4,979	5,000	**5,000**
Solid Waste Processed (tons)	3	243,522	247,254	245,155	243,500	**243,300**
kWh per ton	4	558	533	510	510	**510**
Net Electricity Generated (mWh)	5	135,880	131,724	124,912	124,185	**124,083**
Price per kWh	6	$0.05370	$0.06450	$0.06515	$0.06580	**$0.06645**
Revenue from Electricity Sales	7	$7,296,756	$8,568,884	$8,963,964	$8,170,932	**$8,245,863**
Fixed Capacity Charge	8	$3,179,500	$3,307,280	$3,265,134	$3,179,500	**$1,589,750**
Gross Electric Revenues	9	$10,476,256	$11,876,164	$12,229,099	$11,350,432	**$9,835,613**
Ash Production (% of solid waste processed)	10	28.8%	30.1%	29.3%	31.0%	**31.0%**
Ash Produced (Tons)	11	70,088	74,494	71,726	75,485	**75,423**
Ash Disposal Price per Ton	12	$16.00	$16.00	$16.00	$16.00	**$16.00**
Ash Disposal	13	$1,181,934	$1,202,422	$1,185,085	$1,207,760	**$1,206,768**
Process Rejects (% of solid waste processed)	14	0.053%	0.055%	0.055%	0.055%	**0.055%**
Rejects Produced (Tons)	15	128	244	51	134	**134**
Reject Disposal Price Per Ton	16	$30.00	$30.00	$30.00	$30.00	**$30.00**
Process Rejects	17	$3,850	$7,320	$1,529	$4,018	**$4,014**
Ferrous Metals ($ per ton)	18	$5.00	$5.00	$5.00	$5.00	**$5.00**
Property Tax Rate	19	1.080%	1.000%	1.000%	1.000%	**1.000%**
Assessed Value	20	$54,744,922	$53,297,839	$51,832,148	$53,071,493	**$53,071,493**
Change in Assessed Value	21	-3.695%	-2.750%	-2.750%	2.391%	**0.000%**
O&M Inflator	22	0.161%	3.250%	3.250%	4.250%	**3.250%**
Energy Inflator	23	0.000%	20.112%	1.000%	1.000%	**1.000%**
Sales Tax Inflator	24	-7.203%	5.000%	5.000%	5.000%	**5.000%**
Insurance Inflator	25	-25.820%	1.000%	1.000%	1.000%	**1.000%**
Air Permit Fees Inflator	26	0.000%	0.000%	0.000%	8.000%	**8.000%**
Carbon Inflator	27	-32.376%	15.594%	4.000%	4.000%	**4.000%**
Dolomitic Lime	28	27.293%	4.000%	4.000%	4.000%	**4.000%**
Administrative Expense Inflator	29	-22.280%	7.570%	3.500%	3.500%	**3.500%**
Bond Interest Rate	30	3.137%	4.250%	4.250%	5.000%	**5.000%**
DSRF Interest Rate	31	3.750%	5.000%	5.250%	5.250%	**5.250%**
Principal Account Interest Earnings Rate	32	4.410%	4.410%	4.410%	4.410%	**4.410%**
RRA Interest Earnings Rate	33	3.514%	4.250%	4.250%	4.250%	**1.000%**
Liquidity Fee	34	0.246%	0.195%	0.195%	0.195%	**0.195%**
Remarketing Fee	35	0.060%	0.060%	0.060%	0.060%	**0.060%**
Operating & Maintenance Expense	36	$10,002,352	$10,443,974	$11,133,684	$12,106,866	**$13,250,339**
Pass-Through Costs						
Ash Disposal	37	$1,181,934	$1,202,422	$1,185,085	$1,207,760	**$1,206,768**
Process Rejects	38	$3,850	$244	$999	$4,018	**$4,014**
Recovered Materials (Credit)	39	($60,971)	($59,018)	($79,773)	($59,018)	**($59,018)**
Insurance	40	$361,892	$359,944	$311,694	$367,179	**$370,851**
Ferrous Metals	41	$25,114	$31,257	$26,312	$25,000	**$25,000**
Property Tax	42	$591,102	$563,292	$585,184	$530,715	**$530,715**
Sales Tax	43	$166,434	$239,482	$272,254	$264,029	**$277,230**
Trustee/Remarketing Fees	44	$876	$9,680	$76,139	$10,672	**$0**
Site Lease	45	$198,000	$198,000	$198,000	$198,000	**$198,000**
Air Permit Fees	46	$47,105	$47,105	$47,105	$59,400	**$125,000**
County Fees/Other Fees	47	$77,438	$9,617	$55,491	$9,700	**$9,700**
Franchise Fees	48	$9,632	$9,632	$9,284	$9,632	**$9,632**
Carbon Expense	49	$120,371	$139,142	$182,018	$189,299	**$196,871**
Dolomitic Lime Expense	50	165,005	$188,687	$166,724	$173,393	**$180,329**
Total Pass-Through Costs	51	$2,887,782	$2,939,486	$3,036,516	$2,989,778	**$3,075,092**

	Row/Notes	2006	2007	2008	2009	2010
		Actual	Actual	Actual	Projected	Proposed Budget
Net Debt Service Expense						
Bond Principal Payment Due January 1st	52	$6,150,000	$6,505,000	$6,935,000	$21,255,000	**$0**
Cumulative Principal Payments	53	$24,085,000	$30,590,000	$37,525,000	$58,780,000	**$0**
Outstanding Par at End of Fiscal Year	54	$34,695,000	$28,190,000	$21,255,000	$0	**$0**
Bond Interest Expense	55	$1,088,313	$1,374,902	$895,658	$639,680	**$0**
Liquidity Fee	56	$85,475	$74,537	$48,209	$20,724	**$0**
Remarketing Fee	57	$22,662	$18,866	$14,834	$75,000	**$0**
DSRF Interest Earnings	58	$0	$279,796	$0	$235,387	**$0**
BNY residual Bal/Other adj -Dec 2008	59	$149,191	$201,627	$257,755	$6,219,764	**$0**
Use of DSRF to Pay Debt Service	60	$0	$0	$0	$5,878,000	**$0**
Net Debt Service Expense	61	$7,197,259	$7,491,882	$7,635,945	$9,657,253	**$0**
Annual Administrative Expenses						
60400-Communications	62	$0	$0	$0	$0	**$0**
61600-Maintenance	62	$109	$0	$0	$0	**$0**
62200-Memberships (IEPA)	62	$15,000	$15,000	$15,207	$21,961	**$20,000**
62410-Rebates & Refunds (Arbitrage Liability)	62	$0	$0	$0	$209,552	**$0**
62600-Office Supplies	62	$0	$398	$111	$536	**$536**
62780-Books/Periodicals	62	$0	$100	$0	$536	**$536**
63000-Professional & Special Services	62	$35,678	$20,171	$29,100	$214,245	**$100,000**
(Leg. Lobbyist, Audits, F/A's, Energy Consultant)	62					
63280-Contracts	62	$0	$0	$0	$0	**$0**
63400-Engineering Services (Consulting Eng.)	62	$0	$36,849	$2,506	$100,000	**$75,000**
63410-City of Modesto Admin.	62	$212,901	$220,337	$227,222	$236,187	**$262,000**
63640-Legal Services (outside Counsel)	62	$0	$0	$19,907	$200,000	**$150,000**
65000-Public/Legal Notices	62	$0	$0	$0	$500	**$500**
65100-Rent/Equipment	62	$0	$0	$0	$0	**$0**
65300-Rent/Structure	62	$0	$0	$0	$0	**$0**
65780-Education/Training	62	$0	$125	$380	$3,214	**$1,500**
67040-Travel Expenses (Wte conf.)	62	$880	$1,554	$2,362	$8,035	**$5,000**
74080-Central Services Printing	62	$0	$0	$0	$0	**$0**
74250-County Counsel	62	$4,955	$3,151	$2,660	$21,425	**$15,000**
74301-County Auditor	62	$68	$165	$81	$114	**$10**
74302-County Purchasing	62	$94	$129	$422	$476	**$480**
74370-County Stores	62	$0	$0	$0	$0	**$0**
74520-County Admin. (incl. project position)	62	$195,999	$246,191	$259,442	$325,974	**$337,383**
74881-A-87 Charges	62	-$141	-$129	$380	$393	**-$350**
82130-Office Equipment	62	$0	$0	$0	$0	**$0**
84420-Personal Computer Equipment	62	$0	$0	$0	$0	**$0**
73010-Contributions to other agencies:	62	$735,417	$747,827	$1,398,121	$1,461,000	**$1,459,800**
(HHW and AB939 surcharges)	62					
Total Administrative Expenses	63	$1,200,960	$1,291,869	$1,957,901	$2,804,148	**$2,427,395**
Electric Credit						
90% of Gross Electric Revenues	64	$9,428,630	$10,688,547	$11,006,189	$10,215,389	**$8,852,052**
90% of PG&E Late Payment	65					
90% of Interest on PG&E Late Payment @ 5.00%	66					
Total Electric Credit	67	$9,428,630	$10,688,547	$11,006,189	$10,215,389	**$8,852,052**
Service Fee/RRA/Tipping Fee						
Gross Service Fee	68	$11,859,722	$11,478,663	$12,757,857	$17,342,656	**$9,900,774**
Gross Tipping Fee	69	$49	$46	$52	$71	**$41**
Beginning RRA Balance	70	$37,452,763	$32,723,796	$28,991,827	$25,030,800	**$15,381,144**
RRA Interest Earnings / Accounting Adj.	71	$1,316,267	$1,434,495	$1,299,798	$450,000	**$153,811**
(Use) of RRA to Stabilize Tipping Fee	72	($5,652,090)	($4,605,969)	($3,961,027)	($9,649,656)	**($2,509,563)**
Ending RRA Balance	73	$32,723,796	$28,991,827	$25,030,800	$15,381,144	**$12,871,582**
Disposal Fees from WTE	74	$5,955,455	$6,446,698	$6,765,655	$6,818,000	**$6,812,400**
Supplemental Waste Revenues		$252,177	$425,996	$423,724	$425,000	**$425,000**
Net Tipping Fee Before Surcharge	75	$22.00	$22.00	$22.00	$22.00	**$22.00**
AB 939 Program Implementation Fee	76	$3.00	$3.00	$6.00	$6.00	**$6.00**
Tipping Fee	77	$25.00	$25.00	$28.00	$28.00	**$28.00**

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MODESTO CITY COUNCIL
RESOLUTION NO. 2009-199

A RESOLUTION APPROVING A SECOND AMENDMENT TO THE AGREEMENT WITH SCS ENGINEERS, INC. FOR THE SITE ASSESSMENT AND DEVELOPMENT OF A METHANE GAS MITIGATION AND MONITORING PLAN FOR THE CARPENTER ROAD LANDFILL, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE SECOND AMENDMENT TO THE AGREEMENT

WHEREAS, the City of Modesto operated the Carpenter Road Landfill from 1956 to 1968, and the landfill includes fill sites on both the west and east sides of Carpenter Road, in between Kenneth and Robertson Roads and the Tuolumne River, and

WHEREAS, in the future, the landfill will become part of the Tuolumne River Regional Park, and

WHEREAS, in December, 2005, one of the wells on the east fill area tested high for methane gas, and

WHEREAS, during subsequent tests, the methane levels in this well continued to exceed the State's limits, and because of this, the California Integrated Waste Management Board (CIWMB) required the City to determine the cause of the high methane readings and develop a Mitigation and Monitoring Plan to ensure that the closed landfill remains in compliance with State law, and

WHEREAS, the Regional Water Quality Control Board (RWQCB) has requested that the impacts of the landfill on groundwater be assessed, and

WHEREAS, in order to prepare the plan, a Site Assessment had to be performed by a qualified engineering firm, and

WHEREAS, due to the uncertainties of what the contractor might find in the Site Assessment and what measures might be needed based on those findings, the Agreement for Assessment and Plan development services was task-based, and

WHEREAS, once each task was completed, the City would decide on whether or not the contractor would proceed with the next step, and

WHEREAS, in June, 2007, after an RFP process, the City Council, by Resolution No. 2007-341, authorizing the City Manager to execute a task-based Agreement with SCS Engineers, Inc. for the Site Assessment and Development of a Methane Gas Mitigation, in an amount not-to-exceed $299,500, and

WHEREAS, based on the results of the Site Assessment and the recommendations of SCS Engineers, Inc. it was determined that the focus should shift to installation of gas probes and design and installation of groundwater monitoring wells in the correct locations, on-going monitoring of methane gas and groundwater at the site, as well as site security and on-going maintenance of the landfill cover, and

WHEREAS, on December 4, 2007, the Council, by Resolution No. 2007-728, authorizing the City Manager to execute a Letter Amendment to the Agreement changing the work scope to reflect the shift to installation of monitoring wells and on-going monitoring and reporting, within the not-to-exceed contract amount of $299,500, and

WHEREAS, based on the findings of routine monitoring over the course of a year, it has been determined that migration of methane gas past the boundaries of the landfill appears to no longer be a problem, but that the landfill has experienced a "release" that measurably affects groundwater, and

WHEREAS, regulations require the City to notify the RWQCB of the release in a certified letter, and

WHEREAS, the City must develop a plan to monitor the release and determine the nature and extent of impacts, complete an engineering feasibility study to determine if the City should remove/treat the release, or just continue to monitor the release, and

WHEREAS, depending on the results of the engineering feasibility study, the City will need to implement the recommended action, which could involve construction and operation of a groundwater treatment system, and

WHEREAS, $300,000 has been budgeted in the Carpenter Road Landfill Fund for FY 2009-2010 to cover the cost of professional and special services for mitigation and monitoring of such releases, and

WHEREAS, the estimated cost of performing this additional work will be in an amount not-to-exceed $242,000, bringing the total not-to-exceed contract amount to $541,500, and

WHEREAS, contract services will be task-based, and as each task is completed, the City will decide whether or not the contractor can proceed with the next step,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a Second Amendment to the Agreement with SCS Engineers, Inc. for Site Assessment and Development of a Methane Gas mitigation and Monitoring Plan for the Carpenter Road Landfill.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of May, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

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MODESTO CITY COUNCIL
RESOLUTION NO. 2009-200

A RESOLUTION APPROVING THE ALLOCATION OF FUNDING IN THE AMOUNTS OF $296,000 IN COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PUBLIC SERVICES FUNDS, AND $92,000 IN EMERGENCY SHELTER GRANT (ESG) FUNDS FOR FY 2009-2010, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENTS

WHEREAS, the City of Modesto receives several Federal grants from the United States Department of Housing and Urban Development (HUD), and

WHEREAS, the City receives a Community Development Block Grant (CDBG) and an Emergency Shelter Grant (ESG), and

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

WHEREAS, the City is obligated to allocate fifteen percent (15%) of the entitlement funding to provide public services to the low income population, as part of the CDBG program, and

WHEREAS, the City also allocates ninety-five percent (95%) of ESG funding to non-profit agencies for emergency shelter activities, and

WHEREAS, there is $296,000 in available CDBG entitlement and program income funds allocated to qualified non-profit agencies for public services as set forth in **Exhibit "1", attached** hereto and incorporated by reference, and $80,000 available for recreation programs that serve low income households, and

WHEREAS, there is $92,000 allocated for emergency shelter services as set forth in **Exhibit "2", attached** hereto and incorporated by reference,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the allocation of $296,000 in available CDBG entitlement and program income funds to qualified non-profit agencies for public services as set forth in **Exhibit "1", attached** hereto and incorporated by reference, and $80,000 available for recreation programs that serve low income households, and

BE IT FURTHER RESOLVED that the Council hereby approves the allocation of Emergency Shelter Grant (ESG) funds of $92,000 for emergency shelter services for Fiscal Year 2009-2010 as set forth in **Exhibit "2"**.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of May, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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 1

CDBG Proposed Funding - $296,000

Agency	Project Name	Proposed Funding
American Red Cross	Emergency Shelter	$18,421
Center for Human Services	Hutton House	$24,000
Center for Human Services	Pathways	$18,694
Children's Crisis Center	Marsha's NEAT	$30,160
Children's Crisis Center	Cricket's NEAT	$8,736
Children's Crisis Center	Sawyer's NEAT	$8,736
Community Housing and Shelter Services	Families in Recovery	$27,120
DRAIL	Assistive Technology Program	$15,000
Howard Training Center	Senior Meals	$20,000
Parent Resource Center	ABC's of Childcare	$15,000
Project Sentinel	Tenant-Landlord	$14,000
Salvation Army	Winter Shelter	$30,000
SCAP	Nutritional Supplement and Education	$20,000
Second Harvest Food Bank	Food Assistance	$40,000
United Samaritans Foundation	Lunch Program	$6,133
	Total	$296,000

EXHIBIT 2

ESG Proposed Funding - $92,000

Agency	Project Name	Proposed Funding
Center for Human Services	Hutton House	$19,098
Children's Crisis Center	Cricket's Homeless Shelter	$13,989
Children's Crisis Center	Sawyers Homeless	$27,977
Community Housing and Shelter Services		$21,305
Salvation Army	Winter Shelter	$9,631
	Total	$92,000

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MODESTO CITY COUNCIL
RESOLUTION NO. 2009-201

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE FURNISHING OF REPAIRS AND REPLACEMENT PARTS FOR THE BIOFILTER REHABILITATION PROJECT AT THE SUTTER TREATMENT PLANT, FOR A TOTAL ESTIMATED COST OF $357,080

WHEREAS, the air cleaning biofilter scrubber at the Sutter Primary Treatment Facility processes the contaminate air flow produced to eliminate odors, and

WHEREAS, this unit is currently not working properly due to age, and only half of the unit is processing the full contaminated air flow produced, and

WHEREAS, the San Joaquin Valley Air Resources Control District and Regional Water Quality Control Board regulates the amount of emissions from the treatment process, and

WHEREAS, when the weather conditions warm up, the Sutter Treatment Plant could potentially be out of regulatory compliance due to the malfunctioning of this unit, and

WHEREAS, staff is requesting authorization to solicit bids for a Biofilter Rehabilitation Project, which includes the purchase of replacement parts (support grating and drainage netting and FRP components) to be installed by City staff, as well as bids for the repair of the corroded concrete biofilter structure through the application of a protective lining, and

WHEREAS, estimated cost for this project from Carollo Engineers is $293,400 and funds are available in Account Number 6210-480- B186 Biofilter Rehab Sutter,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue formal Request for Bids (RFB) for the furnishing of repairs and replacement parts for the Biofilter Rehabilitation Project at the Sutter Treatment Plant, for a total estimated cost of $357,080.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of May, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

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MODESTO CITY COUNCIL
RESOLUTION NO. 2009-202

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE 2007-2008 PAVEMENT REHABILITATION PROGRAM H STREET RECONSTRUCTION FROM 17TH STREET TO SCENIC AVENUE AND BURNEY STREET INTERSECTION PROJECT, ACCEPTING THE BID AND APPROVING A CONTRACT WITH GEORGE REED, INC. IN THE AMOUNT OF $824,622.00, FOR THE 2007-2008 PAVEMENT REHABILITATION PROGRAM H STREET RECONSTRUCTION FROM 17TH STREET TO SCENIC AVENUE AND BURNEY STREET INTERSECTION PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the 2007-2008 Pavement Rehabilitation Program H Street Reconstruction from 17th Street to Scenic Avenue and Burney Street Intersection project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the 2007-2008 Pavement Rehabilitation Program H Street Reconstruction from 17th Street to Scenic Avenue and Burney Street Intersection project were opened at 11:00 a.m. on March 17, 2009, and later tabulated by the Director of Public Works for the consideration of the Council, and

WHEREAS, the Director of Public Works has recommended that the bid of $824,622.00 received from George Reed, Inc. be accepted as the lowest responsible bid and the contract be awarded to George Reed, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the 2007-2008 Pavement Rehabilitation Program H Street Reconstruction from 17th Street to Scenic Avenue and Burney Street Intersection project, accepts the bid of George Reed, Inc. in the amount of $824,622.00, and awards George Reed, Inc. the contract for the 2007-2008 Pavement

Rehabilitation Program H Street Reconstruction from 17th Street to Scenic Avenue and Burney Street Intersection project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract with George Reed, Inc. in the amount of $824,622.00, for the 2007-2008 Pavement Rehabilitation Program H Street Reconstruction from 17th Street to Scenic Avenue and Burney Street Intersection project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of May, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-203

A RESOLUTION AMENDING THE FISCAL YEAR 2008-2009 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FULLY FUND THE 2007-2008 PAVEMENT REHABILITATION PROGRAM H STREET RECONSTRUCTION FROM 17TH STREET TO SCENIC AVENUE AND BURNEY STREET INTERSECTION PROJECT

WHEREAS, certain budgetary transactions are necessary in the amount of $204,233, in order to provide funding necessary for construction, contingencies, and construction administration for the 2007-2008 Pavement Rehabilitation Program H Street Reconstruction from 17th Street to Scenic Avenue and Burney Street Intersection project, and

WHEREAS, the Fiscal Year 2008-2009 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 2008-2009 Capital Improvement Program budget as shown in **Exhibit A**.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of May, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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

FUND:

Wastewater Fund

EXPENDITURES:		Increase/(Decrease)
Storm Drain Cross Connections Removal	6210-430-B150-6040	($204,233)
H Street Sewer Capacity Rehab	6210-480-B016-6040	$163,386
H Street Sewer Capacity Rehab	6210-480-B016-6050	$16,339
H Street Sewer Capacity Rehab	6210-480-B016-6060	$24,508

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-204

RESOLUTION REQUIRING THAT CANDIDATES FOR THE NOVEMBER 3, 2009, REGULAR MUNICIPAL ELECTION PAY A $500.00 DEPOSIT AS A CONDITION OF HAVING HIS OR HER CANDIDATE STATEMENT INCLUDED IN THE VOTER PAMPHLET AND REQUIRING THE CITY CLERK TO BILL SUCH CANDIDATES FOR THEIR PRO RATA SHARE OF THE ACTUAL COST OF THE PRINTING OF SUCH STATEMENTS AFTER THE ELECTION

WHEREAS, pursuant to Section 85300 of the Political Reform Act, added by Proposition 73 of the June 1988 Statewide Primary Election, Public Funds; Prohibition, "No public officer shall expend and no candidate shall accept any public monies for the purpose of seeking elective office", 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 candidates for election in the Regular Municipal Election to be held on November 3, 2009, shall be required to pay a $500 deposit as a condition of having his or her candidate statement included in the voter pamphlet.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of May, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-205

A RESOLUTION DIRECTING THE CITY CLERK TO CONDUCT THE DECEMBER 8, 2009 RUN-OFF ELECTION, IF NEEDED, BY MAIL

WHEREAS, in the event that no candidate is elected by a majority in the November 3, 2009 election, the two candidates receiving the most votes will run against one another in a December run-off election; and

WHEREAS, the City Council has chosen the City Clerk to conduct the City's run-off election in December 2009, and

WHEREAS, according to the Elections Code, the County Elections official has 28 days to certify the November Municipal Election, which falls on December 1, 2009, making it impossible to have sufficient time to hire precinct workers and establish polling locations; and

WHEREAS, the City entered into a contract with Martin & Chapman for election services, for a cost of $89,287.45, for election services to assist with the City Clerk in conducting the December run-off using an all-mail ballot process; and

WHEREAS, the City Council must indicate its intention to conduct the December 8, 2009 run-off election, if needed, by mail.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby declares that if a run-off election is required as a result of the Regular Municipal Election to be held on November 3, 2009, said run-off election shall be held by mail and scheduled on December 8, 2009.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of May, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-206

A RESOLUTION APPROVING A CONTRACT WITH MARTIN & CHAPMAN OF ANAHEIM, CALIFORNIA FOR PROFESSIONAL SERVICES TO CONDUCT THE DECMEBER 8, 2009 CITY COUNCIL RUN-OFF ELECTION USING AN ALL MAIL BALLOT IN THE AMOUNT OF $89,287.45 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT

WHEREAS, Martin & Chapman has agreed to provide the services outlined in **Exhibit "A" attached** hereto and incorporated herein by reference in the amount of $89,287.45; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves award of contract to Martin & Chapman for professional services to conduct the December 8, 2009 run-off election using an all mail ballot.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of May, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Stephanie Lopez
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
AGREEMENT FOR ELECTION SERVICES

THIS AGREEMENT, made and entered into in the City of Modesto, State of California, this _____ day of May, 2009, by and between the CITY OF MODESTO, a municipal corporation of the State of California, hereinafter referred to as "City", and MARTIN & CHAPMAN COMPANY, a California corporation, hereinafter referred to as "Consultant".

This Agreement is made with regard to the following recitals:

A. City has determined that, in the event a run-off election is necessary, election services will be needed to assist the City Clerk in conducting the December 8, 2009 Run-Off Election.

B. Consultant represents that it is qualified, willing and able to provide the services to prepare said document(s).

NOW, THEREFORE, in consideration of this Agreement, and the mutual promises, covenants, and stipulations hereinafter contained, the parties agree as follows:

1. **SCOPE OF SERVICES.**

Consultant shall undertake and complete the preparation of the scope of work as set forth below. The Consultant shall perform the services as described below in a manner compatible with the standards of its profession, and shall produce a fully complete project that is acceptable to City.

Consultant will provide election services as follows:

- Printing and finishing of ballots, sample ballots and envelopes
- Mailing of ballots, sample ballots and envelopes
- Equipment necessary to process and certify election
- Attend and assist with election process on election night
- Receive and respond to questions by telephone or e-mail prior to election date

2. **TERM OF AGREEMENT.**

This Agreement is effective as of the date first written above and will continue in effect until City's acceptance of and payment for all services authorized by City and

performed by Consultant, unless terminated earlier in accordance with the provisions of the termination clause in this Agreement.

City hereby gives Consultant notice to proceed with the preparation of the project in the manner described herein, as of the effective date of this Agreement. Consultant shall diligently proceed with the preparation of the project and agrees to complete said preparation within the time period set forth herein.

3. **COMPENSATION.**

Consultant agrees to accept a sum not to exceed $89,287.45 remuneration for performing all services and furnishing all staffing and materials called for in Section 1 and for performance by Consultant of all of its duties and obligations under this Agreement.

The Compensation shall be paid pursuant in the manner and at the times set forth below:

> At the completion of Election Services for the Run-off Mail Ballot Election on December 8, 2009.

4. **FAILURE TO PERFORM SATISFACTORILY**

It is agreed and understood that if the Consultant fails to perform the work as specified herein, City's representative may (1) consent to accept such unsatisfactory service with an appropriate adjustment in contract price, based on established cost factors, or (2) have such required work done by City forces or otherwise, and charge the cost thereof to the Consultant. Those discrepancies and deficiencies in the work that remain uncorrected after the date set for correction may be the necessary justification for a billing adjustment in the month following the occurrence. Unless otherwise negotiated, billing adjustments for this incomplete or uncorrected work shall be permanent retention of 100% of the estimated monthly cost for the work not corrected or completed.

5. **OBLIGATIONS OF CONSULTANT.**

Throughout the term of this Agreement, Consultant shall possess, or secure all licenses, permits, qualifications and approvals legally required to conduct business. Consultant warrants that it has all of the necessary professional capabilities and experience, as well as all tools, instrumentalities, facilities and other resources necessary to provide the City with the services contemplated by this Agreement. Consultant further warrants that it will follow the best current, generally accepted and professional practices to make findings, render opinions,

prepare factual presentations, and provide professional advice and recommendations regarding this project. The business license requirement has been waived by the City Clerk's Office.

6. **PERFORMANCE BY KEY EMPLOYEE.**

Consultant has represented to City that _____, will be the person primarily responsible for the performance of the services referred to in this Agreement. City has entered into this Agreement in reliance on that representation by Consultant. Consultant therefore agrees that seventy-five percent (75%) or more of the time to be devoted to the project that is the subject of this Agreement will be that of the above-named person.

7. **OWNERSHIP OF DOCUMENTS/TITLE TO DATA.**

Ownership of Documents

All reports, drawings, designs, graphics, working papers and other incidental work or materials furnished hereunder shall become and remain the property of the City, and may be used by City as it may require without any additional cost to City. No reports shall be used by the Consultant for purposes other than this contract without the express prior written consent of City.

Title to Data

If, as a part of the Agreement, Consultant is required to produce data such as, but not limited to, drawings, plans, Request for Proposal, calculations, models, flow diagrams, visual aids and other related materials, the originals of all such data generated under this Agreement will be delivered to City upon the completion or termination of services under the contract.

All materials, documents, data or information obtained from City of Modesto data files or any City of Modesto medium furnished to Consultant in the performance of this Agreement will at all times remain the property of the City of Modesto. Such data or information may not be used or copied for direct or indirect use by Consultant after termination of this Agreement without written consent of the City.

8. **NEWS AND INFORMATION RELEASE.**

Consultant agrees that it will not issue any news releases in connection with either the award of this Agreement, or any subsequent amendment of or efforts under this

Agreement, without first obtaining review and approval of said news releases from City through the City Clerk.

9. **INTEREST OF CONSULTANT.**

Consultant warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. Consultant warrants that, in performance of this Agreement, Consultant shall not employ any person having any such interest. Consultant agrees to file a Statement of Economic Interests with the City Clerk of the City at the start and end of this contract if so required at the option of City.

10. **AMENDMENTS.**

Both parties to this Agreement understand that it may become desirable or necessary during the execution of this Agreement, for City or Consultant to modify the scope of services provided for under this Agreement. Any material extension or change in the scope of work shall be discussed with City and the change and cost shall be memorialized in a written amendment to the original contract prior to the performance of the additional work.

Until a change order is so executed, City will not be responsible to pay any charges Consultant may incur in performing such additional services, and Consultant shall not be required to perform any such additional services.

11. **INDEPENDENT CONSULTANT.**

All acts of Consultant, its agents, officers, and employees and all others acting on behalf of Consultant relating to the performance of this Agreement, shall be performed as independent Consultants and not as agents, officers, or employees of City. Consultant, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of City. Consultant has no authority or responsibility to exercise any rights or power vested in the City. No agent, officer, or employee of the City is to be considered an employee of Consultant. It is understood by both Consultant and City that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture.

Consultant, its agents, officers and employees are and, at all times during the terms of this Agreement, shall represent and conduct themselves as independent Consultants and not as employees of City.

Consultant shall determine the method, details and means of performing the work and services to be provided by Consultant under this Agreement. Consultant shall be responsible to City only for the requirements and results specified in this Agreement, and, except as expressly provided in this Agreement, shall not be subjected to City's control with respect to the physical action or activities of the Consultant in fulfillment of this Agreement. Consultant has control over the manner and means of performing the services under this Agreement. Consultant is permitted to provide services to others during the same period services are provided to City under this Agreement. If necessary, Consultant has the responsibility for employing other persons or firms to assist Consultant in fulfilling the terms and obligations under this Agreement.

If in the performance of this Agreement any third persons are employed by Consultant, such persons shall be entirely and exclusively under the direction, supervision, and control of Consultant. All terms of employment including hours, wages, working conditions, discipline, hiring, and discharging or any other term of employment or requirement of law shall be determined by the Consultant.

It is understood and agreed that as an independent Consultant and not an employee of City neither the Consultant or Consultant's assigned personnel shall have any entitlement as an City employee, right to act on behalf of the City in any capacity whatsoever as an agent, or to bind the City to any obligation whatsoever.

It is further understood and agreed that Consultant must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of Consultant's personnel.

As an independent Consultant, Consultant hereby indemnifies and holds City harmless from any and all claims that may be made against City based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

12. **ASSIGNMENT.**

Neither this Agreement nor any portion thereof shall be subcontracted or assigned without the express prior written consent of the City in each and every instance.

13. **PATENT/COPYRIGHT MATERIALS.**

Unless otherwise expressly provided in the contract, Consultant shall be solely responsible for obtaining the right to use any patented or copyrighted materials in the

performance of this Agreement. Consultant shall furnish a warranty of such right to use to City at the request of City.

14. **NOTICES.**

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

FOR Consultant:

Name:	Martin & Chapman Company
Address:	1951 Wright Circle, Anaheim, CA 92806
Attention:	Scott Martin
Phone:	(714) 939-9866

FOR City:

Name:	Stephanie Lopez, City Clerk
Address:	P.O. Box 642, Modesto, CA 95353
Attention:	Stephanie Lopez
Phone:	(209) 577-5398

15. **INSURANCE REQUIREMENTS.**

The Consultant shall provide at its own expense and maintain at all times the following insurance with insurance companies licensed in the State of California and shall provide evidence of such insurance to the City as may be required by the Risk Manager of the City. The policies or certificates thereof shall provide that, thirty (30) days prior to cancellation or material change in the policy, notices of same shall be given to the Risk Manager of the City by certified mail, return receipt requested, for all of the following stated insurance policies.

(a) Worker's Compensation - in compliance with the statutes of the State of California, plus employer's liability with a minimum limit of liability of $500,000.

(b) General Liability insurance with a minimum limit of liability per occurrence of $1,000,000 for bodily injury and $100,000 for property damage or $1,000,000 combined single limit. This insurance shall indicate on the certificate of insurance the following coverages and indicate the policy aggregate limit applying to: premises and operations; broad

form contractual; independent consultants and subcontractors; products and completed operations; and professional liability.

(c) Automobile Liability insurance with a minimum limit of liability per occurrence of $1,000,000 for bodily injury and $100,000 for property damage or $1,000,000 combined single limit. This insurance shall cover any automobile for bodily injury and property damage.

(d) Professional Liability insurance with a minimum limit of $1,000,000 per claim and policy aggregate.

If at any time any of said policies shall be unsatisfactory to the City, as to form or substance, or if a company issuing such policy shall be unsatisfactory to the City, the Consultant shall promptly obtain a new policy, submit the same to the City's Risk Manager for approval and submit a certificate thereof as herein-above provided. Upon failure of the Consultant to furnish, deliver or maintain such insurance and certificates as above provided, this Agreement, at the election of the City, may be forthwith declared suspended, or terminated. Failure of the Consultant to obtain and/or maintain any required insurance shall not relieve the Consultant from any liability under this Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations of the Consultant concerning indemnification. The City, its agents, officers, employees, and volunteers shall be named as an additional insured on all insurance policies required herein, except Workers' Compensation. The Workers' Compensation insurer shall agree to waive all rights of subrogation against the City, its agents, officers, employees, and volunteers for losses arising from work performed by Consultant for the City. The Consultant's insurance policy(ies) shall include a provision that the coverage is primary as respects the City; shall include no special limitations to coverage provided to additional insured; and, shall be placed with insurer(s) with acceptable Best's rating of A:VII or with approval of the Risk Manager. The Consultant must deliver certificates evidencing existence of the insurance called for in the contract Request for Proposal to the City Clerk of the City at the time the contract is signed.

16. **TERMINATION OF AGREEMENT.**

Termination on Occurrence of Stated Events

This Agreement shall terminate automatically on the date on which any of the following events occur: (1) bankruptcy or insolvency of Consultant, (2) legal dissolution of Consultant, or (3) death of key principal(s) of Consultant.

Termination by City for Default of Consultant

Should Consultant default in the performance of this Agreement or materially breach any of its provisions, at its option City may terminate this Agreement by giving five (5) days written notification to Consultant. The termination date shall be the effective date of the notice. For the purposes of this section, material breach of this Agreement shall include but not be limited to any of the following: failure to perform required services or duties, willful destruction of City of Modesto and/or City's property by Consultant, dishonesty or theft.

Termination by Consultant for Default of City

Should City default in the performance of this Agreement or materially breach any of its provisions, at its option Consultant may terminate this Agreement by giving written notice to City. The termination date shall be the effective date of the notice. For the purposes of this section, material breach of this Agreement shall include but not be limited to any of the following: failure to cooperate reasonably with Consultant, willful destruction of Consultant's property by City, dishonesty or theft.

Termination by City for Lack of Budgeted Funds

The City may terminate this Agreement effective July 1 of any given year upon the City's determination to not appropriate sufficient funds for this Agreement for the ensuing fiscal year. In such event City shall give Consultant not less than 30 days written notice.

Termination for Failure to Make Agreed-Upon Payments

Should City fail to pay Consultant all or any part of the payments set forth in this Agreement on the date due, at its option Consultant may terminate this Agreement if the failure is not remedied within thirty (30) days after Consultant notifies City in writing of such failure to pay. The termination date shall be the effective date of the notice.

Termination by City for Change of Consultant's Tax Status

If City determines that Consultant does not meet the requirements of federal and state tax laws for independent Consultant status, City may terminate this Agreement

by giving written notice to Consultant. The termination date shall be the effective date of the notice.

Voluntary Termination

The parties may terminate this contract upon mutual written Agreement.

In the Event of Termination

If this Agreement is terminated pursuant to this Paragraph, Consultant shall cease all its work on the project as of the termination date and shall see to it that its employees, subcontractors and agents are notified of such termination and cease their work. If City so requests, and at City's cost, Consultant shall provide sufficient oral or written status reports to make City reasonably aware of the status of Consultant's work on the project. Further, if City so requests, and at City's cost, Consultant shall deliver to City any work products whether in draft or final form which have been produced to date.

If the Agreement is terminated pursuant to any of the subsections contained in this paragraph, City will pay Consultant an amount based on the percentage of work completed on the termination date, this percentage shall be determined by City in its sole discretion. If the Agreement is terminated pursuant to the subparagraph entitled Termination by City for Default of Consultant, Consultant understands and agrees that City may, in City's sole discretion, refuse to pay Consultant for that portion of Consultant's services which were performed by Consultant on the project prior to the termination date and which remain unacceptable and/or not useful to City as of the termination date.

17. **INDEMNITY.**

Consultant, its agents, officers and employees shall defend, indemnify, and hold harmless City of Modesto and/or City, its agents, officers, and employees from and against all claims, damages, losses, judgment, liabilities, expenses, and other costs including litigation costs and attorney's fees from every cause, including but not limited to injury to person or property or wrongful death arising directly or indirectly out of any act or omission of Consultant whether or not the act or omission arises from the sole negligence or other liability of City of Modesto and/or City, or its agents, officers, and employees or volunteers relating to or during the performance of its obligations under this agreement.

Consultant's obligation to defend, indemnify, and hold the City of Modesto and/or City, its agents, officers, and employees harmless under the provisions of this paragraph is not

limited to or restricted by any requirement in this Agreement for Consultant to procure and maintain a policy of insurance.

18. **ENTIRE AGREEMENT.**

This Agreement and its exhibits contain the entire understanding between Consultant and City. Additional or new terms contained in this Agreement which vary from Consultant's proposal are controlling and are deemed accepted by Consultant by shipment of any article or other commencement of performance hereunder. All previous proposals, offers and communications relative to this Agreement, whether oral or written, are hereby superseded except to the extent that they have been incorporated into this Agreement. No future waiver of or exception to any of the terms, conditions, and provisions of this Agreement shall be considered valid unless specifically agreed to in writing by all the parties.

19. **PARTIAL INVALIDITY.**

If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

20. **WAIVER.**

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

21. **AUDIT.**

The City's duly authorized representative shall have access at all reasonable times to all reports, contract records, contract documents, contract files, and personnel necessary to audit and verify Consultant's charges to City under this Agreement.

Consultant agrees to retain reports, records, documents, and files related to charges under this Agreement for a period of four (4) years following the date of final payment for Consultant services. City's representative shall have the right to reproduce any of the aforesaid documents.

22. **GOVERNING LAW.**

This Agreement shall be governed according to the laws of the State of California.

23. **HEADINGS NOT CONTROLLING.**

Headings used in the Agreement are for reference purposes only and shall not be considered in construing this Agreement.

24. **COMPLIANCE WITH LAWS.**

Consultant shall insure compliance with all safety and hourly requirements for employees, in accordance with federal, state, and county safety and health regulations and laws. Consultant shall fully comply with all applicable federal, state, and local laws, ordinances, regulations and permits. Consultant will have a City of Modesto business license.

IN WITNESS WHEREOF, the City Council of the City of Modesto, a municipal corporation, has authorized the execution of this Agreement in duplicate by its City Manager and attestation by its City Clerk under authority of Resolution No. 2009-_____ adopted by the City Council of the City of Modesto on the _____ day of May, 2009 and Consultant has caused this agreement to be duly executed.

CITY OF MODESTO,
a municipal corporation

By:_____
GREG NYHOFF, City Manager

ATTEST:

By _____
STEPHANIE LOPEZ, City Clerk
(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

By _____
MARY AKIN, Risk Manager

CONSULTANT*

By:_____

By:_____

Consultant's Federal ID #_____

*Corporations - signature of two (2) officers required or one (1) officer plus corporate seal.
Partnership - signature of a partner required
Sole Proprietorship - signature of proprietor required

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-207

RESOLUTION AMENDING THE FISCAL YEAR 2008-2009 ANNUAL BUDGET

WHEREAS, a monthly financial analysis has been completed and it has been determined that certain adjustments are required to the Annual Budget of the City of Modesto for Fiscal Year 2008-2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the Fiscal Year 2008-2009 budget have been adjusted as shown in **Exhibit A**, which is 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.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of May, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following votes:

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

ATTEST: Stephanie Lopez
STEPHANIE LOPEZ, City Clerk

(SEAL)
APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

ATTACHMENT 1 – COMMUNITY & ECONOMIC DEVELOPMENT

This budget adjustment recognizes unbudgeted miscellaneous revenue from Foreclosure Counsel, and appropriates these revenues to Services Professional & Other to allow staff to continue to pursue delinquent taxes and pay Foreclosure Counsel for the remainder of FY 2008-09.

REVENUES

TO:		
2692-140-0251-8155	Miscellaneous Revenue	114,000

APPROPRIATIONS

TO:		
2692-140-0251-0235	Services Professional & Other	114,000

The General Plan Update was completed at a cost that was less than the amount budgeted. This budget adjustment transfers the balance of $303,693 back to the General Fund.

APPROPRIATIONS

FROM:		
0800-140-1440-8014	General Plan Update Project Closure	(303,692)
TO:		
0100-800-8000-8003	General Fund Reserves	303,692

TRANSFER BETWEEN FUNDS

FROM:		
0800-700-1440-7010	Transfer out to General Fund	303,692
TO:		
0100-700-1440-9080	Transfer In from Economic Development Strategic Plan Fund	303,692

ATTACHMENT 2 – FINANCE

This budget adjustment corrects a small difference in the amount budgeted for revenue and expense for the Project Safe Neighborhoods Grant.

APPROPRIATIONS

FROM:		
0410-190-2907-0191	Benefit Adjustment - Increase	(160)
TO:		
0410-800-8000-8003	Operation Grant Reimbursement Reserves	160

This budget adjustment corrects a small difference in the amount budgeted for revenue and expense for the Buckle-Up Grant.

APPROPRIATIONS

FROM:		
0410-190-2971-0191	Benefit Adjustment - Increase	(360)
TO:		
0410-800-8000-8003	Operation Grant Reimbursement Reserves	360

A review of 2008/09 General Fund revenues was done by the departments in January, 2009. This adjustment recognizes the change in departmental revenue forecasts due to the current economic conditions.

City Clerk		
0100-050-0501-4095	Misc Special Service	(11,250)
Finance		
0100-120-1225-8155	Miscellaneous Revenue	(42,850)
Community & Economic Development		
0100-140-1401-4000	Map Checking Fees	(2,075)
0100-140-1401-4001	Building Fee-All Inclusive	(224,778)
0100-140-1401-4002	Building Inspections	(295,368)
0100-140-1401-4003	Plumbing Inspections	(20,159)
0100-140-1401-4004	Electrical Inspections	(34,221)
0100-140-1401-4005	Heating/Cooling Code Inspection	(35,562)
0100-140-1401-4006	Mobile Home Inspection	(4,125)
0100-140-1401-4007	Plan Checking Fees	(171,560)
0100-140-1401-4011	Subdivision App/Development	(1,250)
0100-140-1401-4014	Earthquake Education Fee	(5,791)
0100-140-1401-4056	Substandard Building Fee	1,529
0100-140-1401-4057	Dangerous Building Fee	2,381
0100-140-1401-4092	Copying Fees	(1,435)

0100-140-1401-4909	Interfund Labor Charges	(46,499)
0100-140-1401-8137	Sale-Const Codes and Specs	(1,184)
0100-140-1401-8155	Miscellaneous Revenue	(145)
0100-140-1408-4909	Interfund Labor Charges	(76,220)
0100-140-1413-2207	Removal Permits	(4,300)
0100-140-1413-2210	Encroachment Permits	(3,600)
0100-140-1413-4000	Map Checking Fees	(600)
0100-140-1413-4011	Subdivision App/Development	(37,000)
0100-140-1413-4092	Copying Fees	(20)
0100-140-1413-4161	Right of Way Abandonment	(3,800)
0100-140-1413-4340	O/S City Sewer Agreement	(7,400)
0100-140-1413-8155	Miscellaneous Revenue	(50)
0100-140-1430-2213	Street Closure & Abandonment	(5,854)
0100-140-1430-4008	Zoning Fees	(6,263)
0100-140-1430-4009	Environmental Impact Fees	(2,037)
0100-140-1430-4010	Plot Plan Review Fees	(14,348)
0100-140-1430-4011	Subdivision App/Development	(51,265)
0100-140-1430-4012	Annexation Fee	(30,664)
0100-140-1430-4092	Copying Fees	150
0100-140-1430-4151	General Plan Maintenance	(2,767)
0100-140-1430-4909	Interfund Labor Charges	(44,694)

Fire

0100-180-1802-8101	Sale of Real Property	(200,000)
0100-180-1822-4032	Hood & Duct Installation	1,887
0100-180-1822-4035	Underground Flam/Comb Storage	(2)
0100-180-1822-4037	Plan Check	(61,548)
0100-180-1822-4039	Sprinkler System	(12,231)
0100-180-1822-4155	Site Plan Review	1,670
0100-180-1822-4156	Inspection	338
0100-180-1832-8155	Miscellaneous Revenue	(12,710)

Police

0100-190-1921-3128	POST Reimbursement	20,000
0100-190-1921-3727	School Police Reimbursement	(32,000)
0100-190-1921-3730	School District Contribution	8,746
0100-190-1921-4027	Live Scan	(40,000)
0100-190-1921-4062	YCCD Training Partnership	(30,277)
0100-190-1921-4070	Police Class Fees	1,000
0100-190-1921-8114	Evidence Release	6,000
0100-190-1921-8155	Miscellaneous Revenue	(38,000)
0100-190-1934-7113	Parking Fines	(250,000)
0100-190-1941-3220	Hi Tech Task Force	(50,000)
0100-190-1941-3312	County Vehicle Theft Allocation	(51,191)
0100-190-1941-3606	Federal Funding for Operations	35,000
0100-190-1941-8127	SB90 Mandated Cost Recovery	13,000
0100-190-1951-3762	Federal Government Airport Sec Reimbursement	32,000
0100-190-1961-3325	City Housing Auth Officer Reimbursement	4,176
0100-190-1961-4028	Vehicle Releases – PD	(220,000)

0100-190-1961-4029	Safety Response Reimbursement	(21,504)
0100-190-1961-4909	Interfund Labor Charges	(66,000)
0100-190-1968-3765	Weed and Seed	(10,000)

Parks, Recreation & Neighborhoods

0100-300-3001-4909	Interfund Labor Charges	(91,554)
0100-300-3001-8101	Sale of Real Property	(215,000)
0100-310-3120-4065	Commercial Landscape Fee	(5,000)
0100-310-3120-4095	Misc Special Service	1,400
0100-310-3120-4909	Interfund Labor Charges	(77,647)
0100-340-3415-1325	Parks Concessions	1,000
0100-340-3415-4081	Services-Centre Plaza	5,000
0100-340-3415-4909	Interfund Labor Charges	(51,220)
0100-340-3415-6208	John Thurman Field Rtl	1,000
0100-350-3522-4909	Interfund Labor Charges	915
0100-350-3522-8115	Vending Commissions	500
0100-350-3522-8117	Neat Program Receipts	(18,000)
0100-350-3522-8122	Refunds, Damages & Cost Recovery	1,200
0100-350-3801-2203	Permits Vendors, Filming	100
0100-350-3801-4066	Parks Reservation Fees	(2,000)
0100-350-3801-4074	Miscellaneous Recreation	(20,000)
0100-350-3801-4075	Miscellaneous PR&N Fees	(77,050)
0100-350-3801-4095	Misc Special Service	(5,000)
0100-350-3801-6209	Ballfield Rental	(3,500)
0100-350-3801-6216	Mancini Bowl Rental	(150)
0100-350-3801-8123	Spec Events Insurance	5,000
0100-350-3801-8143	Items for Resale	10
0100-350-3801-8155	Miscellaneous Revenue	(440)
0100-360-3612-4085	Salary Reimbursement Agreement	(198)
0100-360-3612-6211	McHenry Museum Fees	(500)
0100-360-3612-6225	Bldg/Room Rental-Other	(3,500)
0100-360-3613-4085	Salary Reimbursement Agreement	(6,076)
0100-360-3613-6215	McHenry Mansion Rental	(7,000)
0100-370-3701-4074	Miscellaneous Recreation	3,700
0100-370-3701-4095	Misc Special Service	(53)
0100-370-3701-8143	Items for Resale	25
0100-370-3712-3761	Miscellaneous Grants/Donations	(15,000)
0100-370-3712-4095	Misc Special Service	1,000
0100-370-3712-6228	Senior Citizens Center Rental	7,000
0100-370-3712-8107	Donations	8,300
0100-370-3712-8143	Items for Resale	(700)
0100-370-3713-4071	Swimming Pool Fees	(15,300)
0100-370-3713-4072	League Fees	(43,000)
0100-370-3713-4074	Miscellaneous Recreation	(20,000)
0100-370-3713-8143	Items for Resale	(7,000)
0100-370-3731-6225	Bldg/Room Rental-Other	1,800
0100-370-3732-3761	Miscellaneous Grants/Donations	200
0100-370-3732-4068	Youth Services Program Fee	(2,000)
0100-370-3732-8122	Refunds, Damages & Cost Recovery	300

0100-370-3732-8155	Miscellaneous Revenue		(15,000)
0100-370-3733-4074	Miscellaneous Recreation		700
0100-370-3733-8107	Donations		400
0100-370-3733-8155	Miscellaneous Revenue		(15,000)
0100-370-3770-2214	Outdoor Promo/Sales Permit		(5,200)
0100-370-3770-4069	NPU Re-Inspection Fees		(8,600)
0100-370-3770-8155	Miscellaneous Revenue		(55)
0100-390-3916-3706	JPA Administration Fees		(2,034)
Public Works			
0100-480-5220-4383	Pruned Refuse Removal		(10,000)
0100-430-4301-4909	Interfund Labor Charge		(25,000)
		Total	(2,884,947)

This budget adjustment transfers the cash balance in the Water Debt Service Fund to the Water Enterprise Fund. This amount represents prior years' excess transfers for debt service. Because this amount has been included in the working capital forecast used for budget planning, it does not represent a "windfall" to the enterprise fund.

APPROPRIATIONS

FROM:		
6120-800-8000-8003	Water Reserves	(9,180,568)
TO:		
6100-800-8000-8003	Water Reserves	9,180,568

TRANSFER BETWEEN FUNDS

FROM:		
6120-700-7000-7610	Transfer Out to 6100	9,180,568
TO:		
6100-700-7000-9610	Transfer In to 6100	9,180,568

This budget adjustment recognizes a decrease in Supplemental Roll revenues, 0100-510-9510-1100, due to decline in property values, and the higher than expected revenues in Property Transfer Tax, 0100-510-9510-1119.

REVENUES

FROM:		
0100-510-9510-1110	Supplemental Roll	(200,000)
TO:		
0100-510-9510-1119	Property Transfer Tax	200,000

This budget adjustment reduces the budget for the Customer Services Counter Reconstruction Capital Outlay Project Q237, 1300-120-Q237-6040, and transfers funds back to the General Fund Reserves, 0100-800-8000-8003.

APPROPRIATIONS

FROM:		
1300-120-Q237-6040	Construction	(230,000)
1300-800-8000-8003	Capital Outlay Reserves	(230,000)
TO:		
1300-800-8000-8003	Capital Outlay Reserves	230,000
0100-800-8000-8003	General Fund Reserves	230,000

TRANSFER BETWEEN FUNDS

FROM:		
1300-700-Q237-7010	Transfer Out to General Fund	230,000
TO:		
0100-700-Q237-9130	Transfer In from Capital Outlay	230,000

ATTACHMENT 3 – INFORMATION TECHNOLOGY

This budget adjustment transfer's cash from IT Reserves, 7130-800-8000-8003, back to various funds from excess monies collected through Internal Service charges in prior years.

TRANSFER BETWEEN FUNDS

FROM:

7130-700-7000-7010	Transfer to General Fund	508,662
7130-700-7000-7031	Transfer to Solid Waste Spec Rev	2,185
7130-700-7000-7113	Transfer to CDBG Direct Program	9,984
7130-700-7000-7117	Transfer to Home Program	1,780
7130-700-7000-7290	Transfer to IFP Administration	1,296
7130-700-7000-7610	Transfer to Water Fund	195,312
7130-700-7000-7621	Transfer to Sewer Operations Fund	181,687
7130-700-7000-7628	Transfer to Storm Drain Fund	38,054
7130-700-7000-7629	Transfer to Compost Operations Fund	1,135
7130-700-7000-7631	Transfer to Airport Operating Fund	2,450
7130-700-7000-7651	Transfer to Bus Fixed Route MAX	4,116
7130-700-7000-7654	Transfer to Bus Fixed Route MAX Ops	3,407
7130-700-7000-7720	Transfer to Fleet Management Fund	9,726
7130-700-7000-7731	Transfer to Insurance Administration	8,165
7130-700-7000-7850	Transfer to JPA - Tenth Street Place	2,355

TO:

0100-700-7000-9713	Transfer in From IT Reserves	508,662
0310-700-7000-9713	Transfer in From IT Reserves	2,185
1130-700-7000-9713	Transfer in From IT Reserves	9,984
1170-700-7000-9713	Transfer in From IT Reserves	1,780
2900-700-7000-9713	Transfer in From IT Reserves	1,296
6100-700-7000-9713	Transfer in From IT Reserves	195,312
6210-700-7000-9713	Transfer in From IT Reserves	181,687
6280-700-7000-9713	Transfer in From IT Reserves	38,054
6290-700-7000-9713	Transfer in From IT Reserves	1,135
6310-700-7000-9713	Transfer in From IT Reserves	2,450
6510-700-7000-9713	Transfer in From IT Reserves	4,116
6540-700-7000-9713	Transfer in From IT Reserves	3,407
7200-700-7000-9713	Transfer in From IT Reserves	9,726
7310-700-7000-9713	Transfer in From IT Reserves	8,165
8500-700-7000-9713	Transfer in From IT Reserves	2,355

ATTACHMENT 4 – PARKS, RECREATION & NEIGHBORHOODS

This budget adjustment recognizes unbudgeted revenue from the rental of 800 E. Morris in Miscellaneous Special Services, 0100-350-3801-4095, and reallocates these funds to the Youth Scholarship account, 0100-350-3801-1060.

REVENUE

TO:		
0100-350-3801-4095	Misc. Special Services	16,800

APPROPRIATIONS

TO:		
0100-350-3801-1060	Youth Scholarships	16,800

On November 25, 2008 Council approved the outsourcing of custodial services. This budget adjustment corrects the amount of anticipated savings from the outsourcing of custodial services from $200,000 to $69,595 in Fiscal Year 2008-09.

APPROPRIATIONS

FROM:		
0100-800-8000-8003	General Fund Reserves	(130,405)
TO:		
7800-350-3513-0181	Salary Adjustment - Increase	130,405

TRANSFER BETWEEN FUNDS

FROM:		
7800-700-3513-7010	Transfer Out of Building Services	(130,405)
TO:		
0100-700-3513-9780	Transfer In to General Fund	(130,405)

This budget adjustment will transfer funds from the Housing Set-Aside Reserve, 9060-800-8000-8003, and move funds from Services, Professional & Other in the Housing Set-Aside Fund to accurately record expenses in the Mobile Home Rental Assistance Program.

APPROPRIATIONS

FROM:		
9060-800-8000-8003	Housing Set-Aside Reserves	(28,000)
9060-140-1491-0235	Services, Professional & Other	(19,000)
TO:		
9060-140-1491-0496	Mobile Home Rental Assistance Program	47,000

ATTACHMENT 5 – PUBLIC WORKS

This budget adjustment recognizes unbudgeted revenue in Capital Improvement Project W615, Modesto System Improvements, 6180-480-W615-8122, for the reimbursement of design fees, and appropriates these revenues for Engineering/Design/Administration, 6180-480-W615-6010.

REVENUES

TO:		
6180-480-W615-8122	Refund	42,826

APPROPRIATIONS

TO:		
6180-480-W615-6010	Engineering/Design/Admin	42,826

The following budget adjustment reflects adjustments to the revenue forecast of the Gas Tax Fund for both budgeted and unbudgeted revenues:

REVENUES

FROM:		
0700-160-1601-2213	Street Closure/Abandonment Fee	(200)
0700-160-1601-4008	Zoning Fees	(4,000)
0700-160-1601-4009	Environmental Fees	(500)
0700-160-1601-4010	Plot Plan Review Fees	(3,000)
0700-160-1601-4011	Subdivision Application Fees	(500)
0700-160-1601-4909	Interfund Labor Charges	(66,154)
0700-430-4370-3110	Gas Tax 2106B	(38,205)
0700-480-4622-4055	Street Name Signs	(2,000)
0700-480-4724-3230	Prop 42 Funding	(137,970)

TO:		
0700-160-1601-6201	Lease of Land	6,600
0700-480-4612-4909	Interfund Labor Charges	228,948
0700-480-4612-4095	Misc Special Services	216
0700-430-4370-3120	Gas Tax 2105	283,938
0700-430-4370-3125	Gas Tax 2107	200,000
0700-430-4370-3705	Union Pacific RR Grade Reimbursement	175,806

APPROPRIATIONS

FROM:		
0700-800-8000-8003	Gas Tax Fund Reserves	642,979

This budget adjustment decreases operating expenses in the Gas Tax Fund in FY 2008-09 and returns these funds to Gas Tax Fund Reserves.

APPROPRIATIONS

FROM:		
0700-480-4622-0360	Prop Maintenance & Repair	(703)
0700-480-4622-0130	Overtime	(29,297)
0700-480-4724-0235	Services Professional & Other	(6,023)
0700-480-4724-0269	Temporary Labor	(78,977)
0700-160-1630-0235	Services Professional & Other	(108,795)
0700-160-1630-0365	Equipment Maintenance & Repair	(157,497)
TO:		
0700-800-8000-8003	Gas Tax Fund Reserves	381,292

This budget adjustment transfers Prop 1-B Phase I revenue from Organization 0700-430-4360-3203 to the Secondary Prop 1-B Phase I Capital Improvement Program project account.

APPROPRIATIONS

FROM:		
MY-0700-430-4360-3203	Proposition 1-B Revenue	(144,126)
MY-0700-160-E003-6052	Prop 1-B Phase 1 Primary	(144,126)
TO:		
MY-0700-160-E003-6052	Prop 1-B Phase 1 Primary Acct	144,126
MY-0700-160-E004-6041	Prop 1-B Phase 1 Secondary	144,126

The following five Capital Improvement Projects are complete. This budget adjustment adjusts the Transfers In for match funding in order to process and finalize project closures.

TRANSFERS BETWEEN FUNDS

FROM:		
0700-700-E645-7237	Transfer Out to Fund 2370	(59,913)
1410-700-N068-7230	Transfer Out to Fund 2300	358
0700-700-N064-7230	Transfer Out to Fund 2300	1,058
0700-700-M203-7230	Transfer Out to Fund 2370	(38,364)
0700-700-E690-7237	Transfer Out to Fund 2370	(6,798)
TO:		
2370-700-E645-9070	Transfer In From Fund 0700	(59,913)
2300-700-N068-9141	Transfer In From Fund 1410	358
2300-700-N064-9070	Transfer In From Fund 0700	1,058
2300-700-M203-9070	Transfer In From Fund 0700	(38,364)
2370-700-E690-9070	Transfer In From Fund 0700	(6,798)

The following budget adjustment is being made to set up a Transfer In from the Gas Tax Fund, 0700-700-7000-7237, to the Capital Grants - Gas Tax Fund, 2370-700-7000-9070, to cover an increase in match funding needed.

TRANSFERS BETWEEN FUNDS

FROM:		
0700-700-7000-7237	Transfer Out to Capital Grants	25,000
TO:		
2370-700-7000-9070	Transfer In from Gas Tax Fund	25,000

This budget adjustment reduces the Transfer In from Fund 0520, LTF Non-Motorized, to Organization 0700-480-4724-9052, Curbs, Gutters and Sidewalks, to maintain the proportional ratio of non-motorized funding for bike paths versus pedestrian walkways.

TRANSFERS BETWEEN FUNDS

FROM:		
0520-700-7000-7070	Transfer Out to Gas Tax Fund 0700	(45,130)
TO:		
0700-700-4724-9052	Transfer In to LTF Non-Motorized Fund	(45,130)

This budget adjustment increases the Transfer In from Fund 0510, Local Transportation Fund (LTF), due to the funding shortfall in the Gas Tax Fund.

TRANSFERS BETWEEN FUNDS

FROM:		
0510-700-7000-7070	Transfer Out to Gas Tax Fund	400,000
TO:		
0510-700-7000-9051	Transfer In from LTF Motorized Fund	400,000

This budget adjustment reduces the amount of Congestion Mitigation Air Quality (CMAQ) revenue and increases the amount of State Grant Miscellaneous Revenue in Capital Improvement Program Sec 130 Grade Cross Improvements, 2300-160-E001, to reclassify the type of grant funding revenue associated with this project.

REVENUES

FROM:		
2300-160-E001-3531	CMAQ	(12,000)
TO:		
2300-160-E001-3178	State Grant Miscellaneous	12,000

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-208

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE LEASE/PURCHASE OF A MOBILE TROMMEL SCREEN EQUIPPED WITH A CONTAMINATION REMOVAL DEVICE, WITH PREVENTATIVE MAINTENANCE, FOR AN ESTIMATED TOTAL COST OF $320,000 OVER FIVE YEARS

WHEREAS, the City of Modesto's Compost Facility at 7007 Jennings Road currently uses a 12-year old trommel screen in producing finished compost for sale, and

WHEREAS, screening is essential to the production of marketable compost, and

WHEREAS, due to its age and constant use, the current trommel screen breaks down frequently, sometimes several times a day, and has severe rust damage, and

WHEREAS, structural and mechanical problems have reduced its efficiency to the point where the facility struggles to keep up with the demand for screened product and has had to schedule overtime to produce enough screened compost, and

WHEREAS, the current screen no longer meets state air board regulations for diesel engines, and would require a new engine to meet state regulations, and

WHEREAS, investing in a new engine for the current screen that would meet the state regulations by the compliance deadline of January 1, 2010 would cost approximately $33,000, and would not be an effective use of funds given the current screen's lack of structural integrity, and

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

WHEREAS, $64,000 has been budgeted in the FY 2009-2010 budget for the first year's payment for the lease/purchase of a new trommel screen, with preventative maintenance, in accounts 6290-355-5222-0451 and 6290-355-5222-0452,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes the Purchasing Manager to issue formal Request for Bids (RFB) for the lease/purchase of a mobile trommel screen equipped with a contamination removal device, with preventive maintenance, for an estimated total cost of $320,000 over 5 years.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of May, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-209

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PELANDALE AVENUE DRAINAGE PUMP STATION PROJECT, ACCEPTING THE BID AND APPROVING A CONTRACT WITH PRESTON PIPELINES, INC. IN THE AMOUNT OF $283,000, FOR THE PELANDALE AVENUE DRAINAGE PUMP STATION PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Pelandale Avenue Drainage Pump Station project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Pelandale Avenue Drainage Pump Station project were opened at 11:00 a.m. on February 17, 2009, and later tabulated by the Director of Public Works for the consideration of the Council, and

WHEREAS, the Director of Public Works has recommended that the bid of $283,000 received from Preston Pipelines, Inc. be accepted as the lowest responsible bid and the contract be awarded to Preston Pipelines, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Pelandale Avenue Drainage Pump Station project, accepts the bid of Preston Pipelines, Inc. in the amount of $283,000, and awards Preston Pipelines, Inc. the contract for the Pelandale Avenue Drainage Pump Station project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract with Preston Pipelines, Inc. in the amount of $283,000, for the Pelandale Avenue Drainage Pump Station project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of May, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-210

A RESOLUTION REJECTING ALL BIDS FOR THE YOSEMITE BOULEVARD (S.R. 132) WATER LINE REPLACEMENT PROJECT, AND AUTHORIZING STAFF TO IMMEDIATELY RE-ADVERTISE A PROJECT WITH A REDUCED SCOPE FOR THE YOSEMITE TRANSMISSION MAIN PROJECT

WHEREAS, the bids received for "Yosemite Boulevard (S.R. 132) Water Line Replacement" were opened at 11:00 a.m. on January 13, 2009, and later tabulated by the Director of Public Works for the consideration of the Council, and

WHEREAS, 16 bids were received with Ayodeji A. Ogundare, dba Pacific Engineering Company (Pacific Engineering), the apparent low bidder, and

WHEREAS, pending disciplinary action against Pacific Engineering by the State of California Labor Commissioner could affect Pacific Engineering's Contractor's License, and

WHEREAS, results of the disciplinary action were not available from a Hearing that was originally scheduled for March 30, 2009, but postponed until April 30, 2009, and

WHEREAS, Caltrans advertised for bids to grind and overlay S.R. 132 between L Street and San Juan Avenue, and

WHEREAS, the City waterline project will not be complete when paving is scheduled to begin in September. Therefore, staff recommends all bids be rejected and staff be allowed to re-advertise the project at a later date,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that all bids received for "Yosemite Boulevard (S.R. 132) Water Line Replacement," opened in the office of the City Clerk on January 13, 2009, are hereby rejected.

BE IT FURTHER RESOLVED that staff is hereby authorized to immediately re-advertise a project with a reduced scope for the Yosemite Transmission Main project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of May, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-211

A RESOLUTION APPROVING A THIRD AMENDMENT TO THE DEPARTMENT OF HOUSING & URBAN DEVELOPMENT (HUD) ANNUAL ACTION PLAN FOR FISCAL YEAR 2008-2009, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT

WHEREAS, the City of Modesto receives several Federal grants from the United States Department of Housing and Urban Development (HUD), and

WHEREAS, on May 6, 2007, by Resolution No. 2008-232, the Modesto City Council approved adoption of the 2008-2009 HUD Annual Action Plan, and

WHEREAS, staff has proposed a Third Amendment to the Annual Action Plan as set forth in **Exhibit "1" attached** hereto and incorporated herein by reference, and

WHEREAS, notice has been duly given to the community of the proposed Third Amendment to the Annual Action Plan, and to provide a 12-day comment period, which began April 17, 2009, and ended on May 12, 2009, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) considered the proposed changes to the HUD Annual Action Plan at its April 29, 2009, meeting, and the Committee recommended that the City Council approve the Third Amendment to the HUD Annual Action Plan as proposed by staff, and

WHEREAS, a duly noticed public hearing was held by the City Council on May 12, 2009, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010 Tenth Street, to consider approval of the proposed Third Amendment to the 2008-2009 HUD Annual Action Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Third Amendment to the 2008-2009 HUD Annual Action Plan, a copy which is **attached** hereto as **Exhibit "1"** and incorporated herein by reference.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of May, 2009, by Councilmember Marsh, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Substantial Amendment to the Consolidated Plan 2008 Action Plan for the Homelessness Prevention and Rapid Re-Housing Program (HPRP)

Grantees eligible to receive funds under the Homelessness Prevention and Rapid Re-Housing Program (HPRP) are required to complete a substantial amendment to their Consolidated Plan 2008 Action Plan. This form sets forth the required format for this substantial amendment. A completed form is due to HUD within 60 days of the publication of the HUD HPRP notice.

To aid grantees in meeting this submission deadline, the HPRP Notice reduces the requirement for a 30-day public comment period to no less than 12 calendar days for this substantial amendment. With this exception, HPRP grantees are required to follow their Consolidated Plan's citizen participation process, including consultation with the Continuum of Care (CoC) in the appropriate jurisdiction(s). Grantees are also required to coordinate HPRP activities with the CoC's strategies for homeless prevention and ending homelessness. To maximize transparency, HUD strongly recommends that each grantee post its substantial amendment materials on the grantee's official website as the materials are developed.

A complete submission contains the following three documents:

1) A signed and dated SF-424,
2) A completed form HUD-40119 (this form), and
3) Signed and dated General Consolidated Plan and HPRP certifications.

For additional information regarding the HPRP program, visit the HUD Homelessness Resource Exchange (www.hudhre.info). This site will be regularly updated to include HPRP resources developed by HUD and its technical assistance providers.

The information collection requirements contained in this application have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

Information is submitted in accordance with the regulatory authority contained in each program rule. The information will be used to rate applications, determine eligibility, and establish grant amounts.

Public reporting burden for this collection of information is estimated to be 16 hours, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This information is required to obtain benefits. To the extent that any information collected is of a confidential nature, there will be compliance with Privacy Act requirements. However, the substantial amendment to the Consolidated Plan 2008 Action Plan does not request the submission of such information.

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Substantial Amendment to the Consolidated Plan 2008 Action Plan for the Homelessness Prevention and Rapid Re-Housing Program (HPRP)

A. General Information

Grantee Name	City of Modesto
Name of Entity or Department Administering Funds	Parks, Recreation and Neighborhoods Department
HPRP Contact Person (person to answer questions about this amendment and HPRP)	Julie G. Hannon
Title	Acting Director
Address Line 1	1010 Tenth Street, Suite 4300
Address Line 2	PO BOX 642
City, State, Zip Code	Modesto, CA 95354
Telephone	209-577-5417
Fax	209-544-3982
Email Address	jhannon@modestogov.com
Authorized Official (if different from Contact Person)	Greg Nyhoff
Title	City Manager
Address Line 1	1010 Tenth Street, Suite 4300
Address Line 2	PO BOX 642
City, State, Zip Code	Modesto, CA 95354
Telephone	209-577-5404
Fax	209-571-5128
Email Address	gnyhoff@modestogov.com
Web Address where this Form is Posted	www.modestogov.com

Amount Grantee is Eligible to Receive*	**$966,011**
Amount Grantee is Requesting	**$966,011**

*Amounts are available at http://www.hud.gov/recovery/homelesspreventrecov.xls

B. Citizen Participation and Public Comment

1. Briefly describe how the grantee followed its citizen participation plan regarding this proposed substantial amendment (limit 250 words).

Response:

The City of Modesto is an entitlement community through the U.S. Department of Housing and Urban Development (HUD). Federal regulations require citizen participation be a key component of the consolidated planning process. The City of Modesto encourages participation to assist with the annual allocation of Community Development Block Grant (CDBG) Funds, Emergency Shelter Grant Funds (ESG) and HOME Investment Partnership Program Funds. The City of Modesto not only complies with Federal regulations, but actively encourages the participation of citizens through the Citizen Participation Plan. The Citizen Participation Plan is designed with the explicit intention of accommodating and encouraging participation by low- and moderate-income residents, members of minority groups and persons with limited English proficiency.

The Homeless Prevention and Rapid Re-Housing Plan was discussed and presented at a meeting with local stakeholders and non-profit agencies on April 9, 2009. The plan was then heard at the Citizens Housing & Community Development Committee on April 29, 2009, and also presented at the Continuum of Care meeting on May 1, 2009. This amendment was available for public review and comment on April 17, 2009. The public comment period closed on May 12, 2009, with a public hearing at the City Council meeting on that date. The public was able to submit comments in writing or orally, and staff responded to those comments.

2. Provide the appropriate response regarding this substantial amendment by checking one of the following options:

   ☐ Grantee did not receive public comments.

   ☒ Grantee received and accepted all public comments.

   ☐ Grantee received public comments and did not accept one or more of the comments.

3. Provide a summary of the public comments regarding this substantial amendment. Include a summary of any comments or views not accepted and the reasons for non-acceptance.

   Response:

City Hall Comments - April 9, 2009

A task force as a subset of the Continuum of Care is needed to ensure that funding is being appropriately expended, and to make certain that all regulations are being followed. There are three areas the funding should be divided into that should be targeted: Disabilities including HIV/AIDS, Mental Heath including Substance Abuse, and the rest of the at risk groups. Set up a referral process for other agencies to send households at risk

of homelessness or that are homeless to get assistance from agencies that receive funding through HPRP.

Citizens Housing & Community Development Committee – April 29, 2009

Continuum of Care Comments – May 1, 2009

C. Distribution and Administration of Funds

Reminder: The HPRP grant will be made by means of a grant agreement executed by HUD and the grantee. The three-year deadline to expend funds begins when HUD signs the grant agreement. Grantees should ensure that sufficient planning is in place to begin to expend funds shortly after grant agreement.

1. Check the process(es) that the grantee plans to use to select subgrantees. Note that a subgrantee is defined as the organization to which the grantee provides HPRP funds.

   ☐ Competitive Process
   ☒ Formula Allocation
   ☐ Other (Specify: _____)

2. Briefly describe the process(es) indicated in question 1 above (limit 250 words).

   Response:

The City of Modesto met with existing non-profit agencies and the local Continuum of Care, which included representatives from Community Service Agency that administers the Temporary Assistance to Needy Families as well as other federal funding. The group determined that there were three main areas to target funding, citizens with physical disabilities and other chronic health issues including HIV/AIDS, person's with mental health and substance abuse issues, and individuals and families who are homeless or at risk of becoming homeless. The consensus of the group was to utilize existing organizations that have the experience, capacity and existing programs to be able to expedite the funding and make an impact in serving the community. One agency will provide comprehensive set of services to low/moderate income households to prevent homelessness or rapidly to obtain permanent housing. SCAP addresses the needs of households that have disabilities including chronic health issues including HIV/AIDS. Both agencies are established non-profit organizations within the community that have existing programs to manage clients with housing challenges.

3. Briefly describe the process the grantee plans to use, once HUD signs the grant agreement, to allocate funds available to subgrantees by September 30, 2009, as required by the HPRP Notice (limit 250 words).

   Response:

Upon an executed grant agreement with the Department of Housing and Urban Development, the City of Modesto will prepare agreements and a scope of work with Community Housing and Shelter Services as well as Stanislaus Community Assistance Project. A task force with members from the Continuum of Care will commence to meet on a monthly basis to make certain that households are getting the appropriate referrals and support services needed to move toward self-sufficiency. Referral forms to CHSS and SCAP will be distributed to local non-profit public service agencies in the event that they encounter a family or individual that could qualify for HPRP.

4. Describe the grantee's plan for ensuring the effective and timely use of HPRP grant funds on eligible activities, as outlined in the HPRP Notice. Include a description of how the grantee plans to oversee and monitor the administration and use of its own HPRP funds, as well as those used by its subgrantees (limit 500 words).

   Response:

Staff from the City of Modesto will collaborate with the Continuum of Care on a monthly basis to ensure vigilance and long-term collaboration focused on improving existing programs and greatly advance progress in ending homelessness. The Continuum of Care will assist in linking HPRP participants with other resources that are available and to make sure that all needs are addressed. The sub-grantees will be monitored on a quarterly basis, with monthly meetings to address any issues and to ensure that funds are being utilized only for eligible activities.

There has been a spike in the amount of households that are homeless in Modesto. More and more individuals and households are considered at a high risk of homelessness due to the following risk factors:

- Eviction within 2 weeks from a private dwelling (including housing that is provided by family or friends)
- Discharge within 2 weeks from an institution in which the person has been a resident for 6 or more months (including prisons, mental health institutions, or hospitals)
- Currently residing in housing that has been condemned by housing officials and is no longer meant for human habitation
- Sudden and significant loss of income
- Sudden and significant increase in utility costs
- Mental health and substance abuse issues
- Physical disabilities and other chronic health issues including HIV/AIDS
- Severe housing cost burden (greater than 50% of income for housing costs)
- Homeless in the last 12 months

- Young head of household (under 25 with children or pregnant)
- Current or past involvement with child welfare, including foster care
- Pending foreclosure of rental housing
- Extremely low income (less than 30% of median area income)
- High overcrowding (the number of persons exceeds health and/or safety standards for the housing unit size)
- Past institutional care
- Recent traumatic life event, such as death of a spouse or primary care provider, or recent health crisis that prevented the household from meeting its financial responsibilities
- Credit problems that preclude obtaining housing
- Significant amount of medical debt
- Sleeping in an emergency shelter
- Sleeping in a place not meant for human habitation, such as cars, parks, abandoned buildings, streets/sidewalks
- Graduation from or timing out of a transitional housing program
- Victims of domestic violence

An integral element of the program will be an emphasis on individual case management with an emphasis on supportive services to promote self sustainability. Participants will receive individual evaluation plans along with referrals to existing community services if needed. A strategy for encouraging participants to promote their unique strengths and abilities to secure employment will assist in ensuring self sufficiency. Participants will become equipped with the knowledge and skills to enhance their ability to live independently through the Homeless Prevention and Rapid Re-housing Program.

The administration and use of funding for administrative activities will be monitored internally by the City of Modesto and guidelines will be established along with milestones to ensure timeliness of expenditures and compliance with the regulations.

D. Collaboration

1. Briefly describe how the grantee plans to collaborate with the local agencies that can serve similar target populations, which received funds under the American Recovery and Reinvestment Act of 2009 from other Federal agencies, including the U.S. Departments of Education, Health and Human Services, Homeland Security, and Labor (limit 250 words).

   Response:

In February, the Federal Government enacted the American Recovery and Reinvestment Act of 2009 (ARRA) to address many of the issues facing local government. As part of ARRA, the City of Modesto received a direct allocation for the Homeless Prevention and Rapid Re-Housing Program (HPRP) and the Community Development Block Grant (CDBGR). In order to effectively utilize all ARRA funding, the City of Modesto is going to take a comprehensive approach to leverage the funding and make the greatest impact

upon the community. Within the City of Modesto there is a task force assigned to all ARRA funding to coordinate and leverage funding for similar target populations.

Neighborhood Stabilization Plan (NSP) funds awarded to the City of Modesto as part of the Housing and Economic Recovery Act of 2008, will provide priority funding to agencies that work with agencies receiving HPRP funding to provide permanent housing to those households that are at or below 50% of the median area income. The case manager that works with households obtaining funding through the HPRP will also be required to monitor and refer the populace that is unemployed to agencies funded with CDBGR to obtain the necessary skills and employment services needed to attain employment.

A sub-committee made up of members from the Continuum of Care will meet on a monthly basis to monitor the HPRP funding being expended as well as brief the group on the other funding sources available through other federal agencies.

2. Briefly describe how the grantee plans to collaborate with appropriate Continuum(s) of Care and mainstream resources regarding HPRP activities (limit 250 words).

   Response:

Staff from the City of Modesto will collaborate with the Continuum of Care on a monthly basis to ensure vigilance and long term collaboration focused on improving existing programs and greatly advance progress in ending homelessness. The Continuum of Care will assist in linking HPRP participants with other resources that are available and to make sure that all needs are addressed.

A sub-committee of sub-grantee non-profit agencies , Behavioral Health and TANF directors will take place prior to the Continuum of Care meetings to make sure that all participants in Homeless Prevention and Rapid Re-Housing Programs are receiving pro-active case management and support to obtain the skills needed to ensure that they will be able to maintain permanent housing after HPRP assistance ceases. The sub-committee will also discuss and address any topics related to accurate data collection and evaluation.

The City of Modesto will monitor the sub-recipients bi-monthly to ensure that the regulations are being followed and to assist with technical assistance.

3. Briefly describe how HPRP grant funds for financial assistance and housing relocation/stabilization services will be used in a manner that is consistent with the grantee's Consolidated Plan (limit 250 words).

   Response:

Overcrowding is a serious problem in Modesto, particularly for renter households and households living below the poverty level. The consolidated plan set priorities HM-1 which is to address chronic homelessness, HM-3 to provide permanent supportive housing and HM-4 to prevent homelessness for those most at risk, and HM-5 is to provide intensive and coordinated case management. The consolidated plan priorities tie directly back into the City of Modesto's plan for the Homeless Prevention and Rapid Re-housing Program. Homeless prevention and assistance is one of the highest priority needs in the City, and permanent housing with supportive services is critical in assisting households that are at risk. The largest gaps between currently available services and needs identified through the Continuum of Care is in the area of permanent supportive housing. This category is therefore a top priority for supporting new initiatives like HPRP. The City of Modesto HPRP will monitor and support the households utilizing the program by providing financial assistance and encouragement of positive behaviors toward self-sustainability.

E. Estimated Budget Summary

HUD requires the grantee to complete the following table so that participants in the citizen participation process may see the grantee's preliminary estimated amounts for various HPRP activities. Enter the estimated budget amounts for each activity in the appropriate column and row. The grantee will be required to report actual amounts in subsequent reporting.

HPRP Estimated Budget Summary			
	Homelessness Prevention	**Rapid Re-housing**	**Total Amount Budgeted**
Financial Assistance[1]	$265,653.30	$265,653.30	$531,306.60
Housing Relocation and Stabilization Services[2]	$96,601.10	$96,601.10	$193,202.20
Subtotal (add previous two rows)	**$362,254.40**	**$362,254.40**	**$724,508.80**

Data Collection and Evaluation[3]	$193,202.20
Administration (up to 5% of allocation)	$48,300
Total HPRP Amount Budgeted[4]	**$966,011**

[1]Financial assistance includes the following activities as detailed in the HPRP Notice: short-term rental assistance, medium-term rental assistance, security deposits, utility deposits, utility payments, moving cost assistance, and motel or hotel vouchers.

[2]Housing relocation and stabilization services include the following activities as detailed in the HPRP Notice: case management, outreach, housing search and placement, legal services, mediation, and credit repair.

[3]Data collection and evaluation includes costs associated with operating HUD-approved homeless management information systems for purposes of collecting unduplicated counts of homeless persons and analyzing patterns of use of HPRP funds.

[4]This amount must match the amount entered in the cell on the table in Section A titled "Amount Grantee is Requesting."

F. Authorized Signature

By signing this application, I certify (1) to the statements contained in the list of certifications and (2) that the statements herein are true, complete, and accurate to the best of my knowledge. I also provide the required assurances and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)

_____ _____

Signature/Authorized Official Date

City Manager

Title

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-212

A RESOLUTION APPROVING THE CITY OF MODESTO 2009-2010 HUD ANNUAL ACTION PLAN FOR THE USE OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG), HOME INVESTMENT PARTNERSHIP PROGRAM (HOME), AND EMERGENCY SHELTER GRANT (ESG) FUNDS, AUTHORIZING SUBMISSION OF AN APPLICATION TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) PERTAINING TO THE 2009-2010 ANNUAL ACTION PLAN, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE REQUIRED CERTIFICATIONS AND DOCUMENTS FOR SUBMITTAL TO HUD

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

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

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

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) recommended support of this item at its April 22 2009, meeting, and

WHEREAS, a duly noticed public hearing was held by the City Council on May 12, 2009, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, to consider submission of an application to HUD pertaining to the 2009-2010 HUD Annual Action Plan, which describes how the City intends to spend Federal

assistance received from HUD in the areas of Community Development, Housing Production and Homeless Assistance.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the City of Modesto 2009-2010 HUD Annual Action Plan for the use of Community Development Block Grant (CDBG), HOME Investment Partnership Program (HOME), and the Emergency Shelter Grant (ESG) funds, a copy of which is on file in the Office of the City Clerk.

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

BE IT FURTHER RESOLVED that City staff is hereby authorized to submit an application to the U.S. Department of Housing and Urban Development (HUD) pertaining to the 2009-2010 Annual Action Plan which describes how the City intends to spend Federal assistance received from HUD in the areas of Community Development, Housing Production and Homeless Assistance.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of May, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-213

RESOLUTION APPROVING SUBMITTAL OF A GRANT APPLICATION TO THE FEDERAL TRANSIT ADMINISTRATION (FTA) REQUESTING $5,586,606 IN AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) OF 2009 FTA FORMULA FUNDS FOR PUBLIC TRANSIT PURPOSES

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

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

WHEREAS, the City of Modesto has received authority from the Designated Recipient, StanCOG, to apply for ARRA formula funds in the amount of $5,586,606, and

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

WHEREAS, the grant for Federal assistance will impose certain obligations on the City of Modesto, and

WHEREAS, a public hearing was held on May 12, 2009, at 5:30 p.m., in the Tenth Street Place Chambers located, at 1010 Tenth Street, Modesto, California, in accordance with FTA regulations,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves submittal of an application on behalf of the City of Modesto to the Federal Transit Administration (FTA) for ARRA Federal assistance in the amount of $5,586,606 authorized by 49 U.S.C. Chapter 53, Title 23, United States Code, or other Federal statutes authorizing a project administered by the Federal Transit Administration.

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

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

The foregoing resolution was introduced at a meeting of the Council of the City of Modesto held on the 12th day of May, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-214

RESOLUTION APPROVING SUBMITTAL OF A GRANT APPLICATION TO THE FEDERAL TRANSIT ADMINISTRATION (FTA) REQUESTING $2,558,400 IN SECTION 5307 FORMULA FUNDS FOR PUBLIC TRANSIT PURPOSES

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

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

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

WHEREAS, the City of Modesto has received authority from the Designated Recipient, StanCOG, to apply for Section 5307 Urban Area Formula Program Assistance for $2,558,400 for FY 2009-2010, and

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

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

WHEREAS, a public hearing was held on May 12, 2009, at 5:30 p.m., in the Tenth Street Place Chambers located, at 1010 Tenth Street, Modesto, California, in accordance with FTA regulations,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the submittal of an application on behalf of the City of Modesto

with the Federal Transit Administration (FTA) for FTA Section 5307 Federal assistance in the amount of $2,558,400 authorized by 49 U.S.C. Chapter 53, Title 23, United States Code, or other Federal statutes authorizing a project administered by the Federal Transit Administration.

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

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

The foregoing resolution was introduced at a meeting of the Council of the City of Modesto held on the 12th day of May, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-215

A RESOLUTION APPROVING AN ADDENDUM TO THE AGREEMENT WITH RENNE SLOAN HOLZMAN SAKAI, LLP; AND AUTHORIZING THE CITY MANAGER AND CITY ATTORNEY TO EXECUTE THE ADDENDUM TO AGREEMENT

WHEREAS, the City of Modesto entered into an Agreement for outside Legal Services with the Law Firm of Renne Sloan Holzman Sakai, LLP on January 1, 2009 for specialized legal and consultant services in the area of labor, employment and personnel matters, and

WHEREAS, as a result of the City of Modesto's Voluntary Separation Incentive Program of 2009 the Human Resources Director will be participating in the program and will be retiring effective June 1, 2009, and

WHEREAS, the City Council has directed the City Manager to review all positions in the City and make determinations and recommendations regarding efficiencies in operation of all departments, divisions and work units in the City, and

WHEREAS, the City Manager has requested the opportunity to conduct such a review by engaging a Human Resources consultant to oversee the operations of the Human Resources Department for a limited term, and make any recommendations to the City Manager regarding operations and other process efficiencies, and

WHEREAS, Renne Sloan Holtzman Sakai, LLP also associates in a number of non-attorney professionals who are highly experienced former public agency directors and managers to provide technical assistance to their clients as needed, and the City Manager wishes to avail himself of these technical services to study efficiencies in the Human Resources Department in response to the Council's direction, and

WHEREAS, Mark Gregorsen has been recommended by Renne Sloan Holtzman and Sakai, LLP as a consultant associated with their firm who has over 25 years of City and County experience in Human Resources and Finance who is available to assist the City Manager in this regard, and

WHEREAS, the original Agreement with Renne Sloan Holtzman Sakai, LLP for outside legal services was executed pursuant to the authority granted to the City Attorney under Modesto Charter Section 902 for engagement of legal services and so the City Attorney has recommended, out of an abundance of form, that the Council approve the expanded scope of that Agreement to include the technical services to be provided by Mr. Gregorsen, and

WHEREAS, the Addendum provides for an amount not to exceed $40,000, which shall be allocated in amounts no greater than $4,000 per week, and

WHEREAS, funding for this action is available through the Human Resources Department,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Addendum to the Agreement for Legal Services with the Law Firm of Renne Sloan Holtzman Sakai, LLP to expand the scope to include the provision of technical assistance.

BE IT FURTHER RESOLVED that the City Manager and the City Attorney are hereby authorized to execute the Addendum 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 May, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-216

A RESOLUTION OF INTENTION TO LEVY AND COLLECT ASSESSMENTS FOR LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 1 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 1–6, AND SETTING A PUBLIC HEARING ON THE PROPOSED ASSESSMENTS TO BE HELD ON JULY 07, 2009

WHEREAS, Resolution No. 88-935, adopted by the Council of the City of Modesto on December 13, 1988, initiated proceedings for the formation of Landscape Assessment District No. 1 for the purpose of administering the maintenance of landscaping in the public right-of-way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 1-6, and

WHEREAS, said assessment district was formed in accordance with the "Landscape and Lighting Act of 1972", (Streets and Highways Code Sections 22500 through 22679), and

WHEREAS, Section 22623 of the Streets and Highways Code requires the City Engineer, the person designated by this Council as Engineer of Work for Assessment District No. 1, to prepare and file an annual report, and

WHEREAS, the City Engineer, said Engineer of Work, has prepared and filed said annual report with the City Clerk, and

WHEREAS, the Council has approved said annual report by motion, and

WHEREAS, 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 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 Fiscal Year 2009-10.

2. There are no proposed new improvements or any substantial changes in existing improvements in Dry Creek Meadows Subdivisions Nos. 1-6 and that the existing improvements to be made in said assessment district are generally described as follows:

The City shall provide maintenance, in perpetuity, of landscaping and any and all improvements required for such maintenance including, but not limited to, landscape irrigation systems in the following locations:

a. Street medians in Creekwood Drive

b. Areas adjacent to the access control walls along Creekwood Drive

c. Areas adjacent to the access control walls along Claus Road

3. Landscape Maintenance Assessment District No. 1 is located in the County of Stanislaus, within the City limits of the City of Modesto and is more specifically located on the west side of Claus Road, between Modesto Irrigation District Lateral No. 2 and State Route 132 (Yosemite Boulevard).

4. Said annual report filed with the City Clerk and approved by the Council by motion does provide a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within Landscape Maintenance Assessment District No. 1.

5. On Tuesday, the 7th day of July, 2009, 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 26th day of May, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-217

A RESOLUTION OF INTENTION TO LEVY AND COLLECT ASSESSMENTS FOR LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 7-10, CREEKWOOD MEADOWS SUBDIVISION AND YOSEMITE MEADOWS SUBDIVISION UNITS 1 AND 2, AND SETTING A PUBLIC HEARING ON THE PROPOSED ASSESSMENTS TO BE HELD ON JULY 07, 2009

WHEREAS, Resolution No. 89-460 adopted by the Council of the City of Modesto on April 4, 1989, initiated proceedings for the formation of Landscape Assessment District No. 2 for the purpose of administering the maintenance of landscaping in the public right of way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 7-10, Creekwood Meadows Subdivision and Yosemite Meadows Subdivision Units Nos. 1 and 2, and

WHEREAS, said assessment district was formed in accordance with the "Landscaping and Lighting Act of 1972", (Streets and Highways Code Sections 22500 through 22679), and

WHEREAS, Section 22623 of the Streets and Highways Code requires the City Engineer, the person designated by 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, 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 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 2009-10.

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 Avenue. 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 Tuesday, the 7th day of July, 2009, 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 26th day of May, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-218

RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF ROCK, SAND AND GRAVEL FOR THE PUBLIC WORKS DEPARTMENT, FOR A ONE-YEAR AGREEMENT WITH FOUR (4) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF $302,615, AND FOR AN ESTIMATED COST OVER FIVE YEARS OF $1,513,075

WHEREAS, the Finance Department, Central Stores Division, inventories rock, sand and gravel for the Public Works Department, for use in the repair of rockwell drainage, water mains installation/repair, street maintenance and wastewater pond erosion control, and

WHEREAS, the rock, sand and gravel is purchased from an annual agreement as "inventory stock", and warehoused by the Central Stores Division for release to the Public Works Department, and

WHEREAS, having various materials readily located allows for greater efficiencies of City forces, and

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

WHEREAS, the issuance of a formal Request for Bids for the purchase of rock, sand and gravel for the Public Works Department conforms to the Modesto Municipal Code, and

WHEREAS, sufficient funds will be budgeted in Fiscal Year 2009-10 in Appropriation Unit: 7110-120-8311-0439,

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

SECTION 1. The City Clerk is hereby authorized to call for public formal bids for the purchase of rock, sand and gravel for the Public Works Department, for a one-year agreement with four (4) one-year extension options, at the sole discretion of the City, to be opened in the office of the City Clerk, 1010 Tenth Street, in the City of Modesto. The City Clerk is hereby directed to give notice inviting such sealed bids in the time, form, and manner provided by law.

SECTION 2. After the sealed bids are opened they shall be tabulated and analyzed by the Purchasing Division and a report submitted to Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of May, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Stephanie Lopez
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-219

RESOLUTION AUTHORIZING THE AWARD OF CONTRACT FOR THE PURCHASE OF A PAVEMENT SEALING MACHINE TO RICKER MACHINERY CO., OAKLAND, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR A TOTAL ESTIMATED COST OF $50,957

WHEREAS, on March 24, 2009, the City Council, by Resolution No. 2009-125, authorized the Purchasing Manager to issue formal Request for Bids (RFB) for a pavement crack sealer, and

WHEREAS, on April 8, 2008, the County of Madera went through a competitive bid process for the purchase of a pavement crack sealing machine, and

WHEREAS, the lowest responsive and responsible bidder was Ricker Machinery Co., Oakland, CA, who was awarded the County of Madera bid and is extending the same bid pricing to the City of Modesto, and

WHEREAS, to take advantage of this process and award by "accessing the terms" of the County of Madera's competitive bid process is an efficient and effective way to purchase this pavement crack sealing machine, by saving the time and expense to the City to formally solicit RFB's, 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, and

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, and

WHEREAS, acting within his discretion, the Purchasing Manager invoked that exception for this purchase due to the cost savings of staff time and avoiding a twelve percent price increase by the manufacturer. The purchase of a pavement sealing machine by "accessing the terms" of the County of Madera's contract with Ricker Machinery Co., Oakland, CA, will conform to MMC Section 8-3.204(d),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of contract for a pavement sealing machine to Ricker Machinery Co., Oakland, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a Purchase Order for a total estimated cost of $50,957.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of May, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)
APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-220

RESOLUTION APPROVING GUIDELINES FOR THE HOUSING AND URBAN DEVELOPMENT (HUD) FUNDED NEIGHBORHOOD STABILIZATION PROGRAM, FOR THE PURPOSE OF ALLOCATING FUNDS TO ORGANIZATIONS OR INDIVIDUALS TO PURCHASE AND REHABILITATE FORECLOSED HOMES IN ORDER TO STABILIZE NEIGHBORHOODS AN AUTHORIZE THE HOUSING REHABILITATION LOAN COMMITTEE TO APPROVE DOWN PAYMENT ASSISTANCE LOANS UNDER THE NSP PROGRAM FOR UP TO $125,000 PER HOUSEHOLD

WHEREAS, on July 30, 2008, the President signed Title III of Division B of the Housing and Economic Recovery Act, 2008 (HERA). Section 2301-Emergency Assistance for the Redevelopment of Abandoned and Foreclosed Homes, named Neighborhood Stabilization Program (NSP) allocated $8.1 million to the City of Modesto, and

WHEREAS, the Citizens Housing & Community Development Committee (CH&CDC) originally reviewed the Annual Action Plan Amendment for the NSP funds on November 12, 2008, and it was approved by City Council on November 25, 2008, by Resolution 2008-649, and

WHEREAS, the City Manager executed the Neighborhood Stabilization Program grant agreement on March 23, 2009, and

WHEREAS, staff developed guidelines for allocating the funding based on four areas that are in the approved City of Modesto Neighborhood Stabilization Plan, and

WHEREAS, the CH&CDC recommended support of the NSP Guidelines at its April 29 2009, meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Guidelines for the Housing & Urban Development (HUD) funded

Neighborhood Stabilization Program, a copy of which is on file in the Office of the City Clerk, and

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it herby authorizes the Housing Rehabilitation Loan Committee to approve down payment assistance loans under the NSP program for up to $125,000 per household.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of May, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-221

A RESOLUTION APPROVING AN AGREEMENT WITH AECOM USA, INC. FOR THE PREPARATION OF A PRELIMINARY DESIGN REPORT FOR WELLHEAD TREATMENT WELL #3 - PCE FOR AN AMOUNT NOT TO EXCEED $49,925 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $4,993 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $54,918, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the scope of services to be provided under this agreement includes completing 35% design services for the Wellhead Treatment Well #3 - PCE project and summarizing the project scope and cost estimates in a Preliminary Design Report (PDR), and

WHEREAS, the City owns and operates domestic Well No. 3, located at the intersection of 8th and K Streets near downtown Modesto, and

WHEREAS, this well has been impacted by tetrachloroethylene (PCE) contamination, and

WHEREAS, PCE levels in the well water have reached the California Department of Public Health (CDPH) maximum contaminant level and the City believes that the levels will rise when pumping resumes due to a nearby groundwater PCE plume, and

WHEREAS, since the well contributes an important part to the water distribution system, staff is seeking professional services to recommend the most efficient and cost effective method of removing PCE from the water, and

WHEREAS, there are three primary treatment alternatives to remove PCE from the water: Activated Carbon, Air Stripping, and Oxidation, and

WHEREAS, a Preliminary Design Report will be prepared that will contain a technical and life cycle cost comparison of each process and a recommendation as to which treatment method is preferred, 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, 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 Public Works Director to conduct an accelerated 1-step Request for Proposal (RFP) process, and

WHEREAS, since the pool of qualified consultants is very small for PCE removal, only the firms that responded to the On-Call Hydrogeologists RFP were invited to submit proposals for PCE Removal at Well 3, and

WHEREAS, no local consultants responded to the RFP for On-Call Hydrogeologists, and

WHEREAS, a Request for Proposal was issued to four consultants, and

WHEREAS, two proposals were received, and subsequently reviewed by the Selection Committee which consisted of Public Works Engineering staff and a member of the City Attorney's staff, and

WHEREAS, following the consultant interviews, the Selection Committee determined that AECOM USA, Inc. is the most qualified consultant to prepare this PDR, and

WHEREAS, using outside professional services will enable this project to be completed in a timely manner, and

WHEREAS, City staff recommends an agreement with AECOM USA, Inc. as the City does not have the staffing level or subject matter expertise to complete the Preliminary Design Report for the Wellhead Treatment Well #3-PCE 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 for Preliminary Design Report for the Wellhead Treatment Well #3-PCE with AECOM USA, Inc. for an amount not to exceed $49,925 for the identified scope of services, plus $4,993 for additional services (if needed), for a maximum total amount of $54,918 for the project titled, "Wellhead Treatment Well #3-PCE."

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of May, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers:

ABSENT: Councilmembers:

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-222

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF SALT TO SUPPLY THE GRAYSON WELL ION SYSTEM FOR AN ESTIMATED ANNUAL COST OF $20,000, AND THE FURNISHING OF TRANSPORTATION AND DISPOSAL SERVICES FOR NON-HAZARDOUS BRINE WASTE FROM THE GRAYSON WELL SITE FOR THE PUBLIC WORKS DEPARTMENT, WATER SERVICES DIVISION, FOR AN ESTIMATED ANNUAL COST OF $115,000, FOR A PERIOD OF TWO YEARS, WITH THREE ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY

WHEREAS, the City of Modesto owns and operates the Grayson water system, and that system has been identified with high levels of nitrates, and

WHEREAS, the City has an contract with Basin Water, Inc. to provide the salt and furnish transportation and disposal services for the Grayson water system, and

WHEREAS, staff has determined that by using formal Request for Bids for these products/services, the City will save the overhead costs charged by Basin Water, Inc. (estimated at $33,750 annually), and

WHEREAS, funds are budgeted in Water Operations Account No. 6100-480-5013-0312 ($35,000) and 6100-480-5013-0360 ($100,000) for these products/services, and

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

WHEREAS, the issuance of a formal RFB for the purchase of salt and furnishing of transportation and disposal services conforms to the Modesto Municipal Code,

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

SECTION 1. The City Clerk is hereby authorized to call for public formal bids for the purchase of salt and furnishing of transportation and disposal services, for a two (2) year agreement with three (3) one-year extension options at the sole discretion of the City, to be opened in the office of the City Clerk, 1010 Tenth Street, in the City of Modesto. The City Clerk is hereby directed to give notice inviting such sealed bids in the time, form, and manner provided by law.

SECTION 2. After the sealed bids are opened they shall be tabulated and analyzed by the Purchasing Division and a report submitted to Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of May, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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

Print

OCT 23 2012

THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2012-421

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-223

A RESOLUTION AUTHORIZING THE SOLE BRAND PROCUREMENT OF ACCU-TAB SI 3" CALCIUM HYPOCHLORITE TABLETS FOR THE PUBLIC WORKS DEPARTMENT, WATER SERVICES DIVISION, FROM CLEAR SOLUTIONS WEST, ATWATER, CALIFORNIA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE AGREEMENT FOR TWO (2) YEARS, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF $70,000, AND A TOTAL COST OVER FIVE (5) YEARS OF $350,000

WHEREAS, Calcium Hypochlorite tablets are used for wellhead chlorination throughout the City's water system, and are purchased continuously throughout the year as needed, and

WHEREAS, Clear Solutions West, Atwater, California, is the only firm in Northern California authorized by the manufacturer (PPG Industries, Inc.) to market and sell Accu-Tab S1 3" Calcium Hypochlorite tablets, and

WHEREAS, staff is recommending that a sole brand procurement be established with Clear Solutions West to purchase Accu-Tab S13" Calcium Hypochlorite tablets, 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, "Where the Purchasing Agency's requirements can be met solely by a single article or process." The sole source procurement of Accu-Tab S1 3" Calcium Hypochlorite tablets for the Public Works Department, Water Operations Division, conforms to this exception under the MMC,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the sole brand procurement of Accu-Tab SI 3" Calcium

Hypochlorite tablets for the Public Works Department, Water Operations Division, from Clear Solutions West, Atwater, California.

BE IT FURTHER RESOLVED that the Purchasing Manager is authorized to issue a purchase agreement for two (2) years, with three (3) one-year extension options, at the sole discretion of the City, for an estimated annual cost of $70,000, and a total cost over five (5) years of $350,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of May, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Stephanie Lopez
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-224

RESOLUTION AUTHORIZING SUBMISSION OF THE TRANSPORTATION DEVELOPMENT ACT (TDA) TRANSIT CLAIM #2 FOR FISCAL YEAR 2008/09 IN THE AMOUNT OF $6,959,832 TO THE STANISLAUS COUNCIL OF GOVERNMENTS (STANCOG)

WHEREAS, the greatest portion of the City's funding for the Transit Service Program is made available under the Transportation Development Act (TDA), which includes Local Transportation Fund (LTF) funds and State Transit Assistance Fund (STA) funds, and

WHEREAS, the claim was first approved on June 3, 2008, and

WHEREAS, StanCOG has decreased the STA amount for 2008/09 by $4,355,608, and

WHEREAS, StanCOG has informed the City it needs to amend the claim to reflect the re-apportioned funding for allocation to public transit agencies pursuant to Sections 99233.3 and 99234 of the California Public Utilities Code (PUC), and

WHEREAS, the City's Transit TDA Claim #2 for Fiscal Year 2008/09 is now $6,959,832 and is composed of $5,832,432 in LTF funds and $1,127,400 in STA funds, and

WHEREAS, the total Transit Operating Budget for Fiscal Year 2008/09 is $14,718,474, and

WHEREAS, the added Transit Capital Budget for Fiscal Year 2006/07 is $1,152,632, 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 authorizes the submittal of the TDA Transit Claim #2 for Fiscal Year 2008/09 in the amount of $6,959,832.

BE IT FURTHER RESOLVED that the City Manager, or his authorized designee, is hereby authorized to execute TDA Transit Claim #2 to StanCOG for Fiscal Year 2008/09.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of May, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Council members:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Council members:	None
ABSENT:	Council members:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-225

A RESOLUTION DIRECTING STAFF TO CONTINUE WORKING WITH THE TURLOCK IRRIGATION DISTRICT AND THE CITIES OF CERES, HUGHSON, AND TURLOCK FOR THE PURPOSE OF CREATING A JOINT POWERS AUTHORITY RESPONSIBLE FOR DECISIONS PERTAINING TO THE FUTURE REGIONAL SURFACE WATER SUPPLY PROJECT

WHEREAS, the Turlock Irrigation District (TID) and the cities of Ceres, Hughson, and Turlock are discussing with the City of Modesto the development of the Regional Surface Water Supply Project (RSWSP), and

WHEREAS, representatives from the four cities have been meeting biweekly since the beginning of the year to discuss how best to proceed in developing the RSWSP, and have concluded that forming a Joint Powers Authority (JPA) to own and operate the future treatment plant and transmission lines would be the most feasible, and

WHEREAS, it is suggested that the cities each finance their own portion respectively, and

WHEREAS, a draft JPA document is being prepared and will address the issues of ownership, governance, financing, operation, maintenance, etc., and

WHEREAS, on April 27, 2009, the Finance Committee was briefed regarding the formation of a Joint Powers Authority to govern the future RSWSP, and

WHEREAS, following discussion, the Committee recommended that the City Council direct staff to continue working with TID and the cities of Ceres, Hughson, and Turlock for the purpose of creating a JPA responsible for decisions pertaining to the future RSWSP,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby directs staff to continue working with the Turlock Irrigation District and the

cities of Ceres, Hughson, and Turlock for the purpose of creating a Joint Powers Authority responsible for decisions pertaining to the future Regional Surface Water Supply Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of May, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-226

A RESOLUTION DECLARING THE CITY IS EXPERIENCING A SEVERE FISCAL HARDSHIP DUE TO THE STATE'S SEIZURE OF LOCAL PROPERTY TAX FUNDS AND THE CONTINUED ADOPTION OF UNFUNDED MANDATES BY THE STATE OF CALIFORNIA

WHEREAS, the current economic crisis has placed cities under incredible financial pressure and caused city officials to reopen already adopted budgets to layoff city workers or reduce their compensation and benefits, slash programs, and reduce services to keep spending in line with declining revenues; and

WHEREAS, since the early 1990s the state government of California has seized over $8.6 billion of city property tax revenues statewide to fund the state budget even after deducting public safety program payments to cities by the state; and

WHEREAS, in FY 2007-08 alone the state seized $895 million in city property taxes statewide to fund the state budget after deducting public safety program payments and an additional $350 million in local redevelopment funds were seized in FY 2008-09; and

WHEREAS, the most significant impact of taking local property taxes has been to reduce the quality of public safety services cities can provide since public safety comprises the largest part of any city's general fund budget; and

WHEREAS, in 2004 the voters by an 84% vote margin adopted substantial constitutional protections for local revenues, but the legislature can still "borrow" local property taxes to fund the state budget; and

WHEREAS, on May 5 the Department of Finance announced it had proposed to the Governor that the state "borrow" over $2 billion in local property taxes from cities,

counties and special districts to balance the state budget, causing deeper cuts in local public safety and other vital services; and

WHEREAS, in the past the Governor has called such "borrowing" proposals fiscally irresponsible because the state will find it virtually impossible to repay and it would only deepen the state's structural deficit, preventing the state from balancing its budget; and

WHEREAS, the Legislature is currently considering hundreds of bills, many of which would impose new costs on local governments that can neither be afforded nor sustained in this economic climate; and

WHEREAS, state agencies are imposing, or considering, hundreds of regulations imposing unfunded mandates on local governments without regard to how local agencies will be able comply with these mandates while meeting their other responsibilities; and

WHEREAS, our city believes the continued borrowing of funds by the state to maintain its cash flow is counterproductive to solving its budget deficit; and

WHEREAS, our city understands any attempt to ask the federal government to either loan or guarantee loans made to the state will impose strict controls which will undermine the state's authority to govern itself; and

WHEREAS, our city simply cannot sustain the taking of any more of our funds or to be saddled with any more state mandates as they will only deepen the financial challenge facing our city.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF MODESTO hereby declares that the city is experiencing a severe fiscal hardship due to the following factors:

1. The state government's ongoing seizure of city funds since the early 1990s to fund the state budget; and

2. The continued adoption of unfunded mandates by the state legislature and state agencies without any consideration for the economic hardships such mandates impose on cities and their residents; and

3. The state government's inability to understand the devastating impact its decisions have on our residents and unwillingness to address the structural financial problems that created the current crisis.

RESOLVED FURTHER, that the City Council strongly and unconditionally opposes the May 5 proposal of the Department of Finance and any other state government proposals to borrow or seize any additional local funds, including the property tax, redevelopment tax increment, and the city's share of the Prop. 42 transportation sales tax; and

RESOLVED FURTHER, that the City Council strongly urges the state legislature and Governor to suspend the enactment of any new mandates on local governments until such time as the economy has recovered and urges the state to provide complete funding for all existing and any new mandates.

RESOLVED FURTHER, that the City Clerk shall send copies of this resolution to the Governor, our state senator(s), our state assembly member(s) and the League of California Cities.

ADOPTED this 26th day of May, 2009.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of May, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-227

A RESOLUTION APPROVING THE PORTION OF THE COSTS ATTRIBUTABLE TO THE SOURCE WATER PROTECTION PROGRAM BE FUNDED THROUGH THE WATER FUND, AND AMENDING THE PROPOSED FISCAL YEAR 2009-2010 OPERATING BUDGET

WHEREAS, the City uses both groundwater and surface water to provide drinking water to its customers, with groundwater representing the majority of the current supply, and

WHEREAS, a Source Water Protection Program is a way to actively protect the groundwater supply source from contamination, and

WHEREAS, the key to an effective Source Water Protection Program is to first, identify the various activities that could impact the quality of the groundwater, and second, to implement measures that prevent contaminants from entering the groundwater supply, and

WHEREAS, staff is proposing a shared allocation of the costs to cover these maintenance activities between the Storm Drain and Water Enterprise Funds (cleaning, rejuvenating, and replacement costs are split equally), and

WHEREAS, staff is also proposing that most of the other costs associated with the Source Water Protection Program (i.e., administration, testing, monitoring, street sweeping, leaf pickup, public education, etc.) also have a proportional split between the Storm Drain and Water Enterprise Funds, and

WHEREAS, the cost savings to the Storm Drain Enterprise Fund, via the cost sharing of the Source Water Protection Program activities with the Water Enterprise Fund, is estimated to be approximately $2.8 million; however, only $700,000 is expected

to be available for partial funding from the Water Enterprise Fund Reserves in fiscal year 2009-2010, and

WHEREAS, on April 27, 2009, the Finance Committee was briefed regarding the cost sharing of the Source Water Protection Program activities, and

WHEREAS, following discussion, the Committee recommended that the City Council approve the portion of the costs attributable to the Source Water Protection Program be funded through the Water Fund,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the portion of the costs attributable to the Source Water Protection Program be funded through the Water Fund, and approves the amendment of the Proposed Fiscal Year 2009-2010 operating budget as shown in **Exhibit A**, which is incorporated by reference herein.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of May, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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

Fund Name:
Storm Drain Fund

Expense Account Adjustments

6280-480-5312-0235	Service Professional and Other	$600,000
6280-800-8000-8003	Contingency Reserve	$100,000

Fund Name:
Water Fund

6100-800-8000-8003	Contingency Reserve	($700,000)

Transfers Between Funds (Water Fund/Storm Drain)

6100-700-5312-7628	Transfer to Storm Drain	$600,000
6100-700-7000-7628	Transfer to Storm Drain	$100,000
6280-700-5312-9610	Transfer from Water	$600,000
6280-700-7000-9610	Transfer from Water	$100,000

Transfer Between Funds (General/Storm Drain)

0100-700-5315-7628	Transfer to Storm Drain	($326,000)
6280-700-5315-9010	Transfer from General Fund	($326,000)

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-228

A RESOLUTION APPROVING RUN-OFF ELECTION PROCEDURES AND DIRECTING THE CITY CLERK TO FOLLOW THE PROCEDURES IN CONDUCTING ANY REQUIRED RUN-OFF ELECTION FOLLOWING THE REGULAR MUNICIPAL ELECTION IN NOVEMBER 2009, AND DIRECTING THE CITY ATTORNEY TO FILE AN ACTION IN SUPERIOR COURT IN THE EVENT THAT THE DECEMBER 2009 RUN-OFF ELECTION "FAILS"

WHEREAS, after considering the options of whether the County Clerk-Recorder or the City Clerk should conduct the December 8, 2009 run-off election, the Finance Committee at its March 23, 2009 meeting recommended to the City Council that the City Clerk conduct the run-off, and

WHEREAS, the City Council adopted Resolution No. 2009-206 directing the City Clerk to conduct the December 8, 2009 run-off election, and

WHEREAS, the City Council authorized a contract with Martin & Chapman for election services to assist the City Clerk in conducting the 2009 run-off election, and

WHEREAS, it is prudent and necessary for the City Council to approve run-off election procedures to guide the City Clerk in conducting the December 2009 run-off election in the event one is necessary,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the run-off election procedures set forth in the staff report to the City Council dated June 2, 2009, and the City Clerk is authorized and directed to follow said procedures in conducting the run-off election.

BE IT FURTHER RESOLVED that the City Attorney is directed to file the litigation described in said staff report in the event the December 2009 run-off election

"fails." (A copy of the staff report is **attached** as **Exhibit "A"** and incorporated herein by reference.)

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of June 2009, by Councilmember Marsh, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Olsen

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

	CITY OF MODESTO **COUNCIL AGENDA REPORT**	**DATE OF MEETING:** **June 2, 2009**

Date: May 15, 2009

TO: Mayor and City Council

FROM: Stephanie Lopez, City Clerk

SUBJECT: December 2009 Run-Off Election Procedures

CONTACT: Stephanie Lopez, City Clerk, slopez@modestogov.com, 577-5396

DESCRIPTION:
Consider approving run-off election procedures and calling for a special election to be held on January 26, 2010 for the purpose of holding a run-off election that might otherwise have been held on December 8, 2009 in the event the December 2009 run-off election "fails." (Funding Source: Elections Fund)

FISCAL IMPACT:
If a special run-off election is required, it is estimated that an additional $150,000 will be needed to cover costs.

BACKGROUND:
The City Council has directed the City Clerk to conduct the December 8, 2009 run-off election.

The County Clerk-Recorder will be conducting the November 3, 2009 Municipal Election and it is anticipated that the office will use the entire 28-day canvassing period allowed under the law for that election. In the event the full 28-day period allowed by law is utilized, there will not be sufficient time to mail the run-off ballots to voters 10 days prior to the run-off date as required by the Elections Code. It is therefore recommended that the City Council approve the following run-off election procedures:

SELECTION OF RUN-OFF CANDIDATES:

- Establish November 9, 2009, at 5:00 p.m. as the date and time when the top two candidates will be chosen for purposes of printing the run-off ballots in those races where it appears that a run-off will be necessary. In those races where any candidate has more than 50% of the votes cast as of that date and time, no run-off ballots will be printed. The determinations provided for in this paragraph will be made based on the vote tabulation printed by the County Elections Office at that date and time.

- Immediately after the above determinations have been made pursuant to these procedures, the City Clerk shall cause the necessary ballots to be printed.

- Prior to November 9, 2009, the City shall have caused the necessary mail ballot envelopes and any other election supplies to have been printed utilizing the services of the election supplier previously chosen by the City Council as set forth in Resolution No. 2009-_____.

- In the event the County Clerk-Recorder does not utilize the full 28-day canvassing period and the certified election results show that the incorrect names were chosen pursuant to the procedure set forth above, then the following action shall be taken depending on at what point in the process the canvass is made:

    - If the canvass is made prior to the mailing of the ballots then, provided there is sufficient time in the opinion of the election supplier, the City Clerk shall request an emergency reprint and incur any necessary additional cost and mail out the reprinted ballots prior to the 10-day deadline mandated by state law, or if there is not sufficient time to meet the 10-day deadline, the election shall be deemed to have "failed" and the City Attorney shall proceed with the litigation outlined below.

    - If the canvass of the County Clerk-Recorder shows that the incorrect names were chosen pursuant to the procedure outlined above and the ballots have already been mailed, then the run-off shall be deemed to have "failed," and the City Attorney shall proceed with the litigation outlined below.

LITIGATION:

- In the event said run-off is deemed to have "failed" pursuant to these procedures, then the City Attorney is hereby directed to file an action in Superior Court to do the following:

    - Obtain an order prohibiting the City Clerk from canvassing the December 8, 2009, run-off election.

    - Declare the December 8, 2009, run-off election nullified.

    - Request the Court to retain jurisdiction until the run-off election results are certified

DECISION TREE:

- Pursuant to these procedures there are two (2) possible scenarios which are summarized in the attached "Decision Tree."

- Pursuant to the procedures set forth above, if the City Clerk has printed and mailed ballots with incorrect names chosen, it will be necessary to call a special election for the purpose of holding the run-off. The agreed upon date to hold an election with Martin and Chapman is January 26, 2010. This date will allow adequate time to reprint and mail new ballots. It is recommended that the City Council adopt such a resolution now on condition that it not be effective unless the circumstances described above occur.

In the past, in order to avoid allegations of conflict of interest, it has been recommended that Councilmembers running for re-election abstain from voting on this matter. The precedent for

this is the fact that Councilmembers Friedman and Smith abstained during actions taken related to the "failure" of the 2001 run-off election, Mayor Sabatino and Councilmember Conrad abstained from voting on this matter during actions related to the 2003 run-off election, and Councilmembers Jackman, Keating and O'Bryant abstained from voting on this matter during actions related to the 2005 run-off election. However, in 2007, there was the possibility of all four incumbents running for re-election and that there would not be a quorum to vote; therefore, all Councilmembers, including the Mayor, voted. In order to avoid allegations of conflict of interest, it is recommended that Councilmember Olsen abstain from voting on this matter.

COMMITTEE RECOMMENDATION:
This item did not go to Committee.

STRATEGIC PLAN ELEMENT:
Not Applicable.

RECOMMENDED COUNCIL ACTION:
Resolution approving run-off election procedures and directing the City Clerk to follow the procedures in conducting any required run-off election following the regular municipal election in November 2009, and directing the City Attorney to file an action in Superior Court in the event that the December 8, 2009 run-off election "fails."

Resolution calling for a special election to be held on January 26, 2010 for the purpose of holding a run-off election that was previously scheduled for December 8, 2009.

Approved by:

_____
Stephanie Lopez, City Clerk

_____
Greg Nyhoff, City Manager

Attachments: Resolutions (2)
Decision Tree

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-229

Print

A RESOLUTION CALLING FOR A SPECIAL ELECTION TO BE HELD ON JANUARY 26, 2010 FOR THE PURPOSE OF HOLDING A RUN-OFF ELECTION THAT WAS PREVIOUSLY SCHEDULED FOR DECEMBER 8, 2009

WHEREAS, in the event the December run-off election "fails," it will be necessary to reschedule the run-off election, and

WHEREAS, the City Council determines that the run-off election should be held on the 4th Tuesday in January 2010,

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

1. That the City Council orders the City Clerk to submit the run-off election previously scheduled for December 8, 2009, to the voters on January 26, 2010.

2. The City Council hereby requests Martin & Chapman to provide election services for the purpose of holding a run-off election that was previously scheduled for December 8, 2009, to elect members of Council for the Districts 2, 4 and 5.

3. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

4. This resolution shall only be effective in the event incorrect names for the run-off ballots were chosen; and, the Superior Court issues an Order prohibiting the City Clerk from canvassing the December 8, 2009, run-off election; and, the Superior Court issues an Order nullifying the December 8, 2009, run-off election.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of June, 2009, by Councilmember Marsh, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Olsen

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-230

A RESOLUTION REJECTING ALL BIDS FOR THE PROJECT TITLED, "TRAFFIC OPERATIONS BUILDING–TENANT IMPROVEMENTS," AND AUTHORIZING STAFF TO RE-ADVERTISE THE PROJECT AT A FUTURE DATE WHEN ECONOMIC CONDITIONS IMPROVE AND FUNDS BECOME AVAILABLE FOR THIS PROJECT

WHEREAS, this project, if approved and funded, would install tenant improvements at 117 Elm Street for the Traffic Operations Section, and

WHEREAS, bids for this project were opened on March 11, 2009, and

WHEREAS, Harris Builder, Inc., was determined to be the responsible low bidder, and

WHEREAS, staff recommends rejecting these bids and delaying this project to a future date due to funding constraints in the Surface Transportation fund,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves rejecting all the bids for the project titled, "Traffic Operations Building–Tenant Improvements."

BE IT FURTHER RESOLVED that staff is authorized to re-advertise the project at a future date when economic conditions improve and funds become available for this project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of June, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-231

A RESOLUTION ESTABLISHING THE CALCULATION FOR THE APPROPRIATION LIMIT FOR THE FISCAL YEAR 2009-2010 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 XIIIB of the California Constitution specifies that appropriations made by State and local governments may increase annually by a factor comprised of the change in population combined with either the change in California per capita personal income or the change in the local assessment roll due to local nonresidential construction, and

WHEREAS, the **attached** schedule shows the preferred price and population factors to be used and the appropriation limit with the recommended factors in calculating the limit are the price factor of "state growth in per capita income" and the population factor of "growth rate in Stanislaus County", and

WHEREAS, a copy of said report is on file in the City of Modesto Finance Department,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the appropriation limit calculation is hereby established as shown on Schedule A, **attached** hereto, and made a part hereof.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of June, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following votes:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

FY2009-2010

PROPOSITION 4

APPROPRIATION LIMIT CALCULATION

FY2008-2009 Appropriation Limit		$335,470,430
Adjustment Factors		
Per Capita Personal Income Change	0.62%	
Population Change (Stanislaus County)	1.11%	
Per Capita converted to a ratio	1.0062	
Population converted to a ratio	1.0111	
Calculation of factor for FY2008-2009	1.0174	
Adjustment		$5,837,185
FY2009-2010 Appropriation Limit		$341,307,615

Article XIIIB places a limit on most, but not all, government revenue sources. The limit applies to appropriations from proceeds of taxes from both the general fund and special funds of government entities. Proceeds of taxes include tax revenues, intere

Appropriations from nontax revenues, including the City's enterprise funds, are not subject to the limit.

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-232

Print

RESOLUTION AUTHORIZING STAFF TO SUBMIT A REQUEST FOR PROPOSAL (RFP) APPLICATION FOR THE CITY OF MODESTO TO APPLY TO BECOME A HOST CITY FOR THE 4TH ANNUAL AMGEN TOUR OF CALIFORNIA, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE APPLICATION AND RELATED DOCUMENTS

WHEREAS, each February for the past three 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 2nd Annual Amgen Tour of California on February 20, 2008, and the Host City for the Stage 3 Finish of the 3rd Annual Amgen Tour of California on February 17, 2009, 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 (RFP) application to again become a Host City for the 4th Annual Amgen Tour of California in May 2010, and

WHEREAS, the Amgen Tour of California has posted their RFP application for response from cities who wish to be considered as a Host City for the 4th Annual Amgen Tour of California in May 2010, and

WHEREAS, the City of Modesto would like to become a Host City for the Amgen Tour of California in May 2010, and

WHEREAS, the City of Modesto has read the requirements exhibited 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 authorizes staff to submit a Request for Proposal (RFP) application for the City of Modesto to apply to become a Host City for the 4th Annual Amgen Tour of California.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is 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 2nd day of June, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-233

A RESOLUTION SUSPENDING MANAGEMENT LEAVE CASHOUT FOR 2009 AND IMPLEMENTING UNPAID FURLOUGH IN FISCAL YEAR 2009-10 FOR UNREPRESENTED MANAGEMENT AND CONFIDENTIAL EMPLOYEES, INCLUDING CHARTER OFFICERS AND EXECUTIVES, EFFECTIVE JUNE 2, 2009, AND INCORPORATING PREVIOUSLY AUTHORIZED BENEFITS BY AMENDING SECTION 7 AND 19 OF RESOLUTION NO. 2007-386 AND ADDING SECTIONS 21, 22 AND 23

WHEREAS, despite recommended reductions in the proposed interim budget, revenues in the City's General Fund are approximately $5.8 million short of the recommended 7% reserve for FY 09-10, and

WHEREAS, the City is seeking employee concessions as part of the effort to balance the City budget, and

WHEREAS, Unrepresented employees and Charter Officers have further agreed to take 96 hours of unpaid furloughs, and

WHEREAS, Unrepresented employees and Charter Officers have agreed to forgo cashout of Management Leave and Confidential Leave for 2009, and

WHEREAS, several benefits previously authorized by Council have not been reflected in the comprehensive resolution,

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, is hereby designated to be the following:

City Contribution - Sworn and Non-Sworn

Effective July 22, 2008

Family	$957/month
Employee Only	$570/month
Opt Out	$425/month

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.

Effective July 26, 2005, the City's contribution toward unrepresented employees with Family coverage shall not exceed the actual premium amount for the lowest cost health (HMO Plan), dental and vision plans offered by the City, regardless of the health plan selected by the employee or the contribution amounts listed above.

Effective July 26, 2005, the City's contribution toward unrepresented employees with Employee Only coverage shall not be less than the actual premium amount for the lowest cost health, (HMO Plan), dental and vision plans offered by the City, regardless of the health plan selected by the employee or the contribution amounts listed above.

SECTION 2. REGISTERED ENGINEER PAY. Effective January 6, 2009, those employees in the classifications of Deputy Director who possess a current registration as a Professional Civil or Traffic Engineer in the State of California shall no longer be eligible to receive 7.5% Registered Engineer Pay as the pay has been incorporated into the base pay for the classifications.

SECTION 3. UNIFORM ALLOWANCES. Uniform allowances for unrepresented Management and Confidential employees who are required to wear a uniform, are as follows:

Positions	Effective Date	Allowance
Sworn Police	January 1, 2008	$94.00 (Per Reso. No. 2005-602)
Sworn Fire Management	July 1, 2007	$85.00

SECTION 4. DEFERRED COMPENSATION 401(a) MONEY PURCHASE PLANS. The 401(a) Money Purchase Plans shall provide for a City-paid contribution and equal mandatory employee contribution, effective January 1, 2006, of 5% for Charter Officers, 3% for Executives other than Charter Officers, and 2% for all other unrepresented Management and Confidential employees.

SECTION 5. COMPENSATORY TIME OFF CAP. Management and Confidential employees who are overtime-eligible shall be paid quarterly for all CTO over their established cap. For employees hired on or after December 6, 2005, the CTO cap shall be 100 hours. For employees hired before December 6, 2005, the cap shall be 160 hours.

SECTION 6. MANAGEMENT AND CONFIDENTIAL LEAVE. Management Leave for Management employees shall be 80 hours annually, effective January 1, 2002, except that for overtime-eligible Management employees the annual allocation shall be 40 hours effective calendar year 2006. For Fire Battalion Chiefs on a 56-hour schedule, the annual allocation of Management Leave shall be 112 hours, and for Confidential employees Leave shall be 20 hours annually, effective January 1, 2002.

An employee hired after Management/Confidential Leave has been advanced for

the calendar year 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/Confidential 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 AND CONFIDENTIAL LEAVE ANNUAL CASHOUT. The maximum number of hours available for cashout each December shall be 40 hours annually for Management employees, except that for overtime-eligible Management employees the maximum cashout shall be 20 hours effective calendar year 2006. Maximum annual cashout shall be 18 hours for Confidential employees.

Effective December 2007, the maximum annual cashout shall be 80 hours for Executives and Charter Officers, and 60 hours for Police Captains, Fire Battalion Chiefs, Fire Division Chiefs, Deputy Directors, Assistant City Attorney and Deputy City Attorney I/II/III/Senior. For Fire Battalion Chiefs on a 56-hour schedule, the maximum cashout shall be 84 hours.

For calendar year 2009 no employee will be permitted to cashout Management or Confidential Leave.

SECTION 8. FIRE CHIEF OFFICER SHIFT STIPEND. Effective December 27, 2005, Fire Battalion Chiefs and Fire Division Chiefs assigned to work extra shifts in order to maintain a consistent staffing of two (2) Battalion Chiefs to the extent possible, may receive a stipend of one thousand dollars ($1,000) per 24-hour shift. Criteria for assignment to extra shifts with the stipend shall be at the discretion of the Fire Chief, who

shall also determine when staffing at the level of one Battalion Chief is acceptable. The Fire Chief shall annually determine the maximum number of assignments available for stipend, subject to funds budgeted and the needs of the City. As FLSA Exempt management employees, Fire Battalion Chiefs and Fire Division Chiefs may be required to work both emergency and non-emergency assignments without additional compensation.

SECTION 9. NEGATIVE VACATION. Effective March 7, 2006, use of negative vacation will be permitted only for extenuating circumstances and will require the approval of the City Manager, or designee.

SECTION 10. PROBATIONARY PERIOD. All original and promotional appointments to positions in the Classified Service shall be tentative and subject to a probationary period of one year from the date of appointment to the position. The purpose of the probationary period is to train, observe and evaluate the employee on conduct, performance, attitude, adaptability and job knowledge.

Initial Probation: It is understood that the probationary period will normally last for one year from the date of appointment, but may last longer than the one year if absences, either paid or unpaid, cause the probationary employee to work less than 1680 hours. In the event that an employee works less than 1680 hours in the first twelve months of employment, then the employee's probation shall be extended until he/she has worked 1680 hours.

Promotional Probation: It is understood that the probationary period, upon promotion, will normally last for one year from the date of promotion, but may last longer than the one year if absences, either paid or unpaid, cause the probationary

employee to work less than 1560 hours. In the event that an employee works less than 1560 hours during the twelve months following his/her promotion, then the employee's probation shall be extended until he/she has worked 1560 hours.

During the probationary period an employee may be released at any time without right of appeal. Written notice of release shall be furnished to the probationer. An employee released during or at the conclusion of probation following a promotion, shall be reinstated to the position previously held, at the former salary step, except if the reasons for release are cause for dismissal.

SECTION 11. DEFERRED COMPENSATION SERVICE DATES. The CITY shall continue to provide access to a 457 deferred compensation program authorized by the City Council for the voluntary participation of City employees. In addition, the CITY shall match on behalf of a participating employee in a regular position, one and one-half percent (1.5%) of an employee's regular rate of pay on a bi-weekly basis; provided, the employee is contributing at least one and one-half percent (1.5%). For such employees who have been continuously employed by the CITY for nine (9) or more years, the CITY shall contribute two and one-half percent (2.5%); provided the employee is contributing at least two and one-half percent (2.5%). Effective January 1, 2006, this increase in the City's contribution shall be effective with the first payperiod to begin in the month following completion of nine (9) years of service, provided that the employee has completed any required documents.

SECTION 12. DOMESTIC PARTNERS. Benefits applicable to spouses shall be extended to registered domestic partners, as required by law.

SECTION 13. MEDICAL LEAVES OF ABSENCE. Effective December 6, 2005, employees requesting an Authorized Medical Leave of Absence without pay, due to a medical incapacity to perform the duties of their position, must provide written medical verification of a long-term disability, illness or injury.

SECTION 14. CATASTROPHIC LEAVE. Effective December 6, 2005, employees requesting Catastrophic Leave donations must provide a written medical verification of long term illness or injury, or verification of a family member's illness or injury.

SECTION 15. HAZARDOUS MATERIALS CERTIFICATION PAY. Effective July 1, 2003, one (1) Fire Department Battalion Chief or Division Chief shall be authorized five (5%) percent Haz Mat Pay, when certified as a Hazardous Materials Specialist and assigned to administer the City of Modesto's participation in the Regional Hazardous Materials Response Team. This pay replaced the annual Haz Mat Stipend.

SECTION 16. MASTERS DEGREE INCENTIVE PAY. Effective June 29, 2004, employees who possess a Masters Degree or Juris Doctor from an accredited institution, shall be granted one and one half (1.5%) percent Masters Pay, subject to criteria as established by the City.

SECTION 17. REGISTRATION AND CERTIFICATION FEES. Effective July 1, 2003, when an employee is required by the City to obtain or renew a certificate, license or registration in order to carry out their assigned duties, except a California Class C Driver's License, the City will pay the fee for the actual certificate, license or registration, (and exam fee, if any).

SECTION 18. LEAVE CASHOUTS FOR SWORN FIRE MANAGEMENT

EMPLOYEES. Sworn Fire Management employees in the classifications of Fire Battalion Chief, Fire Division Chief and Fire Chief working a 40 hour schedule shall be afforded the opportunity to cashout up to 61 hours of vacation leave per calendar year (at straight time rates) and up to 88 hours of holiday leave per calendar year (at time and one-half), effective July 1, 2003. Employees in the classification of Fire Battalion Chief working a 56 hour schedule shall be afforded the opportunity to cash out up to 72 hours of vacation leave per calendar year (at straight time rates) effective June 20, 2000, and up to 132 hours of holiday leave per calendar year (at time and one-half). Holiday leave may not be carried over year-to-year regardless of the schedule worked.

SECTION 19. VEHICLE ALLOWANCE. Per Resolution No. 2001-271 effective July 1, 2001, the vehicle allowance for Executives and Charter Officers who receive an allowance, shall be $400/month, and the City Manager is authorized to grant Deputy Directors either an assigned City vehicle or a vehicle allowance in the amount of $300/month. The City Manager is also authorized to grant selected Management employees a vehicle allowance of $100-$200/month based on Department Director recommendation and an annual justification relating to extensive use of a personal vehicle while conducting City business. 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 July 1, 2009, all employees shall be required to take 96 hours of unpaid furlough during fiscal year 2009-10. Employees in the classification of Fire Battalion Chief working a 56 hour schedule shall be required to take 134.4 hours of unpaid furlough during fiscal year 2009-10. Employees hired or separating during the fiscal year will be required to take a prorated number of unpaid furlough 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 four percent (4.0%) 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 pro-rated to the nearest hour

The City Manager is authorized to adjust the stipend amount, from time to time, consistent with increases in overall Fire Management salaries and reimbursement rates.

SECTION 24. 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.

BE IT FURTHER RESOLVED, that the City continues to extend Severance Package upon layoff to represented employees as outlined in **Attachment 1**.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of June, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Approval of Severance Package for Laid Off Employees

A recommended severance pay of 4-8 weeks of salary and health contributions would provide a limited cash payment and health coverage to assist the laid off employee faced with loss of job and income. The recommended interview leave would provide paid leave time for employees to seek other employment prior to their date of layoff. It is further recommended that the City Manager be authorized to postpone an employee's date of layoff or demotion for up to ninety (90) days at his discretion, if deemed necessary to meet the needs of the City.

Eligibility for Severance Pay: All non-sworn employees in regular positions in the classified service shall be provided with severance pay when separating from City service due to an authorized reduction in force. An eligible employee shall be entitled to receive severance pay in addition to any other benefits to which he/she may be entitled under the provisions of the Personnel Rules or appropriate Memorandum of Understanding.

Severance pay in the amount of two (2) pay periods (four weeks) base salary shall be paid to an eligible employee upon separation due to 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 on additional week of severance pay for a total of five (5) weeks, employees with nine (9) to eleven (11) yeas 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 separation, 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.

Eligibility for Health Contribution: Employees 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 the 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.

Eligibility for Counseling Benefit: Employees who receive severance pay shall also be eligible for an extension of the City's Employee Assistance Program (EAP) benefit for a period of six (6) months from date of layoff. Said benefit shall provide for a maximum of six (6) EAP visits per family.

Eligibility for Interview Leave: All non-sworn employees in regular positions 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 bump down or demote to a vacancy in lieu of layoff are also eligible for interview leave.

An eligible 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 of such a leave and employees may be required to provide verification of the scheduled interview or examination. Interview leave in excess of fifteen hours may be granted with the written approval of the Department Director. Interview leave is not subject to cash out or conversion to any other benefit.

Voluntary Layoff: If an employee volunteers to be laid off and is in the classification or the approved bumping chain of a position authorized for layoff due to an authorized reduction in force, the City Manager may authorize said employee to be laid off, with all rights to receive severance benefits.

Expiration: Eligibility for severance pay, health benefit contributions and interview leave shall terminate January 30, 2009, unless extended by the City Council.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-234

A RESOLUTION AMENDING THE 2008-09 GENERAL FUND BUDGET TO REFLECT CHANGES IN REVENUE AND EXPENSE ASSUMPTIONS SINCE THE LAST UPDATE AND THE COSTS ASSOCIATED WITH ADOPTED POLICY ITEMS APPROVED AS PART OF THE ADOPTION OF THE 2009-10 PROPOSED OPERATING BUDGET

WHEREAS, pursuant to the Charter of the City of Modesto, the Mayor presented the Proposed Operating Budget for the 2009-10 Fiscal Year to the Finance Committee at workshops held during the week of May 18, 2009, and

WHEREAS, during these workshops the Finance Committee was presented with a listing of recommended budget adjustments and policy issues affecting both the Proposed 2009-10 Fiscal Year budget and the 2008-2009 fiscal year operating budget, and

WHEREAS, the Finance Committee approved these changes and policy issues for consideration by the full City Council during its regularly scheduled meeting held on June 2, 2009,

WHEREAS, the City Council has considered the policy recommendations and budget adjustments brought before it and has approved these items and desires to have them incorporated into the Fiscal Year 2008-2009 operating budget,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2008-2009 Operating Budget as shown in **Exhibit A** which is incorporated by reference herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of June, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

General Fund

	Increase/(Decrease)
Revenue:	
0100-510-9510-8101R Property Sales	($215,000)
Reflect adjustment for anticipated sale of 412 Downey	
0100-300-3020-8119 Insurance Settlement	$3,075,000
Reflect settlement on Morris Ave. Community Center	
Expenses:	
0100-510-9510-0168 Leave Reimb.	($500,000)
Reflect holiday from payment of annual leave costs	
0100-300-3020-5900	$ 48,446
Payment to Insurance Arbitrator for Morris Ave. Settlement	

Employee Benefit Fund

Expenses:	
Severance Packages	$ To be determined*
Voluntary separation leave payouts	$ To be determined**

Reflect use of EBF resources to cover these costs for General Fund and other funds that cannot afford them

*Actual amounts for General Fund employees will be determined by values presented after all voluntary separations have been processed. It is estimated at this time that the total cost will be approximately $1.3 million

**Actual amounts for General Fund employees will be determined by values presented after all voluntary separations have been processed. It is estimated at this time that the total cost will be approximately $922,000.00

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-235

Print

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 2009-10 BUDGET DEVELOPMENT PROCESS

WHEREAS, as part of the Mayor's Proposed Budget for FY 2009-10, 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 2009-10 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 **Exhibits 1 and 2**, 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 2nd day of June by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

FY 2009-10 Proposed Budget Goals

Focus resources on vital public services. In keeping with this goal, **I will be convening a special workshop of the City Council later this summer to develop an organization vision and mission statement.** This is in keeping with the Charter amendments approved by voters in February and will provide direction for future budget decisions. Additionally, **I am seeking the Council's commitment to place a measure on the November 2009 ballot that will provide a long-term stable source of funding for public safety which will include youth programs designed to catch our youth before they have chosen a life with gangs, crime, and drug usage.**

Begin efforts which will result in long-term structural budget changes. We need to change the current dynamic of making service cuts each year only to turn around and do it again the following year. **To that end I am calling for a community-wide budget survey and a series of "Town Hall Meetings" this fall to assure we elicit community participation in the budget process and that we understand the community's priorities**.

Reduce deferred maintenance. Master Plans are now in place for the water and wastewater utilities. The Stormwater Master Plan is moving toward completion. We must fund these utilities at adequate levels to ensure not only appropriate operations and maintenance efforts, but also a commitment to infrastructure improvements. Likewise, we must focus our efforts on rebuilding our roads, parks, and public facilities. The City of Modesto, and our neighboring communities, has a tremendous opportunity later this fall as voters consider the half-cent sales tax for transportation. We can no longer rely on financial crumbs coming from the state and federal government. We need to take more control of our own financial destiny and to do that we must have control of our financial resources.

Increase the City's economic opportunities. **We must find a way to complete the comprehensive update of the General Plan.** I know this is a controversial item, but the General Plan is the City's fiscal planning tool. Proper land use planning including transportation and utilities, positions the City to respond appropriately and effectively to development opportunities when they arise. In order for this community to retain its economic competitiveness we must ensure that the backbone infrastructure is there when economic opportunities are presented. We must plan for a successful future. We do that through comprehensive planning efforts. We do that through ensuring funding is available when it is needed.

Recommended Budget Principles

1. Annually Adopt a Structurally Balanced Budget
A structurally balance 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.

RESCINDED
MAY 2 4 2011
2011-178
THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-236

A RESOLUTION ESTABLISHING NEW RATES AT THE MUNICIPAL NINE-HOLE GOLF COURSE, THE DRYDEN PARK MUNICIPAL GOLF COURSE AND THE CREEKSIDE MUNICIPAL GOLF COURSE, ESTABLISHING NEW RATES FOR ANNUAL PASSES, ESTABLISHING NEW RATES FOR HIGH SCHOOL ROUNDS AND TOURNAMENT PLAY, AND RESCINDING RESOLUTION NO 2004-566

WHEREAS, on May 25, 2004, the City Council adopted Resolution No. 2004-566 which increased green fees at Municipal Nine-Hole Golf Course, Dryden Park Municipal Golf Course and Creekside Golf Course, and

WHEREAS, Resolution No. 2004-566 also established new rates for annual passes, high school rounds and tournament play, and

WHEREAS, City staff is recommending a green fee rate increase at the Municipal Nine-Hole Golf Course, Dryden Park Municipal Golf Course, and Creekside Municipal Golf Course, an increase in the price of annual passes, and an increase in the price of high school rounds at City courses, and an increase in the tournament play fee schedule to help pay for the rising costs associated with operating the three golf courses, and

WHEREAS, the Golf Courses Committee met on May 5, 2009 and supported these proposed rate increases at the City's Municipal Golf Courses, and

WHEREAS, the Finance Committee met on May 20, 2009 and supported increases in green fees and annual passes at all City Municipal courses, and

WHEREAS, said matter was set for a public hearing of the City Council to be held at 5:30 p.m. on June 2, 2009, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing

of the Council was held for the purpose of receiving public comment on the proposed amended golf fees, and

WHEREAS, the Council of the City of Modesto finds that new increased fees for play need to be established at the Municipal Golf Course, the Dryden Park Municipal Golf Course and the Creekside Municipal Golf Course to help offset the rising costs of operating the golf courses, and

WHEREAS, the General Fund subsidy totaling $270,000.00 that was originally projected for the Fiscal Year 2009-2010 would be eliminated as the result of the adoption of these fees,

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

SECTION 1. RATES. The rates for players upon the Modesto Nine-Hole Municipal Golf Course, the Dryden Park Municipal Golf Course, and the Creekside Municipal Golf Course are hereby established as set forth on **Exhibit "A"** attached hereto.

The policies and rates for tournament players upon the Modesto Nine-Hole Municipal Golf Course, the Dryden Park Municipal Golf Course, and the Creekside Municipal Golf Course are hereby established as set forth on **Exhibit "B"** attached hereto.

SECTION 2. DISCOUNTS.

(a) School Golf Teams. School golf team passes are to be issued only upon presentation by holder of a current high school or college student body card and verification of golf team membership by the school golf coach. Students shall possess

and display an etiquette card obtained by completing a required training course in golf rules and etiquette at a recognized golf facility. Team members with team member passes must be accompanied by their respective golf coaches and shall play only between the hours of 2:00 p.m. and 5:00 p.m. during the spring golf season. The specific spring school golf team season will be set by the golf professional after receiving the schools' schedules of matches from each school coach. Green fees at the rate of $6.50 per round shall be implemented for high school and Modesto Junior College golf programs at the Modesto Nine Hole Municipal Golf Course, the Dryden Park Municipal Golf Course and the Creekside Municipal Golf Course.

(b) Junior Discounts. Junior discounts are to be given only to persons eighteen (18) years of age and younger any day after 12:00 noon. Juniors shall possess and display an etiquette card obtained by completing a required training course in golf rules and etiquette at a recognized golf facility.

(c) Senior/Junior/Disabled Discounts. Senior/Junior/Disabled discounts are to be given only to persons who are sixty-two (62) years of age or older or to those who are on disability retirement. Proof of age or proof of disability retirement must be displayed to obtain a Senior/Retired/Disabled discount. Discounts are good weekdays except for holidays.

Members of the five officially recognized golf clubs (Muni Niners, Modesto Golf Club, Dryden Park Women's Golf Club, Creekside Golf Club and S.I.R.S.), who qualify, will be allowed to use Senior/Junior/Disabled discounts for official club tournaments Monday through Thursday, excluding holidays.

(d) Valu- Play Cards. Golfers can purchase a weekday, 6-round Valu-Play (multiple play) card for Dryden/Creekside or Muni. Valu-Play Discounts are effective for sixty (60) days from the date of purchase except for the months of December, January and February. During this period multiple play cards will be good for the entire three months. Multiple play cards are not refundable or transferable. The multiple play card is not good on weekends or holidays.

(e) Special Rates. From time to time, the Recreation and Neighborhoods Director or his or her designee may provide up to a fifty percent (50%) discount off of daily greens fees. Such specials shall occur no more than twenty (20) days per month at each golf course.

(f) Family Tee Program. To promote family play, golfers may play from established "family tees" to be set no more than 175 yards from the greens at Municipal Nine-Hole Golf Courses. Rates for play are $7.50 weekdays and $8.50 weekends. All members of the foursome or group must use the family tees for this rate to be in effect.

(g) Play one round, get the second round at half price. This discount is good on the day and at the course on which the original full-fee round is played. The fee for the second round shall be one-half of the green fee in effect at the time the second round is played.

SECTION 3. COMPLIMENTARY TICKETS. Complimentary tickets without fee may be issued by or under the direction of the Golf Course Professional to visiting professionals or others, for services rendered to the golf course. Free play must be approved by the Parks, Recreation and Neighborhoods Director or designee.

SECTION 5. POLICY. In order for fees to be consistent and competitive with other courses in the valley, the Play Day Policy for Play at the City's Municipal Golf Courses by Non-Affiliated Groups shall continue to be implemented as set forth on **Exhibit "C"** attached hereto.

SECTION 6. HOLIDAYS. "Holidays", as used herein, shall mean New Year's Day (January 1st), Martin Luther King's Birthday (the third Monday in January), Washington's Birthday (the third Monday in February), Memorial Day (the last Monday in May), Independence Day (July 4th), Labor Day (the first Monday in September), Veterans Day (November 11th), Thanksgiving Day (the fourth Thursday in November) and the day after Thanksgiving. When a holiday falls on Sunday, the following Monday shall be observed as a holiday. When a holiday falls on Saturday, the preceding Friday shall be observed as a holiday.

SECTION 9. EFFECTIVE DATE. This resolution shall go into effect and be in full force and operation on and after July 1, 2009.

SECTION 10. REPEALS. Resolution Nos. 2004-566 is hereby rescinded effective June 30, 2009

The General Fund subsidy originally identified in the proposed Fiscal Year 2009-2010 budget is hereby cancelled.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of June, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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 OF MODESTO GOLF COURSES
GREEN FEE SCHEDULE
EFFECTIVE JULY 1, 2009

DRYDEN PARK MUNICIPAL GOLF COURSE

Weekdays, 9-holes	$ 16.50
Weekdays, 9-holes (seniors/juniors/disabled)	$ 14.00
Weekdays, 18-holes	$ 22.50
Weekdays, 18-holes (seniors/juniors/disabled)	$ 19.00
Weekdays, 18-holes (juniors, after noon)	$15.00
Weekdays Mid-day, 18-holes	$ 18.50
Weekdays Super-Twilight, 18-holes	$ 12.50
Weekdays afternoon League Play	$ 17.00
Weekends/Holidays, 9-holes	$ 18.00
Weekends/Holidays, 18-holes	$ 28.50
Weekends/Holidays, 18-holes (juniors, after noon)	$ 17.50
Weekends/Holidays Mid-day, 18-holes	$ 21.50
Weekends/Holidays Super-Twilight, 18-holes	$ 15.50
First Tee Member, 9-holes	$ 5.00
First Tee Member, 18-holes	10.00
6-play Valu-Play booklet (seniors/juniors/disabled)	$ 102.00

CREEKSIDE MUNICIPAL GOLF COURSE

Weekdays, 9-holes	$ 17.50
Weekdays, 9-holes (seniors/juniors/disabled)	$ 15.00
Weekdays, 18-holes	$ 24.50
Weekdays, 18-holes (seniors/juniors/disabled)	$ 20.50
Weekdays, 18-holes (juniors, after noon)	$ 16.00
Weekdays Mid-day, 18-holes	$ 19.50
Weekdays Super-Twilight, 18-holes	$ 13.50
Weekdays afternoon League Play	$ 18.00
Weekends/Holidays, 9-holes	$ 20.00
Weekends/Holidays, 18-holes	$ 31.50
Weekends/Holidays, 18-holes (juniors, after noon)	$ 19.50
Weekends/Holidays Mid-day, 18-holes	$ 23.50
Weekends/Holidays Super-Twilight, 18-holes	$ 17.50
First Tee Member, 9-holes	$ 5.00
First Tee Member, 18-holes	$ 10.00
6-play Valu-Play booklet	$ 117.00
6-play Valu-Play booklet (seniors/juniors/disabled)	$ 102.00

MODESTO NINE HOLE MUNICIPAL GOLF COURSE (MUNI)

Weekdays, 9-holes	$ 14.50
Weekdays, 9-holes (seniors/juniors/disabled)	$ 12.50
Weekdays, 9-holes (juniors, after noon)	$ 10.00
Weekdays Mid-day, 9-holes	$ 12.50
Weekdays Super-Twilight, 9-holes	$ 10.50
Weekdays afternoon League Play	$ 11.50
Weekends/Holidays, 9-holes	$ 16.50
Weekends/Holidays, 9-holes (juniors, after noon)	$ 11.00
Weekends/Holidays Mid-day, 9-holes	$ 13.50
Weekends/Holidays Super-Twilight, 9-holes	$ 11.50
First Tee Member, 9-holes	$ 5.00
6-play Valu-Play booklet	$ 61.50
6-play Valu-Play booklet (seniors/juniors/disabled)	$ 54.00
Weekdays, 9-holes, Family Tees	$7.50
Weekends, 9-holes, Family Tees	$8.50
Weekdays, 6-holes	$7.00
Weekends, 6-holes	$8.00

MUNICIPAL NINE-HOLE GOLF COURSE, DRYDEN PARK MUNICIPAL GOLF COURSE AND CREEKSIDE MUNICIPAL GOLF COURSE

*Annual Club Membership, Initial Membership	$150.00
*Annual Club Membership, Every Day	$1175.00
*Annual Club Membership, Every Day, Jr./Sr.	$1030.00
*Annual Club Membership, Every Day, Family	$1,750.00
*Annual Club Membership, Every Day, Family, Jr./Sr.	$1,535.00
*Annual Club Membership, Week Day	$960.00
*Annual Club Membership, Week Day, Jr./Sr.	$805.00
*Annual Club Membership, Week Day, Family	$1,430.00
*Annual Club Membership, Week Day, Family, Jr./Sr.	$1,210.00

*At Dryden Park Municipal Golf Course and Creekside Municipal Golf Course, the Every Day annual passes provided for above shall not apply to tee times prior to 1:00 p.m. during Daylight Savings Time and 12:00 Noon during Standard Time on Saturdays, Sundays, and Holidays. At Municipal Nine-Hole Golf Course, the Every Day annual passes provided for above shall not apply to tee times prior to 10:00 a.m. year-round on Saturdays, Sundays, and Holidays.

TOURNAMENT FEE SCHEDULE AND POLICY
EFFECTIVE JULY 1, 2009

	FEE PER PLAYER		
	Regular Tee Time Style	Full Shotgun Tee Time Style Excluding cart	Modified Shotgun Tee Time Style Excluding cart
CREEKSIDE			
Weekday	$42.50	$50.50	$50.50
Weekends	$49.50	$58.50	N/A
DRYDEN			
Weekday	$40.50	$48.50	$48.50
Weekends	$46.50	$55.50	N/A
MUNI			
Weekday	$32.50	$38.50	N/A
Weekend	$34.50	$40.50	N/A

In addition, a non-refundable deposit of $50.00 per tournament is required.

Regular tee time style tournaments require a minimum of 28 players. Per player fees include: green fees ($24.50 weekdays/$31.50 weekends at Creekside, $22.50 weekdays/$28.50 weekends at Dryden and $14.50 weekdays/$16.50 weekends at Muni); and Pro Shop merchandise credit ($9.00 at Creekside/Dryden/Muni); and golf course restaurant credit ($9.00 at Creekside/Dryden/Muni).

Full shotgun tee time style tournaments require a minimum of 120 players at Creekside/Dryden and a minimum of 72 players at Muni. Per player fees include: green fees ($28.50 weekdays/$36.50 weekends at Creekside, $26.50 weekdays/$33.50 weekends at Dryden and $16.50 weekdays/$18.50 weekends at Muni); Pro Shop merchandise credit ($11.00 at Creekside/Dryden/Muni); and golf course restaurant credit ($11.00 at Creekside/Dryden/Muni). Cart rental is required for shotgun style tournaments.

Modified shotgun tee time style tournaments require a minimum of 72 players at Creekside/Dryden. Per player fees include: green fees ($28.50 weekdays at Creekside; $26.50 weekdays at Dryden); Pro Shop merchandise credit ($11.00 at Creekside/Dryden); and golf course restaurant credit ($11.00 at Creekside/Dryden). Cart rental is required for modified shotgun style tournaments. Modified shotgun style tournaments are not available at Muni.

Members of the five officially recognized affiliated golf clubs (Muni Niners, Modesto Golf Club, Dryden Park Women's Club, Creekside Golf Club and S.I.R.S.), who qualify, will be allowed to use Senior/Junior/Disabled discounts for official club tournaments Monday through Friday, excluding holidays.

EXHIBIT "C"

PLAY DAY POLICY
FOR PLAY AT THE CITY'S
MUNICIPAL GOLF COURSES
BY NON-AFFILIATED GROUPS

The following policy is hereby established for Non-Affiliated Groups to encourage their use of the City's municipal golf courses:

Criteria for these groups are:

1. They are a group with an identification or organizational structure;

2. They commit to use the City's golf course(s) on a regular basis (weekly, bi-weekly, monthly, etc.);

3. They have a minimum of twenty-four (24) players;

4. Regular tee-time style starting will be used (no shotgun style starting will be allowed);

5. Their events do not promote a formal competition or championship; and

6. Play days will be restricted to Monday through Wednesday after 9:00 a.m.

In recognition of their contribution to the golf program, no mandatory pro shop or restaurant fees will be assessed. Tee time reservations, in advance of public reservations, will be allowed.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-237

A RESOLUTION APPROVING A FOURTH AMENDMENT TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) ANNUAL ACTION PLAN FOR FISCAL YEAR 2008-2009, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT

WHEREAS, the City of Modesto receives several Federal grants from the United States Department of Housing and Urban Development (HUD), and

WHEREAS, the Modesto City Council, on May 6, 2008, by Resolution No. 2008-267, approved the adoption of the 2008-2009 HUD Annual Action Plan, and

WHEREAS, a Fourth Amendment to the Annual Action Plan is **attached** as **Exhibit "1"** and incorporated herein by reference, and

WHEREAS, notice has been duly given to the community of the Fourth Amendment to the Annual Action Plan, and to provide a seven-day comment period, which began May 22, 2009, and ended on June 2, 2009, and

WHEREAS, a duly noticed public hearing was held by the City Council on June 2, 2009, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010 Tenth Street, to consider approval of the Fourth Amendment to the 2008-2009 HUD Annual Action Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Fourth Amendment to the 2008-2009 HUD Annual Action Plan, a copy which is **attached** hereto as **Exhibit "1"** and incorporated herein by reference.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of June, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CDBG-R

Activity Data Spreadsheet - CDBG-R Formula

Jurisdiction/Grantee Name:		Grant Amount: 631,749				Date:	
Activity Name	Activity Description	Eligibility (Regulatory or HCDA Citation)	National Objective Citation	CDBG-R Project Budget ($)	Additional Recovery Funds ($)	Other Leveraged Funding ($)	A E
Admin	Planning, administration and oversight of CDBG-R Activities			$63,175		N/A	
Public Service	Offer programing around job search and interview skills development. This program will assist citizens with ways to search for jobs as well as how to present ones' self in an interview and practice questions and appropriate responses. This public servic	Regulatory	LMC	$94,762			
Energy Efficient Improvements	Offer grants to local businesses for energy efficient and façade improvements. This funding will provide a source for local businesses to upgrade their buildings with energy efficient products. This will lower their overall utlity bills while decreasing	Regulatory	LMC	$200,000			
Energy Efficient Improvements	Upgrade public buildings with energy efficient features. Install energy efficient foam roofs on city owned buildings at the Corporation Yard and at the Centre Plaza. Quotations have been received for the above projects.	Regulatory	LMC	$273,812	$787,000		

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-238

A RESOLUTION APPROVING A DISPOSITION AND DEVELOPMENT AGREEMENT (AGREEMENT) BETWEEN THE REDEVELOPMENT AGENCY OF THE CITY OF MODESTO (AGENCY) AND EAH, INC. (DEVELOPER) TO ENCUMBER AN ADDITIONAL AMOUNT OF $3,249,000 FOR THE PROPOSED DEVELOPMENT OF A 150-UNIT AFFORDABLE HOUSING COMPLEX, ALSO REFERRED TO AS ARCHWAY COMMONS

WHEREAS, the Redevelopment Agency of the City of Modesto (the "Agency") is carrying out the Redevelopment Plan for the Modesto Redevelopment Project (the "Redevelopment Project"), and

WHEREAS, in conformance with Health and Safety Code Section 33490, the Agency adopted a five-year Implementation Plan (the "Implementation Plan") for the Redevelopment Project, and

WHEREAS, on April 29, 2009, by Resolution No. 10-2009, the Agency approved a Purchase Agreement to acquire three (3) of four (4) parcels (the "Site") needed for the development of an affordable housing apartment complex referred to as Archway Commons (the "Housing Project"), and by Resolution No. 11-2009, the Agency approved an Agreement to Negotiate Exclusively ("ANE") with EAH Inc. ("Developer") to negotiate the terms and provisions of an agreement for the development of the Housing Project, and

WHEREAS, a Purchase Agreement is expected to be presented to the Agency at its meeting on June 2, 2009, for the acquisition of the fourth (4th) parcel needed for the Housing Project, and

WHEREAS, the Agency closed escrow on the first three (3) parcels of the Site on May 21, 2009, and is expected to close escrow to acquire the fourth parcel by the end of July 2009, and

WHEREAS, the Agency has received a Disposition and Development Agreement (the "DDA") from the Developer which provides for the sale or lease of the Site to the Developer for development of the Housing Project, and

WHEREAS, the proposed DDA further provides that the Developer will develop the Housing Project on the Site, consisting of approximately 150 affordable housing units, and

WHEREAS, the proposed DDA also provides for Agency assistance for the Housing Project in an amount not to exceed $6,749,000.00 (the "Agency Assistance"), of which $3,500,000 has already been expended for the acquisition of the first three parcels of the Site and will be carried over to the Developer to assist with acquisition of the Site, and the remaining $3,249,000 to be expended to acquire the fourth parcel, and to provide additional financial assistance for the planning and development of the Housing Project, and

WHEREAS, the Community Redevelopment Law of the State of California (Health and Safety Code Section 33000, et seq.) provides in Section 33431 that any sale or lease of Agency property may be made only after a public hearing of the Agency after publication of notice as provided by law, and

WHEREAS, the Community Redevelopment Law further provides in Section 33433 that before any property acquired, in whole or in part, with tax increment monies, is sold or leased for development pursuant to a redevelopment plan, such sale or lease shall first be approved by the legislative body after a public hearing, that notice of the time and place of the hearing shall be published in a newspaper of general circulation in the community for at least two (2) successive weeks prior to the hearing, and that the Agency shall make available for public inspection a copy of the proposed sale or lease

and a report containing specified information and the financial aspects of the proposal, and

WHEREAS, notice of a joint public hearing of the City Council of the City of Modesto (the "City Council") and the Agency was published on May 19 and May 26, 2009, and a joint public hearing was held on June 2, 2009, to consider and act on the sale or lease of the Site pursuant to the DDA, and

WHEREAS, the Agency prepared a report pursuant to Section 33433 of the Health and Safety Code (the "Report"), describing the cost of the DDA to the Agency, the value of the property interest to be conveyed, the purchase price and other information required by said Section 33433, and the Report, together with the DDA, was made available to the public for inspection, and

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

Section 1. The City Council hereby finds and determines that the sale or lease of the Site to the Developer and development of the Housing Project on the Site pursuant to the DDA will assist in the elimination of blight and will provide housing for very-low and low-income households, and is consistent with the Five-Year Implementation Plan adopted by the Agency pursuant to IHealth and Safety Code Section 33490. This finding is based upon the facts and information contained in the Report prepared by the Agency pursuant to Health and Safety Code Section 33433.

Section 2. The City Council hereby finds and determines that the consideration for the Site to be paid by the Developer under the DDA is not less than the fair reuse value at the use and with the covenants and conditions and development costs authorized

by the DDA. This finding is based upon the facts and information contained in the Report prepared by the Agency pursuant to Health and Safety Code Sections 33433.

Section 3. The City Council hereby approves the DDA in substantially the form on file with the City Clerk. The City Council further approves and authorizes the sale of the Site to the Developer and the funding of the Agency Assistance, all as provided for under the DDA.

Section 4. The Agency is hereby authorized to execute the DDA on behalf of the Agency, subject to any minor conforming, technical or clarifying changes approved by Agency Counsel. The Agency is further authorized to undertake such further actions and execute such documents as are necessary to carry out and complete the obligations of Agency under the DDA on behalf of the Agency, including without limitation the execution of deeds or a lease agreement, and all other actions and documents necessary for the sale or lease of the Site to the Developer, and funding of the remainder of the Agency Assistance, all as provided for in the DDA.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of June, 2009, by Councilmember Hawn, who moved for its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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. 2009-239

Print

A RESOLUTION RESCINDING RESOLUTION NO. 2005-583 AND ADOPTING A NEW RESOLUTION TO ESTABLISH NEW PARKING VIOLATION FINES IN ORDER TO ALLOW THE CITY OF MODESTO TO RECOVER ADDITIONAL STATE SURCHARGES RECENTLY ENACTED BY THE STATE LEGISLATURE

WHEREAS, during the 2008 and 2009 legislative years the California State Legislature enacted Senate Bill (SB) 425 and SB1407, which increased the State mandated surcharge-issuing agencies be required to remit to the State and County, and

WHEREAS, with the enactment of SB's 425 and 1407, the City of Modesto is now required to remit a total of $9.50 to the State and County in surcharges for every paid parking offense where a parking penalty, fine, or forfeiture is imposed, (prior surcharge $5.00) for the funding of the State Court Facilities Construction Fund, and

WHEREAS, unpaid parking fines are sent to the Department of Motor Vehicles (DMV) for a lien to be placed on the cited vehicle, and

WHEREAS, DMV places liens for whole dollar amounts only, therefore, the proposed increase in the fine amounts is $5.00, and

WHEREAS, adopting a new parking citation fine schedule will allow the City to recover the new costs imposed by the State and County in the form of surcharges for each paid parking citation, and

WHEREAS, any change in revenue would be negligible, as the proposed amount covers only the increase in surcharges paid by the City to the State and County, rounded to the nearest whole dollar, and

WHEREAS, without the proposed increase, the revenue from parking citations would be negatively impacted by approximately $90,000. ($4.50 x 20,000 citations), and

WHEREAS, a schedule indicating the current proposed fine amounts for parking violations in the City of Modesto is **attached**, and

WHEREAS, the Finance Committee reviewed this item at its May 27, 2009 meeting and referred to full Council for approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby rescinds Resolution No. 2005-583 and adopts a new resolution to establish new parking violation fines in order to allow the City of Modesto to recover additional State surcharges recently enacted by the State Legislature.

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

The foregoing resolution was introduced at a regular meeting, of the Council of the City of Modesto held on the 2nd day of June, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Stephanie Lopez
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

3-2.810	Removal of Chalk Marks	$50.00	$55.00
3-2.812	Obstructing Intersections/Crosswalks	$30.00	$35.00
3-2-814	Leaving Unattended Vehicle	$25.00	$30.00
3-2.1002	Use of Streets for storage (over 72 hrs)	$100.00	$105.00
3-2.1004	Alley parking prohibited	$30.00	$35.00
3-2.1005A	Parked Wrong Way	$35.00	$40.00
3-2.1005B	Parallel and Angle parking 18"	$25.00	$30.00
3-2.1006	Commercial Vehicle in Residential	$50.00	$55.00
3-2.1007	Parking Prohibited (signs)	$30.00	$35.00
3-2.1008	Emergency Signs	$30.00	$35.00
3-2.1010	Parking on Park, Play Grounds (a,b)	$25.00	$30.00
3-2.1010	Parked on Sidewalk (c)	$25.00	$30.00
3-2.1011	Private Property	$50.00	$55.00
3-2.1017	Fire Lane	$35.00	$40.00
3-2.1101	Curb Markings (1,2,3,4)	$30.00	$35.00
3-2.1101.5	Blue Zone (5)	$300.00	$305.00
3-2.1102	Unauthorized Painting of Curb	$50.00	$55.00
3-2.1104	Loading Zone	$25.00	$30.00
3-2.1105	Vehicle in Roadway	$50.00	$55.00
3-2.1202	Overtime parking	$25.00	$30.00
3-2.1203	Parking Prohibited (certain times)	$25.00	$30.00
3-2.1204	Out of Space (on street)	$30.00	$35.00
3-2.1205	Vision Obstruction	$50.00	$55.00
3-2.1301	Truck Routes	$50.00	$55.00
3-2.1503	Backed into Stall (sign prohibiting)	$25.00	$30.00
3-2.1504	Overtime Meter Zone (a,b)	$25.00	$30.00
3-2.1511	Comm. Veh in Meter Zone	$50.00	$55.00
3-2.1605	Signs Posted	$40.00	$45.00
3-2.1607	City Reserved Lots	$25.00	$30.00
3-2.1608	Parking in Designated Spaces off-street	$30.00	$35.00
3-2.1909	Residential Permit Required (a,b,c,d,)	$30.00	$35.00
3-2.2006	Oversized Vehicle Prohibited	$75.00	$80.00
3-2.2007	Trailers Parking Prohibited (a,b)	$75.00	$80.00
3-2.2008	Oversized Vehicle No Permit	$75.00	$80.00
CVC	**Description of Violation**	**Current Fine**	**Proposed Fine**
4000 (a)	Current Registration Required	$190.00	$195.00
4462 (b)	False Plate	$108.00	$113.00
5200	Display of License Plate	$108.00	$113.00
5201	Covered License Plate	$108.00	$113.00
5204	Current Tabs Required	$108.00	$113.00
21116(a)	Parked on Levee or Canal	$146.00	$151.00
21211 (a)	Bike Lane	$20.00	$25.00
22500 (a)	No Parking within Intersection	$190.00	$195.00
22500 (e)	Blocking Driveway	$25.00	$30.00
22500 (h)	Double Parked	$25.00	$30.00
22500 (i)	Bus Loading Zone	$250.00	$255.00
22500(l)	Lowered Curb	$250.00	$255.00
22507.8(a,b,c)	Handicapped Zone	$300.00	$305.00
22514 (a)	Fire Hydrant	$35.00	$40.00

Print

AMENDED
on feb. 11, 2014
By ~~Resolution~~
City manager memo

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-240

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ADJUST THE FINE SCHEDULE FOR PARKING VIOLATIONS WHEN NECESSARY TO INCORPORATE CHANGES IN THE FEES MANDATED BY THE STATE AND/ OR COUNTY AND COLLECTED BY THE CITY, PREVIOUSLY AUTHORIZED AND APPROVED BY THE CITY COUNCIL WITHOUT FURTHER CITY COUNCIL ACTION

WHEREAS, during the 2008 and 2009 legislative years the California State Legislature enacted Senate Bill (SB) 425 and SB1407, which increased the State mandated surcharge-issuing agencies be required to remit on behalf of the State and County.

WHEREAS, with the enactment of SB's 425 and 1407, the City of Modesto is now required to remit a total of $9.50 to the State and County in surcharges for every paid parking offense where a parking penalty, fine, or forfeiture is imposed, (prior surcharge $5.00) for the funding of the State Court Facilities Construction Fund, and

WHEREAS, unpaid parking fines are sent to the Department of Motor Vehicles (DMV) for a lien to be placed on the cited vehicle, and

WHEREAS, DMV places liens for whole dollar amounts only, therefore, the proposed increase in the fine amounts is $5.00, and

WHEREAS, adopting a new parking citation fine schedule will allow the City to recover the new costs imposed by the State and County in the form of surcharges for each paid parking citation, and

WHEREAS, any change in revenue would be negligible, as the proposed amount covers only the increase in surcharges paid by the City to the State and County, rounded to the nearest whole dollar, and

RESCINDED
DEC 13 2016
THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2016-500

WHEREAS, without the proposed increase, the revenue from parking citations would be negatively impacted by approximately $90,000. ($4.50 x 20,000 citations), and

WHEREAS, a schedule indicating the current proposed fine amounts for parking violations in the City of Modesto is **attached**, and

WHEREAS, the Finance Committee reviewed this item at its May 27, 2009 meeting and referred to full Council for approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager will adjust the Fine Schedule for Parking Violations when necessary to incorporate changes in the fees mandated by the State and or County and collected by the City, previously authorized and approved by the City Council without further City Council Action,

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of June, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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 Parking Violation Fines

MMC	Parking Fine Schedule	Current Fine	No Changes
3-2.810	Removal of Chalk Marks	$58.00	No Change
3-2.812	Obstructing Intersections and Crosswalks	$38.00	No Change
3-2.814	Leaving Unattended Vehicle	$33.00	No Change
3-2.1002	Use of Streets for Storage of Vehicles Prohibited (72 Hour Parking)	$108.00	No Change
3-2.1004	Standing for Loading Only in Alleys (passengers 3 min and materials 20 min)	$38.00	No Change
3-2.1005A	Parallel Parking Parked Wrong Way	$43.00	No Change
3-.2.1005B	Parallel Parking (18) inches	$33.00	No Change
3-2.1005C	Angle Parking (18) inches	$33.00	No Change
3-2.1006	Parking of Commercial Vehicles in Residential Districts	$58.00	No Change
3-2.1007	Stopping or Parking Prohibited (Signs Required)	$38.00	No Change
3-2.1008	Emergency Signs - No Parking (a,b)	$38.00	No Change
3-2.1010	Driving or Parking on Parks, Playgrounds and City Property (a,b)	$33.00	No Change
3-2.1010C	Parked on Sidewalk	$33.00	No Change
3-2.1011	Parked On Private Property without Consent Prohibited	$58.00	No Change
3-2.1017	Parked in Fire Lane	$43.00	No Change
3-2.1101	(1), (2), (3),(4) Curb Markings - Zone Parking-Red, Yellow, White, Green	$38.00	No Change
3-2.1101.5	No Stopping /Parking Blue Zone	$308.00	No Change
3-2.1102	Unauthorized Painting of Curb	$58.00	No Change
3-2.1104	Stopping, Standing for Loading or Unloading Only	$33.00	No Change
3-2.1105	Stopping, Standing or Parking of Vehicles in Roadway	$58.00	No Change
3-2.1201	Parking Ristricted or Prohibited	$33.00	No Change
3-2.1202	Overtime Parking Time Limited	$33.00	No Change
3-2.1203	Parking Prohibited at Certain Times on Certain Streets (a, b,c)	$33.00	No Change
3-2.1204	Parking Out of Space (on street)	$38.00	No Change
3-2.1205	Vision Obstruction - Parking Prohibited (Signs Required)	$58.00	No Change
3-2.1301	Truck Routes (a,b)	$58.00	No Change
3-2.1503	Method of Parking - Parked Backed into Metered Stall (on-street)	$33.00	No Change
3-2.1504	Overtime Parking in Meter Zone (a,b)	$33.00	No Change
3-2.1511	Parking Commercial Veh In Meter Zone	$58.00	No Change
3-2.1605	Obedience to Signs Posted	$33.00	No Change
3-2.1607	City Reserved Parking - Off Street Parking Lots	$33.00	No Change
3-2.1608	Parking In Designated Spaces (off street)	$38.00	No Change
3-2.1909	Residential Parking Permit (a,b,c,d)	$38.00	No Change
3-2.2006	Oversized Vehicles - Parking Prohibited	$83.00	No Change
3-2.2007	Trailers-Parking Prohibited (a,b)	$83.00	No Change
3-2.2008	Oversized Vehicles w/o Permit	$83.00	No Change
CVC	**Violation Descriptions**	**Current Fine**	**New Fine Amount**
5200 (a)	Display of License Plates	$116.00	$197.00
5201 (a-b)	License Plates	$116.00	$197.00
5201.1 (c)	Altered License Plate Displayed	NEW	$263.00
5202 (a)	Period of Display of License Plates Specified	NEW	$197.00
5204 (a)	Registration Tabs	$116.00	$198.00
21211 (b)	Bike Lane	$28.00	$48.00
4000 (a)(1)	Registration Required	$198.00	$285.00
4462 (b)	Unlawful Evidence of Registration	$116.00	$197.00
4464	Altered License Plate Displayed	NEW	$197.00
22500 (e)	Blocking Driveway	$33.00	$48.00
22500 (l)	Lowered Curb Wheelchair Access	$258.00	$263.00
22500 (a)	Parking within an Intersection	$198.00	No Change
22500 (i)	Parked in Bus Zone	$258.00	$263.00
21116 (a)	Parked on Levee or Canal	$154.00	$48.00
22500 (h)	Double Parked	$33.00	No Change
22511.1 (a-b)	Parked in Charging Electric Vehicle Space	NEW	$113.00
22514 (a)	Fire Hydrant	$43.00	No Change
22507.8 (a-c)	Violation of Disabled Parking Provisions	$308.00	No Change
22522	Parked Near Sidewalk Access Ramp for Disabled	NEW	$308.00

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-241

Print

A RESOLUTION FREEZING THE CONSTRUCTION COST INDEX ANNUAL INFLATIONARY ADJUSTMENT FOR THE 1999, 2003, AND 2006 CAPITAL FACILITIES FEES PROGRAMS FOR FISCAL YEAR 2009-2010

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 Nos. 2003-309 and 2006-055, 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 seven percent (7%), 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 seven percent (7%) CCI be frozen this year, and

WHEREAS, staff will be evaluating all city fees associated with development,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the CFF rates applicable to new development for upcoming fiscal year 2009-2010 be frozen at the rate enacted July 1, 2008.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of June, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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. 2009-242

Print

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF BRIAN HADDIX FROM THE CULTURE COMMISSION

WHEREAS, BRIAN HADDIX was appointed a member of the CULTURE COMMISSION on June 13, 2006, and

WHEREAS, BRIAN HADDIX has tendered his resignation from the CULTURE COMMISSION, and

WHEREAS, BRIAN HADDIX has been a devoted and sincere public servant and has contributed greatly to our civic progress.

NOW, THERFORE, BE IT RESOLVED that the resignation of BRIAN HADDIX from the CULTURE COMMISSION be, and hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of the City, hereby expresses its sincere appreciation to BRIAN HADDIX for his outstanding service to the community.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of June, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:
By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-243

RESOLUTION AMENDING THE FISCAL YEAR 2008-2009 ANNUAL BUDGET

WHEREAS, a monthly financial analysis has been completed and it has been determined that certain adjustments are required to the Annual Budget of the City of Modesto for Fiscal Year 2008-2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the Fiscal Year 2008-2009 budget have been adjusted as shown in **Exhibit A**, which is 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.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of June, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following votes:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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

This action will waive the fees associated with a time and materials permit issued to Stanislaus County (Permit N3577) on May 13, 2004 related to streetscape improvements at the 12th and I Streets office building and garage project. These fees were waived in response to the County's agreement to install streetscape improvements that were not part of the original project plan. Amount: $11,640.33

FINANCE

A review of 2008/09 General Fund revenues was done by the Finance Department. This adjustment recognizes the change in revenues forecasts due to the current economic conditions. These changes have been incorporated into the financial forecast contained in the proposed, interim operating budget for next year.

REVENUES

FROM:		
0100-510-9510-1201	Sales and Use Tax	(136,259)
0100-510-9510-1202	Triple Flip Sales Tax	(200,673)
0100-510-9510-3119	Motor Vehicle License Fees	(200,000)
0100-510-9510-6100	Change in Fair Value of Investment	(200,000)
0100-510-9510-8101	Sale of Real Property	(425,000)

APPROPRIATIONS

FROM:		
0100-800-8000-8003	Contingency Reserves	(1,161,932)

The following transfer is required because General Fund reimbursement designated settlement funds from the settlement of the PCE Litigation with Occidental were inadvertently deposited in the Water Fund rather than the General Fund as required by the Settlement Agreement. This amount represented cost recovery to the City for the general oversight work performed by the City Attorney's Office.

TRANSFER BETWEEN FUNDS

FROM:		
6100-700-7000-7010	Transfer Out to Fund 0100	70,000
TO:		
0100-700-7000-9610	Transfer In from Fund 6100	70,000

POLICE DEPARTMENT

The Police Department anticipated a cash donation from the Laci & Conner Rescue fund which was budgeted for the purchase of dive equipment. However, the Laci & Conner Rescue fund purchased the equipment directly. This budget adjustment reduces the appropriate revenue and expense lines.

REVENUE

FROM:

0100-190-1961-3761	Donation Revenue	(5,096)

APPROPRIATIONS

FROM:

0100-190-1961-5026	Dive Equipment	(5,096)

PUBLIC WORKS

The FY 2008-09 operating budget included revenue from the Water, Wastewater, and Airport Funds for specialized work done by Finance Department staff. While the budget correctly reflected the revenue side, the expense side was not entered. This adjustment corrects that oversight.

APPROPRIATIONS

FROM:

6100-800-8000-8003	Water Fund Contingency Reserves	(58,760)

TO:

6100-430-5000-0255	Water Fund Level Operating	58,760

APPROPRIATIONS

FROM:

6210-800-8000-8003	Wastewater Fund Reserves	(56,797)

TO:

6210-430-5200-0255	Wastewater Fund Level Operating	56,797

APPROPRIATIONS

FROM:

6310-800-8000-8003	Airport Fund Reserves	(15,192)

TO:

6310-430-5412-0255	Airport Fund Level Operating	15,192

Sub-funds have been created at the fund level to allow departments to monitor their equipment replacement funds. The following budget adjustment transfers funds in the Fleet Equipment Replacement Fund back to the originating departments.

TRANSFER BETWEEN FUNDS

FROM:

7210-700-7000-7030	Transfer Out to Sub Fund 0309	(86,435)
7210-700-7000-7031	Transfer Out to Sub Fund 0319	(1,807)
7210-700-7000-7070	Transfer Out to Sub Fund 0709	(1,074,320)
7210-700-7000-7113	Transfer Out to Sub Fund 1139	(26,062)
7210-700-7000-7600	Transfer Out to Sub Fund 6009	(55,516)

7210-700-7000-7610	Transfer Out to Sub Fund 6109	(1,566,365)
7210-700-7000-7621	Transfer Out to Sub Fund 6219	(1,643,989)
7210-700-7000-7628	Transfer Out to Sub Fund 6289	(1,158,644)
7210-700-7000-7629	Transfer Out to Sub Fund 6299	(43,982)
7210-700-7000-7631	Transfer Out to Sub Fund 6319	(51,988)
7210-700-7000-7654	Transfer Out to Sub Fund 6549	(12,507)
7210-700-7000-7670	Transfer Out to Sub Fund 6709	(4,672)
7210-700-7000-7711	Transfer Out to Sub Fund 7119	(43,899)
7210-700-7000-7712	Transfer Out to Sub Fund 7129	(6,131)
7210-700-7000-7720	Transfer Out to Sub Fund 7209	(12,799)
7210-700-7000-7780	Transfer Out to Sub Fund 7809	(59,847)
7210-700-7000-7859	Transfer Out to Sub Fund 8599	(5,969)
7210-700-7000-7899	Transfer Out to Sub Fund 8999	(19,048)
		(5,873,980)

TO

0309-700-7000-9721	Transfer In from Fund 7210	86,435
0319-700-7000-9721	Transfer In from Fund 7210	1,807
0709-700-7000-9721	Transfer In from Fund 7210	1,074,320
1139-700-7000-9721	Transfer In from Fund 7210	26,062
6009-700-7000-9721	Transfer In from Fund 7210	55,516
6109-700-7000-9721	Transfer In from Fund 7210	1,566,365
6219-700-7000-9721	Transfer In from Fund 7210	1,643,989
6289-700-7000-9721	Transfer In from Fund 7210	1,158,644
6299-700-7000-9721	Transfer In from Fund 7210	43,982
6319-700-7000-9721	Transfer In from Fund 7210	51,988
6549-700-7000-9721	Transfer In from Fund 7210	12,507
6709-700-7000-9721	Transfer In from Fund 7210	4,672
7119-700-7000-9721	Transfer In from Fund 7210	43,899
7129-700-7000-9721	Transfer In from Fund 7210	6,131
7209-700-7000-9721	Transfer In from Fund 7210	12,799
7809-700-7000-9721	Transfer In from Fund 7210	59,847
8599-700-7000-9721	Transfer In from Fund 7210	5,969
8999-700-7000-9721	Transfer In from Fund 7210	19,048
		5,873,980

This budget adjustment recognizes revenue in the Local Transportation Fund (LTF) Streets, and transfers LTF Streets funds to the Gas Tax Fund to cover FY2008-09 operating expenses. This simply recognizes revenue that has already been projected in the LTF proforma and is not new revenue.

REVENUE

TO:

0510-430-4310-1215	LTF Streets Receivable	400,000

APPROPRIATIONS

TO:

0510-800-8000-8003	LTF Streets Reserves	400,000

TRANSFER BETWEEN FUNDS

FROM:		
0510-700-7000-7070	Transfer Out of LTF Streets	1,235,145
TO:		
0700-700-7000-9051	Transfer In to Gas Tax Fund	1,235,145

The following budget adjustment returns a transfer to the Gas Tax fund from the Local Transportation Fund Streets, and appropriates these funds to cover service credit agreement costs.

APPROPRIATIONS

FROM:		
0510-800-8000-8003	LTF Streets Reserves	(76,000)
TO:		
0510-430-4310-0255	Services City Forces	76,000

TRANSFERS BETWEEN FUNDS

FROM:		
0510-700-7000-7070	Transfer Out to Gas Tax	(76,000)
TO:		
0700-700-7000-9051	Transfer In From LTF Streets	(76,000)

This budget adjustment recognizes Local Transportation Fund Non-Transit revenue and re-appropriated a portion of theses funds to the Local Transportation Fund Streets and Roads fund.

REVENUES

TO:		
0510-430-4310-1213	LTF Streets	1,382,506

APPROPRIATIONS

FROM:		
0510-800-8000-8003	LTF Streets Reserves	(44,773)
TO:		
0510-430-4310-0255	Services City Forces	44,773
0510-800-8000-8003	LTF Streets Reserves	1,382,506

This budget adjustment recognizes unbudgeted Local Transportation Fund Non-Motorized revenue in LTF Non-Motorized Reserves. As well as, transfers funds from the LTF Non-Motorized fund to the Capital Grants fund for the Virginia Corridor Phase V project.

REVENUES

TO:		
0510-430-4320-1216	LTF Non-Motorized	127,827

APPROPRIATIONS

FROM:		
0520-800-8000-8003	LTF Non-Motorized Reserves	(190,000)
TO:		
2300-310-P365-6040	Virginia Corridor Phase V	190,000
0520-800-8000-8003	LTF Non-Motorized Reserves	127,824

TRANSFERS BETWEEN FUNDS

FROM:		
0520-700-P365-7230	Transfer Out to Capital Grants	190,000
TO:		
2300-700-P365-9052	Transfer In from LTF Non-Motorized	190,000

This budget adjustment reimburses the Wastewater Fund for "Flagging Traffic at Construction Zone" training provided by UC Berkley from a variety of funds. Although these are small dollar amounts, existing policy requires that transfers between funds be approved by Council.

APPROPRIATIONS

FROM:		
0700-480-4622-0209	Training Expenses	(36)
0700-480-4612-0209	Training Expenses	(90)
6280-480-5314-0209	Training Expenses	(18)
6100-480-5007-0209	Training Expenses	(72)
6100-480-5012-0209	Training Expenses	(215)
0700-160-1612-0209	Training Expenses	(36)
		(467)
TO:		
6210-480-5209-0209	Training Expenses	467

This budget adjustment recognizes unbudgeted Interfund Labor revenue and re-appropriates these funds to offset overtime expenses in the Curbs, Gutters, and Sidewalks work unit of the Public Works Department.

REVENUES

TO:

0700-480-4724-4909	Interfund Labor	41,893

APPROPRIATIONS

0700-480-4724-0130	Overtime	41,893

This budget adjustment recognizes unbudgeted Interfund Labor revenue and re-appropriates these funds to offset overtime expenses in the Water Operations Division of the Public Works Department.

REVENUES

TO:

6100-480-5012-4909	Interfund Labor	50,980

APPROPRIATIONS

6100-480-5012-0130	Overtime	50,980

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-244

A RESOLUTION AUTHORIZING SUBMISSION OF THE CITY'S LOCAL TRANSPORTATION FUND NON-TRANSIT CLAIM #2 FOR FISCAL YEAR 2008-2009 IN THE AMOUNT OF $1,510,330 TO THE STANISLAUS COUNCIL OF GOVERNMENTS (STANCOG)

WHEREAS, on February 24, 2009, the City Council approved the Fiscal Year 2008-2009 annual claim for Local Transportation Funds (LTF) for non-transit purposes in the amount of $1,393,154, and

WHEREAS, StanCOG informed the Finance Department that on April 8, 2009, the StanCOG Policy Board voted to increase the LTF apportionment to Modesto, and

WHEREAS, the City's LTF Non-Transit Claim #2 is now $1,510,330, and

WHEREAS, the LTF Non-Transit Claim #2 supersedes the Fiscal Year 2008-2009 LTF Non-Transit Claim approved by the City Council on February 24, 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the submission of the City's Local Transportation Fund Non-Transit Claim #2 for Fiscal Year 2008-2009 in the amount of $1,510,330 to the Stanislaus Council of Governments (StanCOG).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of June, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	
ABSENT:	Councilmembers:	

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-245

Print

A RESOLUTION AMENDING THE POSITION CLASSIFICATION PLAN FOR THE CITY OF MODESTO TO CHANGE THE TITLE OF POLICE CRIME SCENE INVESTIGATOR I/II TO POLICE IDENTIFICATION TECHNICIAN I/II

WHEREAS, a Position Classification Plan for the City of Modesto was adopted by Modesto City Council Resolution No. 2008-681 pursuant to Rule 2 of the Personnel Rules and Regulations of the City of Modesto, and

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

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

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

SECTION I. CLASSIFICATION AMENDED. The Position Classification Plan of the City of Modesto is hereby amended to title change the classification of Police Crime Scene Investigator I/II to Police Identification Technician I/II. The job specification for this classification is being amended to change the job title back to Police Identification Technician I/II which more accurately reflect the assigned essential functions. The job specification for the new title of Police Identification Technician I/II, as shown on the attached **Exhibit "A,"** which is hereby made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION II. EFFECTIVE DATE. This resolution shall become effective on and after June 9, 2009.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 9th day of June, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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
No. 7163
No. 7164

POLICE ~~CRIME SCENE INVESTIGATOR I~~ IDENTIFICATION TECHNICIAN I
POLICE ~~CRIME SCENE INVESTIGATOR II~~ IDENTIFICATION TECHNICIAN II

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

DEFINITION

To perform criminal identification duties of a technical nature including the collection, identification, preservation, examination and processing of digital and physical crime scene evidence; to prepare appropriate reports; to assist in criminal investigations; and to serve as an expert witness in court proceedings.

DISTINGUISHING CHARACTERISTICS

Police ~~Crime Scene Investigator~~ Identification Technician I - This is the entry level class in the Police ~~Crime Scene Investigator~~ Identification Technician series. Positions in this class typically have little directly related work experience. The Police ~~Crime Scene Investigator~~ Identification Technician I class is distinguished from the II level by the performance of less than the full range of duties assigned to the II level. Incumbents work under immediate supervision as procedures and processes of assigned area of responsibility are learned.

Police ~~Crime Scene Investigator~~ Identification Technician II - This is the journey level class in the Police ~~Crime Scene Investigator~~ Identification Technician series and is distinguished from the I level by the assignment of the full range of duties. Employees at this level receive only occasional instruction as new, unusual or unique situations arise and are fully aware of the operating procedures and policies within the work unit. Positions in this class are flexibly staffed and are normally filled by advancement from the I level.

SUPERVISION RECEIVED AND EXERCISED

Police ~~Crime Scene Investigator~~ Identification Technician I

Receives immediate supervision from sworn police supervisory staff.

Police ~~Crime Scene Investigator~~ Identification Technician II

Receives general supervision from sworn police supervisory staff.

May provide direction to other non-sworn crime scene support staff.

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

Essential Functions:

Respond to major crime or traffic accident scenes and provide technical services such as search for, identify, document, collect, preserve, examine, analyze and supervise physical and biological evidence; search for, develop and lift fingerprints; collect elimination fingerprint exemplars, collect body fluids and clothing and make plaster impressions.

Perform forensic laboratory analysis, CAL-ID/AFIS processing, WIN (Western Identification Network) processing, digital photo and video imaging enhancement, biological evidence examination, collection of gunshot residue, number restoration and identification of narcotics and drugs.

Testify in court as an expert witness regarding the collection, processing, examination, analysis, preservation and documentation of physical, biological and digital evidence, crime scenes and automated and manual fingerprint identification.

Prepare and maintain appropriate technical logs, diagrams and reports to document evidence examination and analysis in a manner that ensures reliability, reproducibility, and supports after-the-fact validity verification.

Maintain laboratory equipment, office and crime scene equipment supplies and equipment.

Respond to inquiries and requests from department personnel, District Attorney's Office, and outside agencies regarding the collection, preservation and analysis of evidence.

Attend autopsies to collect physical evidence that may assist in determining a cause of death.

Provide training to other law enforcement personnel in crime scene evidence and fingerprint collection, preparation and analysis and in preparing for court testimony in such matters.

Prepare and present a variety of presentations.

Draft supply and equipment bids.

Prepare monthly unit reports.

Perform equipment inventory and audits.

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:

Police ~~Crime Scene Investigator~~ Identification Technician I

Knowledge of:

Basic principles of digital photography.

Latent print development techniques.

Basic practices, methods and techniques used to collect and preserve evidence.

Manual and automated finger/palm print identification systems.

Principles and practices of safety management.

Modern systems for classifying, searching and filing fingerprint cards.

Modern office procedures, methods and computer equipment.

Ability to:

Use various methods of digital photography and operate forensic light sources.

Follow oral and written instructions.

Preserve confidentiality of sensitive materials.

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

Communicate clearly and concisely, both orally and in writing.

EXPERIENCE AND TRAINING GUIDELINES

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

Experience:

None required.

Training:

Equivalent to a Bachelor's degree from an accredited college with course work in criminology, forensic science, life sciences or a related field. Two years of progressively responsible experience with a law enforcement agency in fingerprint collection and development, latent fingerprint analysis, and processing/analyzing major crime scenes may substitute for two years of required education.

Completion of a minimum of 100 hours of specialized training in basic fingerprint identification and crime scene examination that is POST-recognized or the equivalent and at least one course covering basic English composition skills. These hours of training must have been taken within five (5) years of the final filing date.

License or Certificate:

Possession of a valid California driver's license at the time of appointment.

Police ~~Crime Scene Investigator~~ Identification Technician II:

In addition to the qualifications for the Police ~~Crime Scene Investigator~~ Identification Technician I:

Knowledge of:

Those sections of the California Evidence Code pertaining to crimes.

Advanced principles of digital photography, videography equipment and standards and specialized software programs used for viewing, processing, analyzing, and cataloging photos and videos.

Sequential processing methods used in recovery, collection and preservation of physical evidence.

Physical, biological and digital evidence identification, documentation, collection and preservation.

Methods for storing chemicals and sequential chemical processing used to process a variety of evidence.

Knowledge of: (Continued)

OSHA requirements regarding chemical storage, usage, destruction and environmental hazards; and biological safety in the workplace.

Advanced, state-of-the-art crime scene and crime lab procedures.

Ability to:

Calculate chemical formulary.

Accurately process and document a crime scene.

Research and apply new techniques, equipment, and case law to improve procedures.

Interpret and explain technical findings.

Prepare court displays.

Perform equipment inventory and audits.

Prepare monthly unit and other reports.

Train others in crime scene evidence collection, preparation and analysis and in preparing for court testimony in such matters.

EXPERIENCE AND TRAINING GUIDELINES

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

Experience:

Eighteen months of responsible experience equivalent to Police ~~Crime Scene Investigator~~ Identification Technician I with the City of Modesto.

Training:

Equivalent to a Bachelor's degree from an accredited college with course work in criminology, forensic science, life sciences or a related field. Two years of progressively responsible experience with a law enforcement agency in fingerprint collection and development, latent fingerprint analysis, and processing/analyzing major crime scenes may substitute for two years of required education.

Completion of a minimum of 300 hours of specialized training relating to the detection, collection and preservation of crime scene evidence that is POST-recognized or the equivalent. Courses must include, but are not limited to, advanced training in fingerprint collection and identification, digital imaging technology, chemical processing, photography, collection of physical evidence at crime scenes and courtroom presentation of evidence.

License or Certificate:

Possession of a valid California driver's license at the time of appointment.

PHYSICAL AND MENTAL REQUIREMENTS

Mobility: frequent use of keyboard; frequent sitting for long periods of time; occasional bending or squatting. **Lifting**: frequently up to 50 pounds; occasionally up to 75 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; frequent working alone; exposure to crime scenes. **Environmental**: frequent exposure to noise and chemicals, firearms, controlled substances and biologically contaminated substances.

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 and at crime scenes. Incumbents must wear a City-approved uniform and related equipment and are subject to irregular work shifts including working any shift in a 24-hour day, weekends and holidays; be available on call; maintain status as expert witness.

Class Spec History	
Adopted	8/03
Revised	12/08
	5/09
BU	Public Safety NS

Print

AMENDED
on 11-4-2014
By Resolution 2014-469

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-246

A RESOLUTION AMENDING THE CLASS RANGE TABLE FOR PUBLIC SAFETY NON-SWORN CLASSES TO CHANGE THE TITLE OF POLICE CRIME SCENE INVESTIGATOR I/II TO POLICE IDENTIFICATION TECHNICIAN I/II

WHEREAS, Council desires to amend **Exhibit "A"** of Resolution No. 2008-501 which approved the Class Range Table for Public Safety Non-Sworn Classes,

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

SECTION 1. AMENDMENT TO RESOLUTION NO. 2008-501, **Exhibit "A"** entitled, "City of Modesto Class Range Table Public Safety Non-Sworn Classes Effective July 22, 2008" is hereby amended as shown on **Exhibit "A"** entitled, "City of Modesto Class Range Table Public Safety Non-Sworn Classes Effective June 9, 2009," which is **attached** hereto and made part hereof as though set forth in full herein. Said amended **Exhibit "A"** changes the title of Police Crime Scene Investigator I at salary range 1123 to Police Identification Technician I and changes the title of Police Crime Scene Investigator II at salary range 1127 to Police Identification Technician II.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after June 9, 2009.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of June, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CLASS RANGE TABLE
PUBLIC SAFETY NON-SWORN CLASSES
Effective June 9, 2009

RANGE	TITLE
1108	Police Clerk I
1110	Police Evidence and Property Technician I
1112	Police Clerk II
1114	Police Evidence and Property Technician II
1115	Police Animal Control Officer Police Community Service Officer I
1118	Fire Prevention Inspector I
1119	Police Animal Control Officer II Police Community Service Officer II
1121	Police Crime and Intelligence Analyst I
1122	Fire Prevention Inspector II Police Officer Recruit Police Technician
1123	**Police Identification Technician I**
1125	Police Crime and Intelligence Analyst II
1126	Senior Fire Prevention Inspector
1127	**Police Identification Technician II**

Exhibit A

MODESTO CITY COUNCIL
RESOLUTION NUMBER 2009-247

A RESOLUTION APPROVING AN AGREEMENT WITH THE STATE OF CALIFORNIA, COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING (POST), FOR UP TO $20,700 TO PROVIDE TRAINING FOR 100 STUDENTS IN FOUR-HOUR FORCE OPTIONS SIMULATOR COURSES AND 100 STUDENTS IN FOUR-HOUR MOBILE FORCE OPTIONS SIMULATOR TRAINING COURSES, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Modesto Police Department acquired the Force Options Simulator (FOS) in 1999, and

WHEREAS, the FOS is a 42-foot trailer that contains state-of-the-art video technology, and

WHEREAS, the video scenarios place an officer in a position to make critical decisions regarding the use of force, and

WHEREAS, the FOS training provides the student with practical handling of volatile situations and the use of proper force options that are available, and

WHEREAS, the training goal is to reduce unnecessary deaths, injuries, liability costs, and improve safety overall for California law enforcement personnel and the public, and

WHEREAS, when the Police Department acquired the FOS, the State of California Commission on Peace Officer Standards and Training (POST) agreed to reimburse the Modesto Police Department for training administered via the FOS, or the Mobile FOS, and

WHEREAS, when the training is conducted locally, the FOS reimbursement is $79.00 per student, and

WHEREAS, when the training is conducted outside the local area, the reimbursement is $128.00 per student, and

WHEREAS, the maximum reimbursement is 100 students locally ($7,900) and 100 students when the simulator is at another jurisdiction ($12,800), and

WHEREAS, the projected total annual reimbursement is $20,700, and

WHEREAS, staff estimates these reimbursements will fully cover the cost of the officer's salary, per diem, mileage, and routine maintenance expenses for the simulator and transport vehicle, and

WHEREAS, POST is requesting a renewal of the Agreement for the term July 1, 2009 through June 30, 2010, and

WHEREAS, the City of Modesto will realize General Fund revenue of up to $20,700 into the 0100-190-1921-3126 Simulator Training Account,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with the State of California, Commission on Peace Officer Standards and Training (POST), for up to $20,700 to provide training for 100 students in four-hour Force Options Simulator Courses and 100 students in four-hour Mobile Force Options Simulator training courses.

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 June, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-248

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PELANDALE AVENUE AT SISK ROAD AND SR99 NORTHBOUND ON RAMP PROJECT, ACCEPTING THE BID, AND APPROVING A $598,920.65 CONTRACT WITH DSS COMPANY DBA KNIFE RIVER CONSTRUCTION FOR THE PELANDALE AVENUE AT SISK ROAD AND SR99 NORTHBOUND ON RAMP PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Pelandale Avenue at Sisk Road and SR99 Northbound On Ramp Project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Pelandale Avenue at Sisk Road and SR99 Northbound On Ramp Project were opened at 11:00 a.m. on May 19, 2009, and later tabulated by the Director of Public Works for the consideration of the Council, and

WHEREAS, the Director of Public Works has recommended that the bid of $598,920.65 received from DSS Company dba Knife River Construction 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 Pelandale Avenue at Sisk Road and SR99 Northbound On Ramp Project, accepts the bid of DSS Company dba Knife River Construction in the amount of $598,920.65, and awards DSS Company dba Knife River Construction the contract for the Pelandale Avenue at Sisk Road and SR99 Northbound On Ramp Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract with DSS Company dba Knife River Construction in

the amount of $598,920.65, for the Pelandale Avenue at Sisk Road and SR99 Northbound On Ramp Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of June, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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. 2009-249

Print

RESOLUTION AUTHORIZING THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT TO SUBMIT AN APPLICATION TO THE DEPARTMENT OF ENERGY (DOE) FOR ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT (EECBG) FUNDS IN THE AMOUNT OF $1,952,900; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL NECESSARY GRANT DOCUMENTS

WHEREAS, the United States Department of Energy (DOE) has been delegated authority to award eligible city allocations for the Energy Efficiency and Conservation Block Grant program funded through the American Recovery and Reinvestment Act of 2009, and

WHEREAS, per guidance released by the DOE, the City of Modesto is eligible to receive $1,952,900 in such funds for eligible projects, and

WHEREAS, staff has developed a mixed portfolio of energy efficiency measures that can be obligated/completed within the time frame allowed by the EECBG program, and

WHEREAS, said portfolio of projects will enhance the energy efficiency and conservation of energy at City facilities, as well as providing additional sources of clean energy, and

WHEREAS, said portfolio of projects will include highly visible demonstrations of these energy efficiency technologies to local residents and businesses, and will enhance the public's knowledge of the benefits of these technologies, and

WHEREAS, said portfolio of projects will create new jobs, and will leverage funding available from other sources, and

WHEREAS, said portfolio of projects will include retrofitting of heating and cooling systems on public buildings, the installation of energy efficient foam roofs on public buildings, the installation of solar photovoltaic systems on public buildings, and the use of energy efficient street and park lighting for public safety,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves submittal of an application to the Department of Energy (DOE) for Energy Efficiency and Conservation Block Grant (EECBG) funds in the amount of $1,952,900.

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 9th day of June, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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. 2009-250

Print

A RESOLUTION ADOPTING THE DEPARTMENT OF LABOR EMPLOYEE COST INDEX – COMPENSATION COMPONENT FOR STATE AND LOCAL GOVERNMENT AS THE ANNUAL ESCALATOR INDEX FOR SUBSTANDARD AND DANGEROUS BUILDING FEES, WITH AN INCREASE OF 4.1% EFFECTIVE RETROACTIVE TO JULY 1, 2008 AND AN INCREASE OF 3% EFFECTIVE JULY 1, 2009, AND AN ANNUAL INCREASE ON JULY 1 OF EACH YEAR THEREAFTER

WHEREAS, on March 6, 2007, the City Council, by Resolution 2007-163, established substandard and dangerous building code fees as provided for in the Modesto Municipal Code for the issuance of a Notice and Order, Appeal of a Notice and Order and Closing costs associated with a Notice and Order, and

WHEREAS, collection of these fees provide for the recovery of direct and indirect labor and material costs associated with these activities, and

WHEREAS, at the time the item was presented to Council on March 6, 2007, it was also recommended in the staff report that Council adopt the Department of Labor Employee Index – Compensation Component for State and Local Government as the escalator index for these fees, to be implemented during the budget cycle of each year, and

WHEREAS, this recommendation was inadvertently excluded from the resolution, and

WHEREAS, due to this oversight, the annual adjustment was not applied during the two previous fiscal years, and

WHEREAS, the annual adjustment for those fiscal years was 4.1% for July 1, 2007, and 4.1% for July 1, 2008, and

WHEREAS, the annual adjustment effective July 1, 2009, will be 3%,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Department of Labor Employee Cost Index – Compensation Component for State and Local Government as the annual escalator index for substandard and dangerous building fees, effective retroactive to July 1, 2008, and July 1 of each year thereafter.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-251

A RESOLUTION APPROVING A STANDARD AGREEMENT FOR CONSULTANT SERVICES BETWEEN THE CITY OF MODESTO AND GOODWIN CONSULTING GROUP, INC. FOR THE PREPARATION OF AN INFRASTRUCTURE FINANCING PLAN FOR THE KIERNAN BUSINESS PARK EAST SPECIFIC PLAN AREA IN AN AMOUNT NOT TO EXCEED $48,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City Council is desirous of creating an Infrastructure Financing Plan, ("IFP"), for the Kiernan Business Park East Specific Plan Area ("Project Area"), and

WHEREAS, Chopra Development Enterprises ("Applicant"), has a legal interest in real property located within the Project Area, shown in **Exhibit "A" attached** hereto and incorporated by this reference, and is interested in pursuing development of properties in the Project Area, and

WHEREAS, staff has prepared a Standard Agreement for Consultant Services ("Agreement") of which contains a scope of services prepared by Goodwin Consulting Group ("Consultant") for the Project Area, **attached** as **Exhibit B**, and

WHEREAS, Applicant has advanced a deposit in the amount of FORTY-EIGHT THOUSAND DOLLARS ($48,000) to the City to fund the Scope and to pay staff expenses expected to be incurred in connection with the Project, and

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Standard Agreement for Consultant Services, **attached** hereto as **Exhibit "B"** and incorporated by this reference is hereby approved.

The foregoing resolution was introduced at a meeting of the Council of the City of Modesto held on the 23rd day of June, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

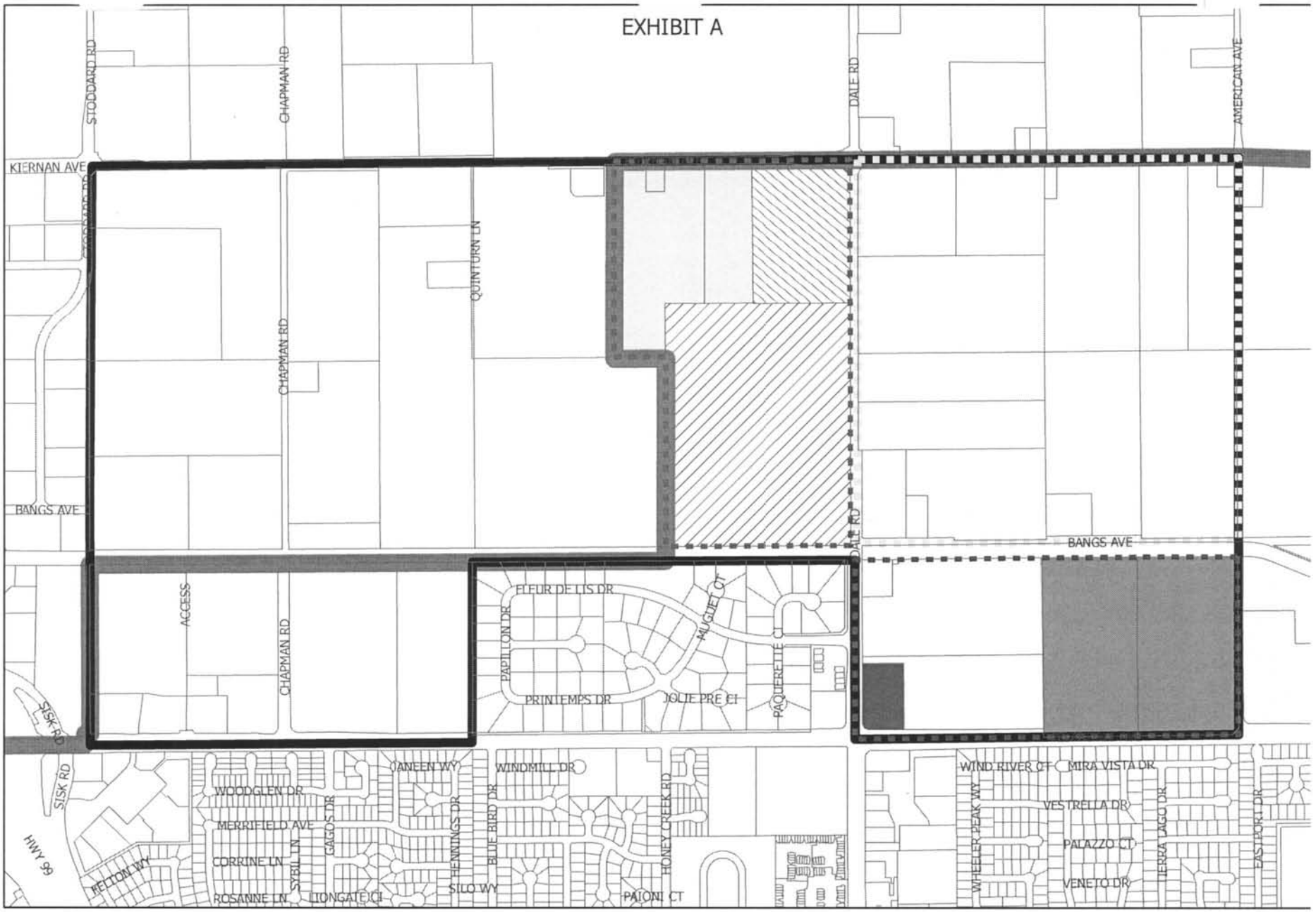
ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A



City of Modesto

Kiernan Business Park Specific Planning Area

- Modesto Sphere of Influence
- Kiernan Business Park SP
- Kiernan Business Park East
- Kiernan Business Park South
- Kiernan Business Park West
- Bank of Stockton
- Mana/Wagner
- Bridges (Malik)
- Kaiser Hospital
- Leaping Lizards

November 30, 2005

Miles

0 0.1 0.2

STANDARD AGREEMENT
FOR CONSULTANT SERVICES

THIS AGREEMENT, made and entered into in the City of Modesto, State of California, this ___ day of _____, 2009, ("Effective Date") by and between the CITY OF MODESTO, a municipal corporation of the State of California, hereinafter referred to as "City", and GOODWIN CONSULTING GROUP, INC., a California corporation, hereinafter referred to as "Consultant".

This Agreement is made with regard to the following recitals:

A. The City has determined that an Infrastructure Finance Plan should be prepared for the City for the Kiernan Business Park East Specific Plan Area.

B. Consultant represents that it is qualified, willing and able to provide the services to prepare said document(s).

NOW, THEREFORE, in consideration of this agreement, and the mutual promises, covenants, and stipulations hereinafter contained, the parties agree as follows:

1. **SCOPE OF SERVICES.**

Consultant shall undertake and complete the preparation of the scope of work as set forth and described in the documents attached hereto and referred to as Exhibit "A" or "project". The Consultant shall perform the services as described in Exhibit "A" in a manner compatible with the standards of its profession, and shall produce a fully complete project that is acceptable to City.

2. **TERM OF AGREEMENT.**

This Agreement is effective as of the date first written above and will continue in effect until City's acceptance of and payment for all services authorized by City and

performed by Consultant, unless terminated earlier in accordance with the provisions of the termination clause in this Agreement.

Consultant shall undertake and complete the preparation of the scope of work as set forth and described in the documents commonly referred to as "project" attached hereto as Exhibit "A" and made a part hereof. City hereby gives Consultant notice to proceed with the preparation of the project in the manner described in Exhibit "A", as of the Effective Date of this agreement. Consultant shall diligently proceed with the preparation of the project and agrees to complete said preparation within the time period set forth in Exhibit "A".

3. **COMPENSATION.**

Consultant agrees to accept a sum not to exceed $48,000 as full remuneration for performing all services and furnishing all staffing and materials called for in Exhibit "A" and for performance by Consultant of all of its duties and obligations under this Agreement.

The Compensation shall be paid pursuant in the manner and at the times set forth below:

Consultant shall provide itemized monthly invoices for the amount of work produced and the appropriate fees for a particular month. The invoices for the amount of personnel hours spent and the applicable rate as described in Exhibit "B". Except as provded in Paragraph 15 of this Agreement, the City shall pay said invoice within thirty (30) days of receipt of said invoice.

4. **OBLIGATIONS OF CONSULTANT.**

Throughout the term of this Agreement, Consultant shall possess, or secure all licenses, permits, qualifications and approvals legally required to conduct business. Consultant warrants that it has all of the necessary professional capabilities and experience, as

well as all tools, instrumentalities, facilities and other resources necessary to provide the City with the services contemplated by this Agreement. Consultant further warrants that it will follow the best current, generally accepted and professional practices to make findings, render opinions, prepare factual presentations, and provide professional advice and recommendations regarding this project.

5. PERFORMANCE BY KEY EMPLOYEE.

Consultant has represented to City that Mr. David Freudenberger, will be the person primarily responsible for the performance of the services referred to in this Agreement. City has entered into this Agreement in reliance on that representation by Consultant. Consultant therefore agrees that sixty percent (60%) or more of the time to be devoted to the project that is the subject of this Agreement will be that of the above-named person.

6. OWNERSHIP OF DOCUMENTS/TITLE TO DATA.

Ownership of Documents

All reports, drawings, designs, graphics, working papers and other incidental work or materials furnished hereunder shall become and remain the property of the City, and may be used by City as it may require without any additional cost to City. No reports shall be used by the Consultant for purposes other than this contract without the express prior written consent of City.

Title to Data

If, as a part of the agreement, Consultant is required to produce data such as, but not limited to, drawings, plans, specifications, calculations, models, flow diagrams, visual aids and other related materials, the originals of all such data generated under this agreement will be delivered to City upon the completion or termination of services under the contract.

All materials, documents, data or information obtained from the City data files or any City medium furnished to Consultant in the performance of this Agreement will at all times remain the property of the City. Such data or information may not be used or copied for direct or indirect use by Consultant after termination of this Agreement without written consent of the City.

7. **NEWS AND INFORMATION RELEASE.**

Consultant agrees that it will not issue any news releases in connection with either the award of this Agreement, or any subsequent amendment of or efforts under this Agreement, without first obtaining review and approval of said news releases from City through the City Manager.

8. **INTEREST OF CONTRACTOR.**

Consultant warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. Consultant warrants that, in performance of this Agreement, Consultant shall not employ any person having any such interest. Consultant agrees to file a Statement of Economic Interests with the City Clerk at the start and end of this contract if so required at the option of City.

9. **AMENDMENTS.**

Both parties to this Agreement understand that it may become desirable or necessary during the execution of this Agreement, for City or Consultant to modify the scope of services provided for under this Agreement. Any material extension or change in the scope of work shall be discussed with City and the change and cost shall be memorialized in a written amendment to the original contract prior to the performance of the additional work.

Until a change order is so executed, City will not be responsible to pay any charges Consultant may incur in performing such additional services, and Consultant shall not be required to perform any such additional services.

10. **INDEPENDENT CONTRACTOR.**

All acts of Consultant, its agents, officers, and employees and all others acting on behalf of Consultant relating to the performance of this Agreement, shall be performed as independent contractors and not as agents, officers, or employees of City. Consultant, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of City. Consultant has no authority or responsibility to exercise any rights or power vested in the City. No agent, officer, or employee of the City is to be considered an employee of Consultant. It is understood by both Consultant and City that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture.

Consultant, its agents, officers and employees are and, at all times during the terms of this Agreement, shall represent and conduct themselves as independent contractors and not as employees of City.

Consultant shall determine the method, details and means of performing the work and services to be provided by Consultant under this Agreement. Consultant shall be responsible to City only for the requirements and results specified in this Agreement, and, except as expressly provided in this Agreement, shall not be subjected to City's control with respect to the physical action or activities of the Consultant in fulfillment of this Agreement. Consultant has control over the manner and means of performing the services under this Agreement. Consultant is permitted to provide services to others during the same period service is provided to City under this Agreement. If necessary, Consultant has the responsibility for employing

other persons or firms to assist Consultant in fulfilling the terms and obligations under this Agreement.

If in the performance of this Agreement any third persons are employed by Consultant, such persons shall be entirely and exclusively under the direction, supervision, and control of Consultant. All terms of employment including hours, wages, working conditions, discipline, hiring, and discharging or any other term of employment or requirement of law shall be determined by the Consultant.

It is understood and agreed that as an independent contractor and not an employee of City neither the Consultant or Consultant's assigned personnel shall have any entitlement as a City employee, right to act on behalf of the City in any capacity whatsoever as an agent, or to bind the City to any obligation whatsoever.

It is further understood and agreed that Consultant must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of Consultant's personnel.

As an independent contractor, Consultant hereby indemnifies and holds City harmless from any and all claims that may be made against City based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

11. **ASSIGNMENT.**

Neither this Agreement nor any portion thereof shall be subcontracted or assigned without the express prior written consent of the City in each and every instance.

12. **PATENT/COPYRIGHT MATERIALS.**

Unless otherwise expressly provided in the contract, Consultant shall be solely responsible for obtaining the right to use any patented or copyrighted materials in the

performance of this Agreement. Consultant shall furnish a warranty of such right to use to City at the request of City.

13. **NOTICES.**

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

FOR CONSULTANT:	Name:	Goodwin Consulting Group, Inc.
	Address:	555 University Avenue, Suite 280 Sacramento, CA 95825
	Attention:	Dave Freudenberger
	Phone:	(916) 561-0890
FOR CITY:	Name:	City of Modesto
	Address:	P.O. Box 642 Modesto, CA 95353
	Attention:	Amy Gedney, IFP Administrator
	Phone:	(209) 577-5211

14. **INSURANCE REQUIREMENTS.**

The Consultant shall provide at its own expense and maintain at all times the following insurance with insurance companies licensed in the State of California and shall provide evidence of such insurance to the City as may be required by the Risk Manager of the City. The policies or certificates thereof shall provide that, thirty (30) days prior to cancellation or material change in the policy, notices of same shall be given to the Risk Manager of the City by certified mail, return receipt requested, for all of the following stated insurance policies.

(a) Worker's Compensation - in compliance with the statutes of the State of California, plus employer's liability with a minimum limit of liability of $1,000,000.

(b) General Liability insurance with a minimum limit of liability per occurrence of $1,000,000 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 operations; broad form contractual; independent consultants and subcontractors; products and completed operations as applicable.

(c) Automobile Liability insurance with a minimum limit of liability per occurrence of $1,000,000 for bodily injury and property damage. This insurance shall cover any automobile for bodily injury and property damage.

(d) Professional Liability insurance with a minimum limit of $1,000,000 per claim and policy aggregate. If coverage is on a claims made basis it shall be maintained for at least three (3) years following completion of the work.

If at any time any of said policies shall be unsatisfactory to the City, as to form or substance, or if a company issuing such policy shall be unsatisfactory to the City, the Consultant shall promptly obtain a new policy, submit the same to the Risk Manager for approval and submit a certificate thereof as hereinabove provided. Upon failure of the Consultant to furnish, deliver or maintain such insurance and certificates as above provided, this Agreement, at the election of the City, may be forthwith declared suspended or terminated. Failure of the Consultant to obtain and/or maintain any required insurance shall not relieve the Consultant from any liability under this Agreement, nor shall the insurance requirements be

construed to conflict with or otherwise limit the obligations of the Consultant concerning indemnification. The City, its agents, officers, employees, and volunteers shall be named as an additional insured on all insurance policies required herein, except Workers' Compensation and Professional Liability. The Workers' Compensation insurer shall agree to waive all rights of subrogation against the City, its agents, officers, employees, and volunteers for losses arising from work performed by Consultant for the City. The Consultant's insurance policy(ies) shall include a provision that the coverage is primary as respects the City; shall include no special limitations to coverage provided to additional insured; and, shall be placed with insurer(s) with acceptable Best's rating of A:VII or with approval of the Risk Manager. The Consultant must deliver certificates evidencing existence of the insurance listed above to the City prior to the time the contract is signed.

CONSULTANT shall provide CITY with separate endorsements evidencing proof of the CITY's additional insured status as to both the general liability and automobile liability insurance policies. In addition, CONSULTANT shall provide CITY with a Workers Compensation subrogation waiver by way of a separate endorsement. All endorsements referenced above must include the applicable policy number.

For any claims related to this project, the CONSULTANT'S insurance coverage shall be primary insurance as respects the Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees, or volunteers shall be excess of the CONSULTANT'S insurance and shall not contribute with it.

15. **TERMINATION OF AGREEMENT.**

Termination on Occurrence of Stated Events

This Agreement shall terminate automatically on the date on which any of the following events occur: (1) bankruptcy or insolvency of Consultant, (2) legal dissolution of Consultant, or (3) death of key principal(s) of Consultant.

Termination by City for Default of Consultant

Should Consultant default in the performance of this Agreement or materially breach any of its provisions, at its option City may terminate this Agreement by giving written notification to Consultant. The termination date shall be the effective date of the notice. For the purposes of this section, material breach of this Agreement shall include but not be limited to any of the following: failure to perform required services or duties, willful destruction of City's property by Consultant, dishonesty or theft.

Termination by Consultant for Default of City

Should City default in the performance of this Agreement or materially breach any of its provisions, at its option Consultant may terminate this Agreement by giving written notice to City. The termination date shall be the effective date of the notice. For the purposes of this section, material breach of this Agreement shall include but not be limited to any of the following: failure to cooperate reasonably with Consultant, willful destruction of Consultant's property by City, dishonesty or theft.

Termination by City for Lack of Budgeted Funds

The City may terminate this Agreement effective July 1 of any given year upon the City's determination to not appropriate sufficient funds for this Agreement for the ensuing fiscal year. In such event City shall give Consultant not less than 30 days written notice.

Termination for Failure to Make Agreed-Upon Payments

Should City fail to pay Consultant all or any part of the payments set forth in this Agreement on the date due, at its option Consultant may terminate this Agreement if the failure is not remedied within thirty (30) days after Consultant notifies City in writing of such failure to pay. The termination date shall be the effective date of the notice.

Termination by City for Change of Consultant's Tax Status

If City determines that Consultant does not meet the requirements of federal and state tax laws for independent contractor status, City may terminate this Agreement by giving written notice to Consultant. The termination date shall be the effective date of the notice.

Voluntary Termination

The parties may terminate this contract upon mutual written Agreement.

In the Event of Termination

If this Agreement is terminated pursuant to this Paragraph, Consultant shall cease all its work on the project as of the termination date and shall see to it that its employees, subcontractors and agents are notified of such termination and cease their work. If City so requests, and at City's cost, Consultant shall provide sufficient oral or written status reports to make City reasonably aware of the status of Consultant's work on the project. Further, if City so requests, and at City's cost, Consultant shall deliver to City any work products whether in draft or final form which have been produced to date.

If the Agreement is terminated pursuant to any of the subsections contained in this paragraph, City will pay Consultant an amount based on the percentage of work completed on the termination date, this percentage shall be determined by City in its sole discretion. If the Agreement is terminated pursuant to the subparagraph entitled Termination by

City for Default of Consultant, Consultant understands and agrees that City may, in City's sole discretion, refuse to pay Consultant for that portion of Consultant's services which were performed by Consultant on the project prior to the termination date and which remain unacceptable and/or not useful to City as of the termination date.

16. **CERTIFIED PAYROLL REQUIREMENT.**

For consultants performing field work on public works contracts on which prevailing wages are required: The Consultant shall comply with the provisions of Section 1776 of the California Labor Code, regarding payroll records, and shall require its subconsultants and subcontractors to comply with that section as may be required by law.

17. **INDEMNITY.**

The Consultant shall hold the City, its agents, officers, employees, and volunteers, harmless from and save, defend and indemnify them against any and all claims, losses, liabilities, judgments or damages from every cause, including but not limited to injury to person or property or wrongful death, including reasonable costs and expenses of defense of any judicial or administrative action, arising directly or indirectly out of any negligent or intentional act or omission of Consultant, or its agents, officers, employees, or volunteers relating to or during the performance of its obligations under this Agreement.

Consultant's obligation to defend, indemnify, and hold the City, its agents, officers, and employees harmless under the provisions of this paragraph is not limited to or restricted by any requirement in this Agreement for Consultant to procure and maintain a policy of insurance.

18. **DISPUTE RESOLUTION.**

All claims, controversies, or disputes arising out of, or relating to the formation of this Agreement, or the breach, termination execution, enforcement, interpretation,

or validity of this Agreement, including the determination of the scope or applicability of this contract provision shall be determined by binding arbitration in Modesto, California, by one arbitrator, except as otherwise specified in this Agreement. The American Arbitration Association shall administer the arbitration under its Arbitration Rules then in effect, subject to the modifications of those rules contained in this paragraph. This agreement to arbitrate shall be specifically enforceable under the prevailing law of any court having jurisdiction, and the award rendered by the arbitrator may be entered in any court having jurisdiction. The appropriate venue for any arbitration or court proceeding relating to or arising out of this provision shall be in Stanislaus County, California.

This paragraph is not intended to and does not waive the claim filing requirements found in California Government Code section 900 et seq. In the event that a timely and legally sufficient, arbitrable claim is filed by Consultant with City, and the claim is rejected in whole or in part by City, this paragraph shall result in the conclusive, final, and binding resolution of all the issues presented in the claim by Consultant so long as any issues presented by the claim are arbitrable. Claims rejected by City or by operation of law, shall be submitted by Consultant to arbitration pursuant to the Arbitration Rules of the American Arbitration Association within ninety (90) days after mailing of the written rejection by City to Consultant. Otherwise, the claim or claims shall be deemed waived in their entirety.

The "fast track' rules of the American Arbitration Association shall apply to any claim or counterclaim less than ONE HUNDRED FIFTY THOUSAND AND 00/100 ($150,000.00) DOLLARS. In arbitration not proceeding under the "fast track" rules, the arbitrator shall have the power to order that depositions be taken and other discovery be made. Both City and Consultant shall have the right, upon written notice, to take no more than three (3)

depositions of the other as a matter of right in an arbitration proceeding under the "fast track" rules.

Whether or not City and Consultant may be engaged in interstate commerce, any controversy or dispute mentioned above shall be determined by, and the parties shall be bound by, the substantive law of the State of California, and not the Federal Arbitration Act at 9 USC Section 1 et seq.

The arbitrator may grant any remedy or relief deemed by the arbitrator just and equitable under the circumstances, whether or not such relief could be awarded in a court of law. The arbitrator shall be empowered to award monetary sanctions against a party for failure of cooperation in the arbitration. The arbitrator shall, in written award, allocate all the costs of the arbitration, including the fees of the arbitrator and the reasonable attorney fees of the prevailing party, against the party who did not prevail. The prevailing party shall be the party in whose favor the majority of the central issues in the case are resolved.

Notwithstanding anything in this provision to the contrary, the arbitrator shall have no power to award punitive damages or other damages not measured by the party's actual damages (excluding litigation costs and fees) against any party. This limitation of the arbitrator's powers under this Agreement shall not operate as an exclusion of the issue of punitive damages from this Agreement to Arbitrate sufficient to vest jurisdiction in a court with respect to that issue.

Consultant shall include in all subcontracts a specification whereby the subcontractor consents to being joined in an arbitration between City and Consultant involving the work of the subcontractor to be joined. Consultant's failure to do so shall be a breach of this Agreement.

The parties hereby waive any rights provided by Title 9.2 of the California Code of Civil Procedure, Section 1296. The arbitrator's award shall be deemed final, conclusive and binding to the fullest extent allowed by California law.

19. **ENTIRE AGREEMENT.**

This Agreement and its exhibits contain the entire understanding between Consultant and City. Additional or new terms contained in this Agreement which vary from Consultant's proposal are controlling and are deemed accepted by Consultant by shipment of any article or other commencement of performance hereunder. All previous proposals, offers and communications relative to this Agreement, whether oral or written, are hereby superseded except to the extent that they have been incorporated into this Agreement. No future waiver of or exception to any of the terms, conditions, and provisions of this Agreement shall be considered valid unless specifically agreed to in writing by all the parties.

20. **PARTIAL INVALIDITY.**

If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

21. **WAIVER.**

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

22. **AUDIT.**

The City's duly authorized representative shall have access at all reasonable times to all reports, contract records, contract documents, contract files, and personnel necessary to audit and verify Consultant's charges to City under this Agreement.

Consultant agrees to retain reports, records, documents, and files related to charges under this Agreement for a period of four (4) years following the date of final payment for Consultant services. City's representative shall have the right to reproduce any of the aforesaid documents.

23. **GOVERNING LAW.**

This Agreement shall be governed according to the laws of the State of California.

24. **HEADINGS NOT CONTROLLING.**

Headings used in the Agreement are for reference purposes only and shall not be considered in construing this Agreement.

25. **COMPLIANCE WITH LAWS.**

Consultant shall insure compliance with all safety and hourly requirements for employees, in accordance with federal, state, and county safety and health regulations and laws. Consultant shall fully comply with all applicable federal, state, and local laws, ordinances, regulations and permits.

26. **CITY BUSINESS LICENSE.**

Consultant will have a City of Modesto business license.

IN WITNESS WHEREOF, the City of Modesto, a municipal corporation, has authorized the execution of this Agreement in duplicate by its City Manager and attestation by its City Clerk under authority of Resolution No. 2009-_____, adopted by the Council of the City of Modesto on the ____ day of _____, 2009, and _____ has caused this agreement to be duly executed in duplicate as of the Effective Date.

CITY OF MODESTO,
a municipal corporation

By _____
GREG NYHOFF, City Manager

ATTEST:

By _____
STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:
SUSANA ALCALA WOOD, City Attorney

By _____
DAVE CERVANTES, Sr. Deputy City Attorney

APPROVED AS TO FORM:

By _____
MARY AKIN, Risk Manager

GOODWIN CONSULTING GROUP, INC.
a California corporation*

By _____
Name Title

By _____
Name Title

(Seal)

Consultant's Federal ID #_____

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

Partnership - signature of a partner required

Sole Proprietorship - signature of proprietor required

EXHIBIT A

KIERNAN BUSINESS PARK EAST
CITY OF MODESTO

INFRASTRUCTURE FINANCING PLAN
SCOPE OF WORK

Goodwin Consulting Group, Inc. (GCG) will prepare an Infrastructure Financing Plan (IFP) that recommends a funding strategy for public infrastructure that will serve the Kiernan Business Park East project in the City of Modesto (the "Project"). The IFP will be equitable to all affected property owners, financially feasible when considered in the competitive marketplace, and consistent with the City's financing policies and impact fee program. The specific tasks to be performed under this scope of work include the following:

Task 1. Research and Data Collection

Planning and Land Use

GCG will summarize information provided in the land use planning and engineering analyses that have been, or will be, conducted for the Project. GCG will work with the City to summarize the six phases that are anticipated, as well as the buildout scenario. This task will involve coordinating with City staff and affected landowners to develop assumptions for the following items:

- Acreage and square footage of non-residential building space
- Acreage and units of residential development
- Anticipated absorption of the Project
- Estimated value of parcels, buildings, and units within the Project, including current unimproved value and projected developed value
- Projected demographic data, including persons per household and employees per acre

Facilities Costs and Phasing

It is understood that public facilities will be needed at various stages during development, so a facility phasing plan will be incorporated into the IFP and provided by the City. The phasing plan will delineate infrastructure required to initiate Project development (it is anticipated that Phase I infrastructure will need to be oversized), additional infrastructure required at the onset of each future phase, and the total infrastructure package required to support the Project at buildout.

Fee Program Review

GCG will review existing City fee programs, balances in fee accounts that are available to apply to Project facility costs (if any), and current City policies related to land-secured financing. This information will be incorporated into the strategy presented in the IFP and the approach proposed for public financing programs.

Task 2. Cost Allocations and Fee Program Analysis

Using the facility and land use information collected in Task 1, GCG will perform a benefit spread of the costs of all proposed public improvements that are necessary to serve land uses in the Project. GCG will use benefit units (i.e., trip generation factors, gallons per day) that have been used by the City engineers to allocate costs and determine the gross one-time fee (assuming no debt financing) that would be required from each type of land use to pay its "fair share" of each facility. For facilities already covered under an existing City fee program, GCG will compare the cost allocation to the amount of the existing fees to identify the need for additional Project-specific fees or fee credits and reimbursement agreements if facility oversizing is expected to be carried by the Project. Such oversizing could be internal to the Project between phases, and could also be external and involve other future development.

Once the cost allocation has been completed, GCG will prepare a summary of gross impact fee revenues that will be generated each year based on the absorption assumptions used to phase the facilities. Fee revenues will be compared to facility costs and timing to identify funding gaps and the need for debt financing.

Task 3. Public Financing Analysis

GCG will prepare a financing strategy to remedy funding gaps that are projected to occur if the City relies on a pay-as-you-go funding program. This analysis will be highly implementation-oriented and will consider all details that could impact formation of a financing district. Specifically, GCG will provide the following:

- Analysis of total bonding capacity available from a public financing district considering all potential funding limitations, such as value-to-lien ratios, coverage requirements, maximum tax rates, and market acceptance. The analysis will incorporate specific financing details that could affect funding capacity, including reserve fund requirements, issuance and administrative costs, and capitalized interest.

- Estimate of annual financing burdens by land use category assuming alternate tax classification categories for various land uses, as well as developed and undeveloped uses. The annual burden will take into account both repayment of debt service on bonded indebtedness and special taxes collected to pay for annual storm drainage and landscape maintenance expenses, and any other annual burdens affecting the Project.

- Calculation of the net impact fee that will be needed after accounting for infrastructure that will be paid from bonds supported by annual special taxes.

Task 4. Feasibility Test

The net burdens on each land use, both one-time and annual burdens, will be compared against the estimated developed values to test financial viability. This test will be applied to land uses in Phases I through VI, as well as the total Project at buildout. The net burdens of the Project will also be compared against those of other competitive projects in the region.

Task 5. Reimbursement Program Review

To the extent that multiple landowners are expected to develop within the Project, GCG will evaluate the need to establish reimbursement programs or public districts to reimburse developers who build over-sized public improvements which will benefit other properties that do not participate in the initial funding. Such programs will ensure the timely construction of infrastructure and provide for a more equitable distribution of costs.

Task 6. Report Preparation

Based on the findings from Tasks 1 through 5, GCG will prepare a comprehensive IFP that (i) summarizes public facility costs at buildout and on a phased or annual basis based on selected absorption assumptions, (ii) identifies net one-time impact fees to be collected within the project area to fund facilities that can be provided on a pay-as-you-go basis, (iii) sets forth the maximum annual special tax for each land use that will be needed to repay bonded indebtedness, (iv) tests financial feasibility, and (v) summarizes the recommended funding strategy, including implementation measures that must be enacted by the City to put the strategy in place.

Task 7. Meetings

GCG will attend up to five (5) meetings associated with preparing the IFP, which may include, but will not be limited to, meetings with City staff and landowners to review data requirements, assumptions, and draft and final reports, and to present findings to the Planning Commission and City Council.

EXHIBIT B

KIERNAN BUSINESS PARK EAST
CITY OF MODESTO

INFRASTRUCTURE FINANCING PLAN
BUDGET AND FEE SCHEDULE

Budget for Services Set Forth in Scope of Work

Goodwin Consulting Group, Inc. (GCG) proposes a maximum budget of $48,000 to perform Tasks 1 through 7 of the scope of work set forth above. This budget represents a maximum amount not to be exceeded, subject to the limitations identified below. Additional consulting services beyond those included in the scope of work may be provided within the maximum budget if total hourly billings are less than the budget maximum. Alternatively, if the scope of services can be completed for less than the maximum budget, only the hours actually expended will be billed. Following is the schedule of GCG's hourly service rates:

Hourly Service Rates	
Managing Principal	$250/Hour
Principal	$240/Hour
Senior Associate	$185/Hour
Associate	$160/Hour
Analyst	$145/Hour
Research Assistant	$80/Hour

** The rates reflected above are valid through December 31, 2009, and may be adjusted thereafter.*

Expenses

In addition to the budgets set forth above for services, GCG shall be reimbursed for direct expenses, including mileage, photocopying, data sources, courier, overnight delivery, and long-distance telephone expenses.

Billing Structure

GCG will submit monthly invoices to the City providing details of services rendered and expenses incurred. Invoices are due and payable within 30 days.

Out of Scope Services

The selected budget and associated scope of work may not include the following tasks, which will be defined as "Out of Scope Work" if performing these tasks causes the maximum budget to be exceeded:

- Attendance at more than a total of five formal meetings as set forth in the scope of work
- Extensive revisions after a draft IFP has been submitted due to changes in the land use plan, changes public facility plans or cost estimates, or other extensive changes
- Services associated with formation of a financing district and issuance of bonds

Out of Scope Work will be billed at the hourly rates listed above.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-252

A RESOLUTION AMENDING THE MULTI-YEAR ACCOUNT (2900-020-0261) AND APPROPRIATING $50,000, FUNDED BY CHOPRA DEVELOPMENT ENTERPRISES, FOR THE PREPARATION OF AN INFRASTRUCTURE FINANCING PLAN FOR THE KIERNAN BUSINESS PARK EAST SPECIFIC PLAN AREA

WHEREAS, the Kiernan Business Park East Specific Plan Area is in need of an Infrastructure Finance Plan ("IFP") to identify the costs associated with the facilities necessary for build out of that specific plan area, and

WHEREAS, on June 23, 2009, by Resolution No. 2009-251, the Council of the City of Modesto approved a Standard Agreement for Consultant Services ("Agreement") with Goodwin Consulting Group, for the preparation of the IFP, and

WHEREAS, on May 9, 2006 by Resolution No. 2006-287, the Council of the City of Modesto approved an Advanced Funding Agreement and Cost-Sharing Agreement For Kiernan Business Park East between the City and Chopra Development Enterprises, Inc., a California corporation ("Applicant"), and

WHEREAS, Applicant has deposited with the City the amount of FIFTY THOUSAND AND 00/100 ($50,000) DOLLARS to fund the IFP and associated staff time, and

WHEREAS, the multi-year budget for 2900-020-0261 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 multi-year operating budget for the preparation of an Infrastructure Financing Plan for the Kiernan Business Park East

Specific Plan Area as shown in **Exhibit A** and authorizes the Finance Director to take the necessary actions to effect the budget amendment.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 23rd day of June, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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

Fund: ***Kiernan Business Park East FMP/IFP***

	Account Name	Increase/(Decrease)
Expenditures		
2900-020-0261-0235	Services: Professional & Other	$ 25,000
2900-020-0261-0255	Services: City Forces (Inter-Fund)	$ 21,000
2900-020-0261-0259	Services: City Forces (Intra-Fund)	$ 4,000
Revenues		
2900-020-0261-4158	Time & Materials	$ 50,000

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-253

RESOLUTION AUTHORIZING THE AWARD OF CONTRACT FOR THE FURNISHING OF CITYWIDE SECURITY GUARD SERVICES TO GUARDSMARK, GP, SACRAMENTO, CA, FOR A TERM OF ONE YEAR, WITH TWO (2) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on September 18, 2008, Guardsmark, GP began providing security guard services to the City under emergency circumstances, and

WHEREAS, by accessing the terms from a competitively bid contract by Stanislaus County, No. 08-40-CB, which best meets the City's needs, the City secured Citywide security guard services, and

WHEREAS, Modesto Municipal Code (MMC) Section 8-3.203 generally requires all purchases, which meet or exceed $50,000.00 for material, equipment or contractual services to be formally bid, and

WHEREAS, there are exceptions to the rule set forth in the Modesto Municipal Code, and

WHEREAS, one exception, MMC Section 8-3.204(d), is available where the Purchasing Manager, in his discretion, determines that a process other than the usual formal bid procedure set forth in 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, and

WHEREAS, the furnishing of Citywide security guard services, by accessing the terms of a competitively bid contract from Stanislaus County, Project No. 2008-001, to

Guardsmark, GP Sacramento, CA, conforms to the Code, and

WHEREAS, sufficient funds will be are budgeted in Fiscal Year 2009-2010 in appropriation Units: 6000-350-3583-0235, 6000-350-3584-0235, 6000-350-3585-0235, 6100-480-5007-0235, 6100-480-5012-0235, 6100-480-5013-0235, 6210-480-5213-0235, 6310-440-5412-0235, 6530-165-1674-0235, 6530-165-1675-0235, 8500-350-3524-0235,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of contract for the furnishing of security guard services for Citywide use, to Guardsmark, GP, Sacramento, CA,

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 June, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-254

A RESOLUTION APPROVING ADDITIONAL HOME INVESTMENT PARTNERSHIP PROGRAM (HOME), COMMUNITY HOUSING DEVELOPMENT ORGANIZATION (CHDO) SET-ASIDE FUNDS FROM FY 2007-2008 IN THE AMOUNT OF $560,000 TO BE ALLOCATED TO HABITAT FOR HUMANITY, STANISLAUS, TO ASSIST WITH PRE-DEVELOPMENT AND CONSTRUCTION COSTS FOR HOPE VILLAGE SINGLE FAMILY HOUSING PROJECT; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENTS AND ANY RELATED DOCUMENTS

WHEREAS, on November 9, 2005, by Resolution No. 2005-556, the City Council approved an allocation of FY 2004-2005 CHDO set-aside funds in the amount of $206,372 for Habitat for Humanity, Stanislaus, to assist them with the pre-development activities of Hope Village project, and

WHEREAS, on July 10, 2007, the City Council, by Resolution No. 2007-412, approved the allocation of additional CHDO set-aside funds in the amount of $196, 611.75 to Habitat for Humanity, Stanislaus, to be utilized for pre-development activities for the Hope Village project, and

WHEREAS, on March 3, 2009, the City of Modesto received a letter from Habitat for Humanity requesting additional CHDO set-aside funds in the amount of $160,000 to cover pre-development activities, and $400,000 for construction costs for Hope Village, totaling $560,000 in gap funding, and

WHEREAS, on March 25, 2009, the Citizens' Housing & Community Development Committee (CH&CDC) approved $343,000 of HOME CHDO set-aside funds previously allocated to WJC Development LLC. to be reallocated to Habitat for Humanity, Stanislaus, for the Hope Village project since this project is under construction and some units are close to being completed, and

WHEREAS, on March 25, 2009, the CH&CDC also recommended to fund Habitat for Humanity, Stanislaus, an additional $217,000 to cover the gap financing of $560,000 for the Hope Village project, and

WHEREAS, HOME funds will be released on a reimbursement basis. Habitat for Humanity must comply with HOME regulations and will be subject to HOME Program Audit requirements for non-profit organizations as defined in 24 CRF 92.205, and

WHEREAS, as a condition to the City's obligation to disburse HOME funds, Habitat for Humanity must execute a City of Modesto HOME Loan Agreement, a Promissory Note, a Deed of Trust and a HOME Program Regulatory Agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves additional HOME Investment Partnership Program, Community Housing Development Organization (CHDO) set-aside funds from FY 2007-2008 in the amount of $560,000 to be allocated to Habitat for Humanity, Stanislaus, to assist with pre-development and construction costs for the Hope Village single family housing project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-255

A RESOLUTION APPROVING A SUBORDINATION AGREEMENT FOR THE HOME LOAN PROVIDED TO STANISLAUS COUNTY AFFORDABLE HOUSING CORPORATION (STANCO) FOR THE ACQUISITION OF CORTNEY MANOR, LOCATED AT 901 CALIFORNIA AVENUE, MODESTO; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE SUBORDINATION AGREEMENT AND RELATED DOCUMENTS

WHEREAS, the City receives HOME Investment Partnership Program (HOME) funds, and

WHEREAS, on February 16, 1999, the City Council, by Resolution 99-59, approved an allocation of HOME funds in the amount of $283,950 for STANCO, to assist with the acquisition of property located at 901 California Avenue, also known as Cortney Manor, and

WHEREAS, when STANCO acquired this property in 1999 the owners, Mr. and Mrs. Nygaard, carried a second note which has now come due. STANCO is in the process of refinancing this property to pay the second note, and

WHEREAS, in addition the refinance also provides STANCO with funds for a new roof, paint, dry rot repair, and other necessary repairs, and

WHEREAS, Cortney Manor has 18 units; eight of the units are HOME assisted units provided to low income individuals for transitional housing, and

WHEREAS, the financial institution lending the funds to STANCO is requiring as a condition to provide the loan that STANCO be and remain at all times prior and superior to other loans. The Subordination Agreement sets forth the priority of repayment rights against the borrower and its assets; in this case the City's HOME loan will move from third position to second position,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Subordination Agreement for the HOME loan provided to Stanislaus County Affordable Housing Corporation (STANCO) for the acquisition of Cortney Manor, located at 901 California Avenue, Modesto.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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. 2009-256

Print

A RESOLUTION APPROVING A PURCHASE AND SALE AGREEMENT BETWEEN WILLIAM HOLMES AND KANTHI KIRAN AND THE CITY OF MODESTO FOR REAL PROPERTY LOCATED AT 720 COLDWELL AVENUE (APN 110-001-004); AND AUTHORIZING THE CITY MANAGER, OR HIS DESEGINEE, TO EXECUTE THE PURCHASE AND SALES AGREEMENT AND ANY RELATED DOCUMENTS

WHEREAS, the City of Modesto owns the property located at 720 Coldwell Avenue (APN 110-001-004), and

WHEREAS, a portion of the property has been used as an off-site facility for the City of Modesto Parks, Recreation and Neighborhoods Department, and

WHEREAS, at its May 19, 2008 through May 23, 2008, meetings, the Finance Committee supported staff's recommendation to sell the property located at 720 Coldwell Avenue, and

WHEREAS, on September 23, 2008, the City Council, by Resolution No. 2008-544, authorized staff to contract for real estate services for the sale of this property, and

WHEREAS, a proposal of $175,000 for the purchase of the property was offered by Great Valley Realtors,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Purchase and Sale Agreement with William Holmes and Kanthi Kiran for the property located at 720 Coldwell Avenue.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Purchase and Sale Agreement and any 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 23rd day of June, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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. 2009-257

Print

RESOLUTION APPROVING AN ADJUSTMENT TO THE FISCAL YEAR 2008/09 COMPOST OPERATIONS BUDGET TO TRANSFER $82,223 FROM THE COMPOST FUND (6290) TO THE FLEET FUND (7210) TO INCREASE THE AMOUNT SET ASIDE IN THE FLEET FUND FOR THE PURCHASE OF AN 18 YARD, HEAVY DUTY DUMP TRUCK, FOR A TOTAL ESTIMATED COST OF $135,000

WHEREAS, the City's Compost Facility at 7001 Jennings Road uses a 1998 Peterbilt silage type-dump truck in combination with one other dump truck and two John Deere loaders to move compost material around on the site, and

WHEREAS, the dump truck has reached the end of its useful life, and has already been approved for replacement through Fleet's 10-year equipment replacement program, and

WHEREAS, due to increases in heavy equipment costs and the Compost facility's need for a heavier duty truck, the estimated $135,000 cost of replacing the dump truck exceeds the amount set aside in the Fleet Fund for replacement of the truck by $82,223, and

WHEREAS, the Compost Fund therefore needs to transfer funds to the Fleet Fund to pay for this purchase, and

WHEREAS, the Compost Facility's 2008/09 revenues are projected to exceed expenditures by more than $100,000, and an adjustment to the operating budget adjustment is feasible,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an adjustment to the Fiscal Year 2008/09 Compost Operations budget to transfer $82,223 from the Compost Fund (6290) to the Fleet Fund (7210) to

increase the amount set aside in the Fleet Fund for the purchase of an 18-yard, heavy duty dump truck, for a total estimated cost of $135,000.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-258

A RESOLUTION APPROVING A TWO-YEAR STANDARD AGREEMENT FOR CONTRACT SERVICES WITH COMMUNITY REINVESTMENT FUND, INC. (CRF) FOR LOAN SERVICING OF EXISTING AND FUTURE LOANS WITH THREE, ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City loan portfolio includes housing rehabilitation loans, down payment assistant loan, HOME loans, Redevelopment Agency loans, and Capital Facilities Fees, and

WHEREAS, in 1994, Community Reinvestment Fund (CRF) began loan servicing the City's portfolio, and

WHEREAS, in 2004, a new Request for Qualifications for loan servicing was issued and CRF was again awarded the City's loan servicing with the Agreement expiring on June 30, 2009, and

WHEREAS, on February 12, 2009, a new RFQ was released with ten companies downloading the RFQ from the City's purchasing website, and

WHEREAS, two proposals were received; CRF and AmeriNational Community Services, Inc. Both entities are out of state vendors, and

WHEREAS, the proposals were evaluated by a review committee using a point system for rating pricing, customer support, stability, experience, and overall responsiveness to the RFQ, and

WHEREAS, each member of the review committee scored CRF higher than AmeriNational Community Services, Inc. in each category, resulting in the recommendation of CRF as the continued loan servicer for the City, and

WHEREAS, CRF is a nonprofit organization that began operations in 1988 to provide capital to community development lenders in low-to-moderate income communities; their core service is to purchase loans so that the funds can be reinvested in the community, and

WHEREAS, CRF loan servicing includes the processing of monthly payments, sending payment coupons to customers, a toll free number for customers, collection efforts on past due loans, insurance tracking, processing of demand statements and subsequent payoffs, monthly reports to the City, and monthly check to the City for funds collected on the serviced loans, and

WHEREAS, the City will remain responsible for collection efforts on loans past due more than 90 days, follow-up for needed fire insurance, and releasing all liens for loans that have been paid, and

WHEREAS, the Housing Rehabilitation Loan Committee (HRLC) reviewed and supported this action at its April 16, 2009 meeting, and

WHEREAS, the Citizens Housing and Community Development Committee reviewed and supported this action at its April 22, 2009, meeting, and

WHEREAS, the City's Finance Director has reviewed the CRF financial statement for fiscal health,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a two-year standard agreement with three, one-year extensions for contract services at the sole discretion of the City with Community Reinvestment Fund, Inc. (CRF) for loan servicing of existing and future loans, and

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2009, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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. 2009-259

Print

A RESOLUTION ACCEPTING THE 2009 ALCOHOLIC BEVERAGE CONTROL (ABC) 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 AWARD 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 sum of $100,000 from the State Department of Alcoholic Beverage Control, and

WHEREAS, acceptance of said $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 2009 Alcoholic Beverage Control (ABC) 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 award documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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. 2009-260

Print

A RESOLUTION AMENDING THE 2009/2010 OPERATING BUDGET, REVENUES AND EXPENSES IN THE AMOUNT OF $100,000 RELATED TO THE 2009 ALCOHOLIC BEVERAGE CONTROL (ABC) GRANT PROJECT TO COMBAT ALCOHOL RELATED CRIMES

WHEREAS, the Police Department acquired a grant award in the sum 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,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2009/2010 Operating Budget Operational Grants Fund is hereby adjusted as indicated below to initiate said grant project:

	Expense:		
To:	0410-190-2992-0130	$62,500	Officers' Overtime Hours Cost
	0410-190-2992-0240	30,000	Intergovernmental Services
	0410-190-2992-0262	1,500	Officers' Operating Expenses
	0410-190-2992-0356	2,500	Program Equipment
	0410-190-2992-0207	3,500	Required Conferences
	Total	$100,000	
	Revenue:		
TO:	0410-190-2992-3190	$100,000	ABC Grant Funds

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-261

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 2009 LOCAL SOLICITATION AUTHORIZING A JOINT APPLICATION WITH THE COUNTY OF STANISLAUS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE GRANT APPLICATION UPON AWARD

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 $162,858 and Stanislaus County is eligible for $100,476, 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 $263,334, and

WHEREAS, recommended distribution of the 2009 JAG funds is as follows:

Probation	$ 32,153
Sheriff	$ 65,309
Sheriff (Administrative Fee)	$ 7,900
Modesto Police Department	$157,972

WHEREAS, the City of Modesto will use its allocation to offset police overtime costs for the Downtown Entertainment District, and

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 $4,886 to cover the reporting costs associated with the grant, and

WHEREAS, the administrative fee reduces the City's total projected grant award to $157,972 ($162,858 less the 3% administrative fee of $4,886), 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 Understanding 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 2009 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 23rd day of June, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-262

A RESOLUTION AMENDING THE MULTI-YEAR 2009/10 OPERATING BUDGET, ESTIMATING REVENUE OF $162,858 TO THE CITY OF MODESTO, AND APPROPRIATING FUNDS IN ORGANIZATION 0420-190-2001, UPON ACCEPTANCE OF THE GRANT

WHEREAS, the allocation of JAG grants 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 $162,858 and Stanislaus County is eligible for $100,476, and

WHEREAS, the City of Modesto Police Department is considered a "disparate" allocation under the terms of this grant because the City is eligible to receive, one and one-half times more than the 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 $263,334, and

WHEREAS, recommended distribution of the 2009 JAG funds is as follows:

Probation	$ 32,153
Sheriff	$ 65,309
Sheriff (Administrative Fee)	$ 7,900
Modesto Police Department	$157,972

WHEREAS, the City of Modesto will use its allocation to offset police overtime costs for the Downtown Entertainment District, and

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 $4,886 to cover the reporting costs associated with the grant, and

WHEREAS, the administrative fee reduces the City's total available proceeds from the grant award by $4,886.00 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 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, the project start period is July 1, 2009, and there is a statutory four-year period within which to spend funds,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2009/2010 Operating Budget as indicated in **Attachment A**.

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 23rd day of June, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
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 0420:

	Expense:		
To:	0420-190-2001-0130	157,972	Overtime
	0420-190-2001-0260	4,886	Misc – Admin Fee
	Revenue:		
To:	0420-190-2001-3309	162,858	Co - BJAG Formula Rev

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-263

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) TO REBUILD THE PUMP UNITS OF THREE FIXED FILM REACTORS AT AN ESTIMATED COST OF $215,700, WITH $20,000 IN STAFF TIME COSTS, FOR A TOTAL ESTIMATED COST OF $235,700

WHEREAS, the Jennings Treatment Plant has three (3) Fixed Film Reactors (FFRs) as part of its current infrastructure, and

WHEREAS, currently, two (2) FFRs are used in the biological process during secondary wastewater treatment, and

WHEREAS, the FFR pump units, which include a 125 hp motor, are the original equipment installed with the FFRs in the mid-1980s, and

WHEREAS, the cost to rebuild each pump unit is approximately 75% less than purchasing new pump units, and

WHEREAS, there are a total of six (6) pump units that need to be rebuilt to factory operating condition, and

WHEREAS, once rebuilt the pump units will last approximately 20 – 25 years, and

WHEREAS, City staff will remove and reinstall the pump units at the FFRs, and

WHEREAS, funds are budgeted in CIP Account Number 6210-480-B107 to rebuild and reinstall the FFR pump units, 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,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue formal request for bids to rebuild pump units of three (3) Fixed Film Reactors at an estimated cost of $215,700.

BE IT FURTHER RESOLVED that the Council authorizes the Purchasing Manager to prepare a purchase agreement for the total estimated cost of $215,700.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-264

A RESOLUTION APPROVING THE AMENDMENT TO AGREEMENT WITH PACIFIC DESIGN ASSOCIATES, INC. FOR DESIGN MODIFICATIONS OF THE PLANS FOR THE CITY OF MODESTO WATER QUALITY CONTROL LAB REMODEL PROJECT IN AN AMOUNT NOT TO EXCEED $4,260, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO AGREEMENT

WHEREAS, on March 11, 2008, by Resolution 2008-161, Council approved an agreement with Pacific Design Associates Inc. to prepare a final project design for the Water Quality Control (WQC) Laboratory Remodel project, and

WHEREAS, on April 7, 2009, by Resolution 2009-156, Council awarded the construction contract for the WQC Laboratory Remodel project to Huff Construction Company, Inc. of Modesto, and

WHEREAS, the Laboratory Remodel project is underway and proceeding as planned, and

WHEREAS, this request is a minor amendment to the design contract to take advantage of the opportunity to consolidate administrative office workspace in a more efficient manner, and

WHEREAS, the proposal will reduce duplicate break areas and increase office space within the existing footprint of the Administration Building, and in a more efficient manner, and

WHEREAS, this change is consistent with department goals to create additional/improved work space for existing staff, and

WHEREAS, this amendment provides the scope of work for construction, and

WHEREAS, the proposed changes are: (a) Delete original contract work in the existing lunch room space and produce savings; (b) Reduce the size of the existing lunchroom and relocate to the end of the hallway; and (c) Provide additional work spaces, and

WHEREAS, the additional costs of construction will be estimated as part of this amendment. If additional budget or Director's Authority to issue change orders is required to construct these changes, staff will return to Council for consideration, and

WHEREAS, using outside professional services will enable this project to be completed in a timely manner, as the City does not have the staffing level or subject matter expertise to complete the WQC Laboratory Remodel 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 Amendment to Agreement for Design Services of WQC Laboratory Remodel with Pacific Design Associates, Inc. for an amount not to exceed $4,260 for the additional services for the project titled, "Water Quality Control Lab Remodel".

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 23rd day of June, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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. 2009-265

Print

A RESOLUTION APPROVING (1) A PURCHASE AND SALE AGREEMENT WITH ESCROW INSTRUCTIONS BETWEEN THE CITY OF MODESTO AND AUSTIN PARKS AND FRANCES PARKS, TRUSTEES OF THE AUSTIN AND FRANCES PARKS FAMILY TRUST, A TRUST FOR PROPERTY LOCATED AT 1517 10TH STREET, IN THE AMOUNT OF $239,595.00, AND (2) A GRANT DEED, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT, GRANT DEED, AND ALL RELATED DOCUMENTS REQUIRED TO CLOSE ESCROW

WHEREAS, the City of Modesto owns the property at 1517 10th Street (APN: 105-047-002), and

WHEREAS, the Kansas-Needham Overhead Project constructed an overhead crossing from the intersection of College and Needham Avenues and 10th Street to the intersection of Franklin and Beech Streets, the future connection to Highway 132, and

WHEREAS, the project design produced a remnant parcel with some degree of limited use, due to the location and limited access, and

WHEREAS, the property is surplus to the City's needs and there are no other City uses for this property, and

WHEREAS, on January 6, 2009, by Resolution No. 2009-027, Council authorized staff to declare the City-owned property located at 1517 10th Street (APN: 105-047-002) as surplus property and authorized the City's property agent to proceed with the sale of this property, and

WHEREAS, staff recommends the City's property agent proceed with the sale of this property,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves (1) a Purchase and Sale Agreement With Escrow Instructions

between the City of Modesto and Austin Parks and Frances Parks, Trustees of the Austin and Frances Parks Family Trust, a Trust for property located at 1517 10th Street, in the amount of $239,595.00, and (2) a Grant Deed.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager, or his designee, to execute the Agreement, Grant Deed, 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 23rd day of June, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL / MODESTO REDEVELOPMENT AGENCY
RESOLUTION NO. 2009-266

A JOINT RESOLUTION OF THE CITY COUNCIL AND REDEVELOPMENT AGENCY OF THE CITY OF MODESTO AUTHORIZING THE CITY ATTORNEY/REDEVELOPMENT AGENCY GENERAL COUNSEL TO COOPERATE WITH THE LEAGUE OF CALIFORNIA CITIES, THE CALIFORNIA REDEVELOPMENT ASSOCIATION, OTHER CITIES AND COUNTIES IN LITIGATION CHALLENGING THE CONSTITUTIONALITY OF ANY SEIZURE BY STATE GOVERNMENT OF THE CITY'S STREET MAINTENANCE AND REDEVELOPMENT FUNDS

WHEREAS, the current economic crisis has placed the City of Modesto and other cities under incredible financial pressure and caused them to make painful budget cuts, including layoffs and furloughs of City workers, decreasing maintenance and operations of public facilities, and reductions in direct services to keep spending in line with declining revenues, and

WHEREAS, since the early 1990s the State Government of California has seized over $10 billion of City property tax revenues statewide, now amounting to over $900 million each year, to fund the State Budget even after deducting public safety program payments to cities by the state, and

WHEREAS, on April 30, 2009, in the case of *CRA v. Genest*, the Sacramento Superior Court found similar efforts by the State to seize redevelopment tax increment for the state general fund to be in direct violation of Article XVI, Section 16 of the State Constitution, added by the voters in 1952 as Proposition 18, which requires that tax increment be used exclusively for the benefit of redevelopment project areas; and

WHEREAS, since the early 1990s the state government also has seized $ 1.04 billion of redevelopment tax increment statewide, and the Governor and Legislature are

now considering seizing $350 million each year for three years, beginning in the current fiscal year; and

WHEREAS, in the State of California's proposed FY 2009-10 Budget, the Governor has proposed transferring $1 billion of local gas taxes and weight fees to the State General Fund to balance the State Budget, and over $700 million in local gas taxes permanently in future years, immediately jeopardizing the ability of the City to maintain its Surface Transportation Program, which consists of street maintenance operations, traffic operations and electrical operations, traffic engineering, forestry cycle pruning, curb, gutter, and sidewalk repair, Capital Improvement Program projects for streets, and related traffic safety facilities for the use of the motoring public, and

WHEREAS, the loss of almost all of the City's gas tax funds will seriously compromise the City's ability to perform critical traffic safety-related street maintenance, including, but not limited to, drastically curtailing patching, resurfacing, street lighting/traffic signal maintenance, payment of electricity costs for street lights and signals, bridge maintenance and repair, street trees and cycle pruning, sidewalk and curb ramp maintenance and repair, and more, and

WHEREAS, some cities report to the League of California Cities that they will be forced to eliminate part or all of their street maintenance operations while others will be forced to cut back in other areas (including public safety staffing levels) to use city general funds for basic street repair and maintenance. Furthermore, there is a serious concern about significant impacts, including increased traffic accidents and injuries and the potential for additional liability that could result due to deferred maintenance of streets should these funds be lost, and

WHEREAS, in both Proposition 5 in 1974 and Proposition 2 in 1998 the voters of our state overwhelmingly imposed restriction on the state's ability to do what the Governor has proposed, and any effort to permanently divert the local share of the gas tax would violate the State Constitution and the will of the voters; and

WHEREAS, cities and counties maintain 81% of the state road network while the state directly maintains just 8%, and

WHEREAS, ongoing street maintenance is a significant public safety concern. Lack of proper maintenance of street pavement (potholes filling, sealing, overlays, etc.), traffic signals, signs, and street lights can have a direct correlation to traffic accidents, injuries, and deaths, and

WHEREAS, according to a recent statewide needs assessment[1] on a scale of zero (failed) to 100 (excellent), the statewide average pavement condition index (PCI) is 68, or "at risk." Local streets and roads will fall to "poor" condition (Score of 48) by 2033 based on existing funding levels available to cities and counties.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL AND THE REDEVELOPMENT AGENCY OF THE CITY OF MODESTO hereby directs the City Attorney/Redevelopment Agency General Counsel to take all necessary steps to cooperate with the League of California Cities, California Redevelopment Association, other cities, counties and redevelopment agencies in supporting litigation against the state of California if the legislature enacts and the governor signs into law legislation that unconstitutionally diverts the redevelopment tax increment and the City's share of

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[1] *California Statewide Local Streets and Roads Needs Assessment*, Nichols Consulting Engineers, Chtd. (2008), sponsored by the League of California Cities, California State Association of Counties and County Engineers Association of California.

funding from the Highway Users Tax Account (HUTA), also known as the "gas tax," to fund the state general fund; and

BE IT RESOLVED FURTHER, that the city manager/agency executive director or clerk shall send this resolution with an accompanying letter from the mayor/agency chair to the Governor and each of the city's state legislators, informing them in the clearest of terms of the City's adamant resolve to oppose any effort to frustrate the will of the electorate as expressed in Proposition 18 (1952), Proposition 5 (1974) and Proposition 2 (1998) concerning the proper use and allocation of the redevelopment tax increment and the gas tax; and

BE IT FURTHER RESOLVED, that a copy of this Resolution shall be sent by the City Clerk to the League of California Cities, the California Redevelopment Association, the Modesto Chamber of Commerce, and other community groups whose members are affected by this proposal to divert funds from vital local services and projects.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto and the Redevelopment Agency held on the 23rd day of June, 2009, by Councilmember/Agency member Hawn, who moved its adoption, which motion being duly seconded by Councilmember/Agency member Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers/Agency members:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers/Agency members:	None
ABSENT:	Councilmembers/Agency members:	None

ATTEST: _____
STEPHANIE LOPEZ
City Clerk / Agency Secretary

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD,
City Attorney/Agency General Counsel

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-267

A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MODESTO AND THE MODESTO CITY EMPLOYEES' ASSOCIATION FOR A TERM OF JUNE 23, 2009 THROUGH JUNE 21, 2010

WHEREAS, the current Memorandum of Understanding (MOU) between the City of Modesto (CITY) and the Modesto City Employees' Association (MCEA) will expire on June 22, 2009, 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 a new MOU which, upon execution, shall be **attached** hereto and made a part hereof, and

WHEREAS, the MOU provides as follows:

SECTION 1. MANDATORY FURLOUGHS. For fiscal year 2009-2010, each bargaining unit member shall take 96-hours of mandatory furloughs. For twenty-four (24) pay periods beginning July 7, 2009, each bargaining unit member shall have four (4) unpaid furlough hours deducted from his/her paycheck, for a total of ninety-six (96) hours during fiscal year 2009-2010. Effective July 7, 2009 the City shall create for each member a furlough bank of ninety-six (96) hours. Between July 7, 2009 and June 21, 2010, the Department Director or designated representative shall ensure that all members exhaust all ninety-six (96) hours in the furlough bank in a manner that does not result in an increase in overtime cost, where applicable, due to the vacancy left by the furloughed employee. Furlough hours that have been deducted and banked but have not been taken

as time off by June 21, 2010, shall be forfeited by the employee and shall not be cashed out. It is the City's intent to batch some of the furlough days around holidays to maximize savings to the City. The exact language of this provision shall be set forth in the MOU between the City and MCEA.

SECTION 2. HEALTH, DENTAL AND VISION BENEFITS. The CITY's contribution to employees' Health, Dental and Vision coverage shall be as follows:

	7/22/08	7/21/09
Family	$957	$1050
Employee Only	535	$596
Opt Out	425	$450

The MOU removes the provision that the CITY's contribution for Employee Only coverage will be 100% of the premium for the lowest cost HMO plan (including dental and vision).

SECTION 4. LAYOFF AND DEMOTION PROCEDURES. Minor revisions to reflect current practice. One time agreement to allow employees to bump to previously held position in prior department in employee would otherwise be laid off. This provision expires at the end of the MOU.

SECTION 5. SPECIAL ASSIGNMENT PAY. Provides a $5 differential for each shift in which an employee operates a crane.

SECTION 6. ADDITIONAL CHANGES. Changes to the MOU also include changing performance evaluation language from "below standard" to "does not meet standard" , changes title for special assignment pay from Waste Water Treatment Plant Operator III, consistent with new titles, amends language for Acting and Out of Class Pay to reflect actual practice; changes internal reference of standby pay to reflect appropriate attachment; amends uniform language to clarify who can authorize an employee who is

provided a uniform to wear street clothes and removes the requirement to wear the City logo "on the pocket area"; clarifies the process for requesting time off using time bank; changes deduction from up to ½ hour two times per year to one hour one time per year and changes the process for renewal of previously approved outside employment agreements.

WHEREAS, the Council considered this matter at its meeting of June 23, 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the Memorandum of Understanding between the City of Modesto and Modesto City Employees' Association contingent upon an affirmative ratification vote by MCEA membership, which covers a term from June 23, 2009 through June 21, 2010, 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 June, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Stephanie Lopez
STEPHANIE LOPEZ, City Clerk

(SEAL)
APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-268

A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MODESTO AND THE MODESTO CONFIDENTIAL AND MANAGEMENT ASSOCIATION FOR A TERM OF JUNE 23, 2009 THROUGH JUNE 21, 2010

WHEREAS, the current Memorandum of Understanding (MOU) between the City of Modesto (CITY) and the Modesto Confidential and Management Association (MCMA) will expire on June 22, 2009, and

WHEREAS, representatives of the CITY and the MCMA have met and conferred in good faith concerning wages, hours, terms and conditions of employment for employees in said bargaining unit, and

WHEREAS, pursuant to an Agenda Report dated June 17, 2009, a copy of which report is on file in the office of the City Clerk, the CITY and MCMA have reached agreement on a new MOU which, upon execution, shall be **attached** hereto and made a part hereof, and

WHEREAS, the MOU provides as follows:

SECTION 1. MANDATORY FURLOUGHS. For fiscal year 2009-2010, each bargaining unit member shall take 96-hours of mandatory furloughs. For twenty-four (24) pay periods beginning July 7, 2009, each bargaining unit member shall have four (4) unpaid furlough hours deducted from his/her paycheck, for a total of ninety-six (96) hours during fiscal year 2009-2010. Effective July 7, 2009 the City shall create for each member a furlough bank of ninety-six (96) hours. Between July 7, 2009 and June 21, 2010, the Department Director or designated representative shall ensure that all members exhaust all ninety-six (96) hours in the furlough bank in a manner that does not result in

an increase in overtime cost, where applicable, due to the vacancy left by the furloughed employee. Furlough hours that have been deducted and banked but have not been taken as time off by June 21, 2010, shall be forfeited by the employee and shall not be cashed out. It is the City's intent to batch some of the furlough days around holidays to maximize savings to the City. However, at least half the furlough days will be non-fixed so that employees can schedule them in the same manner as vacation is scheduled. The exact language of this provision shall be set forth in the MOU between the City and MCMA.

SECTION 2. HEALTH, DENTAL AND VISION BENEFITS. The CITY's contribution to employees' Health, Dental and Vision coverage shall be as follows:

	Total Contributions (monthly)	
	7/22/08	7/21/09
Family	$957	$1050
Employee Only	$535	$596
Opt Out	$425	$450

The MOU provides that during the term of the MOU, the CITY's contribution for Employee Only coverage effective July 21, 2009 shall not exceed the actual premium amount for the lowest cost HMO (including dental and vision) offered by the City. The exact language of this provision shall be set forth in the MOU between the City and MCMA.

SECTION 3. MANAGEMENT/CONFIDENTIAL LEAVE. During fiscal year 2009-2010, the ability of bargaining unit members to cash out management/confidential leave shall be suspended.

SECTION 4. LAYOFF AND DEMOTION PROCEDURES. The language of the layoff and demotion provision of the MOU is modified so that for purposes of

calculating seniority employees will not lose one year of service credit for a "meets expectations" performance evaluation. The exact language of this provision shall be set forth in the MOU between the City and MCMA.

SECTION 6. CONTINUATION OF REMAINING PROVISIONS. Except as provided above, the remaining provisions of the July 22, 2008, through June 22, 2009, MOU between the CITY and MCMA shall continue in the new MOU.

WHEREAS, the Council considered this matter at its meeting of June 23, 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the Memorandum of Understanding between the City of Modesto and the Modesto Confidential and Management Association contingent upon an affirmative ratification vote by MCMA membership, which covers a term from June 23, 2009 through June 22, 2010, 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 June, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-269

A RESOLUTION APPROVING A MODIFIED MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY OF MODESTO AND THE MODESTO CITY FIRE FIGHTERS ASSOCIATION (MCFFA) FOR A TERM OF DECEMBER 26, 2006 THROUGH DECEMBER 19, 2011

WHEREAS, the current Memorandum of Understanding (MOU) between the City of Modesto (CITY) and the Modesto City Fire Fighters Association (MCFFA) expires on December 20, 2010, and

WHEREAS, representatives of the CITY and the MCFFA have met and conferred in good faith concerning wages, hours, terms and conditions of employment for employees in said bargaining unit, and

WHEREAS, pursuant to an Agenda Report dated June 17, 2009, a copy of which report is on file in the office of the City Clerk, the CITY and MCFFA have reached agreement on a modified and extended MOU with a new expiration date of December 19, 2011 which, upon execution, shall be **attached** hereto and made a part hereof, and

WHEREAS, the MOU provides as follows:

SECTION 1. ROLLOVER OF EXSTING PROVISIONS. All provisions of the existing MOU are rolled-over except as detailed below.

SECTION 2 SALARY INCREASES. Across-the-board salary increases shall be effective as follows:

0% for FY 09-10
3% effective June 22, 2010
3% effective December 21, 2010
2.5% effective June 21, 2011

SECTION 3. HEALTH, DENTAL AND VISION BENEFITS. Effective July 2009 the CITY shall make a contribution the Health Savings Account (HSA) of $25 per month for each employee. Effective July 2010 the monthly contribution to the HSA shall increase by $25 to $50 per month. This HSA contribution shall end at the end of the contract term. Effective January 1, 2011 the amount that is contributed by the CITY to Family health coverage shall increase by up to $136 per month and a proportionate increase for other tiers of health coverage.

SECTION 8. CONTINUATION OF REMAINING PROVISIONS. Except as provided above, the remaining provisions of the December 26, 2006 through December 20, 1010 MOU between the CITY and MCFFA shall continue in the revised and extended MOU.

WHEREAS, the Council considered this matter at its meeting of June 23, 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the Memorandum of Understanding (MOU) between the City of Modesto and the Modesto City Fire Fighters Association (MCFFA) contingent upon an affirmative ratification vote by MCFFA membership, which covers a term from December 26, 2006 through December 19, 2011, 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 June, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-270

A RESOLUTION ACCEPTING THE PRELIMINARY DESIGN REPORT DATED MAY 2009, FOR THE PHASE 2 BIOLOGICAL NUTRIENT REMOVAL (BNR)/TERTIARY TREATMENT PROJECT AS COMPLETE

WHEREAS, the Regional Water Quality Control Board (RWQCB) issued a new tentative waste discharge permit (Permit No. CA0079103) on April 25, 2008, which contained limits more restrictive than those indicated in the City's 2007 Wastewater Master Plan (WWMP), and

WHEREAS, in order to meet the state-mandated regulatory requirements, the City will need to design and construct an additional Phase 2 BNR/Tertiary Treatment facility at the Jennings Road Water Quality Control (WQC) Facility, and

WHEREAS, on December 2, 2008, by Resolution 2008-656, the City Council approved an agreement with Carollo Engineers, P.C. of Walnut Creek to prepare the Phase 2 Project Preliminary Design Report (PDR), and

WHEREAS, the PDR summarizes existing facilities, details proposed project elements, presents preliminary engineering drawings, and provides estimated cost and schedule projections for project implementation, and

WHEREAS, the 35 % PDR has been successfully completed and will serve as the basis for the final design of the Phase 2 Biological Nutrient Removal (BNR)/Tertiary Treatment project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Preliminary Design Report dated May 2009, for the Phase 2 Biological Nutrient Removal (BNR)/Tertiary Treatment project as complete as complete.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-271

A RESOLUTION APPROVING AN AGREEMENT WITH CAROLLO ENGINEERS, P.C. FOR FINAL DESIGN SERVICES FOR PHASE 2 BIOLOGICAL NUTRIENT REMOVAL/TERTIARY TREATMENT FACILITY IN AN AMOUNT NOT TO EXCEED $5,473,900 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $273,695 FOR ADDITIONAL SERVICES (IF NEEDED) FOR A MAXIMUM TOTAL AMOUNT OF $5,747,595, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, in order to meet the state mandated regulatory requirements, the City will need to design and construct an additional Phase 2 Biological Nutrient Removal/Tertiary Treatment Facility (Phase 2) Project at the Jennings Road Water Quality Control (WQC) Facility, and

WHEREAS, on December 2, 2008, by Resolution 2008-656, the City Council approved an agreement with Carollo Engineers, P.C. of Walnut Creek to prepare the Preliminary Design Report (PDR) for Phase 2 Project, and

WHEREAS, the PDR titled "Phase 2 Biological Nutrient Removal/Tertiary Treatment Facility," summarizes existing facilities, establishes project design criteria and method of design, identifies critical project elements and provides an estimated construction cost of $135 million for the Phase 2 Project, and

WHEREAS, Carollo Engineers, P.C. (Carollo) successfully completed the PDR, and

WHEREAS, this Final Design Agreement will allow for the final design, development of biddable documents, and assistance during the bid period for the project, and

WHEREAS, City staff recommends approving an Agreement with Carollo Engineers, P.C. as the City does not have the staffing level or subject matter expertise to

complete the Final Design Services for Phase 2 Biological Nutrient Removal (BNR)/Tertiary Treatment Facility, 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, P.C. for final design services for Phase 2 Biological Nutrient Removal/Tertiary Treatment Facility in an amount not to exceed $5,473,900 for the identified scope of services, plus $273,695 for additional services (if needed), for a maximum total amount of $5,747,595.

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 June, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-272

A RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FULLY FUND THE AGREEMENT FOR FINAL DESIGN SERVICES FOR PHASE 2 BIOLOGICAL NUTRIENT REMOVAL/TERTIARY TREATMENT FACILITY, INCLUDING ENGINEERING/DESIGN/ADMINISTRATION SUPPORT

WHEREAS, a budget adjustment in the amount of $2,500,000 is necessary to fully fund the agreement with Carollo Engineers, P.C. for Phase 2 Biological Nutrient Removal/Tertiary Treatment Facility, and

WHEREAS, in order to fully fund final design of the project and engineering/design/administration support a transfer from Wastewater Reserves to the CIP account is required, and

WHEREAS, the Fiscal Year 2009-2010 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 2009-2010 Capital Improvement Program budget as shown in **Exhibit A**.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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

FUND:

Wastewater Fund

EXPENDITURES:		Increase/(Decrease)
Wastewater Reserves	6210-800-8000-8003	($2,500,000)
WW Treatment Phase 2 Tertiary	6210-430-B061-6010	$2,500,000

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-273

A RESOLUTION AMENDING THE 2009-2010 OPERATING BUDGET TO REFLECT CHANGES IN REVENUE AND EXPENSE ASSUMPTIONS NEEDED TO BRING THE UNRESTRICTED RESERVE OF THE GENERAL FUND TO A 7% LEVEL

WHEREAS, pursuant to the Charter of the City of Modesto, the Mayor presented the Proposed Operating Budget for the 2009-10 Fiscal Year to the Finance Committee at workshops held during the week of May 18, 2009, and

WHEREAS, the Finance Committee recommended to the full City Council, a Proposed Fiscal Year 2009-2010 Operating Budget during a public hearing held on June 2, 2009, and

WHEREAS, the City Council adopted the Proposed Fiscal Year 2009-2010 Operating Budget on June 2, 2009, and

WHEREAS, the Adopted Fiscal Year 2009-2010 Operating Budget reflects an unrestricted General Fund reserve level that is $4.8 million below the amount required by City Council policy and the City Council has been presented with recommendations to restore the reserve to the required amount during its regularly scheduled meeting held on June 23, 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2009-2010 Adopted Operating Budget as shown in **Exhibit A** which is incorporated by reference herein. With adoption of this amendment the General Fund unrestricted reserve is restored to a 7 % level per Council policy.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of June, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

FINANCE COMMITTEE ACCEPTED FY 2009-10 ADDITIONAL GF REDUCTIONS

ATTACHMEI

	A	B	G	H	J	K	L	M	N	O	P	Q	R	S
1	FY 2009-10 GENERAL FUND ADDITIONAL REDUCTIONS LIST													
2	Category (Rev/Exp)	Dept	If position (list salaries and benefits combined on one line with a object description of 0184 & 0194); If contract svc (list each service); If closing park/pool/recreation areas (list each one/location & every object reduction)	Class Title or Vendor Name	If position is filled, place an X in this column	Full-time Employee	Part-time Employee	Proposed Budget Adjustment (explain in detail service being reduced/deducted)	Increase	Decrease	Program Impact:	Frequency (One Time vs. On-going)	Mayor Accepted/Not Accepted	Financ Commit Accepted Accept
3	Exp	All						Pending Concessions - MCEA		$310,983	Equivalent of 96 hours of furlough		Accepted	Accept
4	Exp	All						Pending Concessions - MCMA		$368,263	Equivalent of 96 hours of furlough		Accepted	Accept
5	Exp	All						96 hours of furlough leave - unrepresented staff including Executives and Charter Officers.		$216,921	This reduction was approved by Council on June 2, but was not included in the Mayor's orginal budget recommendations so it is appropriate to include it now.		Accepted	Accept
6	Concessions Total									$895,847				
7	Exp	Human Resources	0208 = (1,000); 0230 = (800); 0235 = (5,000)	Business Expenses, Advertising, Professional Services				Additional reductions in expenses related to oral boards and testing. Advertising budget eliminated. Reductions in professional services related to rental of written examinations.		$6,800	Eliminate funding for oral panel and administration of written examinations; departments will be charged for these expenses. Eliminates funding for all advertising; departments will be charged for costs related to recruitment. Eliminates funding for rental of written examinations. Departments will be charged for these expenses.	Ongoing	Accepted	Accept
8	Exp	Human Resources		Office Supplies				Reduce office supplies		$1,161	Reduction in office supplies. Anticipates reduced staff usage of supplies.	Ongoing	Accepted	Accept
9	Exp	Human Resources		Memberships and dues				Reduction in memberships		$225	Eliminates memberships for all but HR staff; memberships are a primary source of legal updates and professional development.	Ongoing	Accepted	Accept
10	Exp	Human Resources	Salary and Benefits	Salary and Benefits Savings				Eliminate HR position pending departmental organization restructuring.		$100,000	A decision on the position to be eliminated will be deferred until the Interim HR Director has completed his analysis.	Ongoing	Accepted	Accept
**	Human Resources Total									$106,186				
12	Rev	Community and Economic Development						Increase Service Credits	$401,650		Additional Revenue for CMAQ projects that will be designed by the Engineering Staff for LDE. With this increase in revenue 100% of the expenditures will be covered by grants, service credit agreements, and fees. $100,044 of this funding will be used to restore the Assistant Engineer position included in the CEDD reductions already accepted by the Finance Committee.	One-time	Accepted	Accep
13	Exp	Community and Economic Development	Salary and Benefits - Increase	Assistant Engineer	3122			Restoration of Assistant Engineer position that was eliminated in June 2, 2009 Council Adopted Reductions.		($100,044)	Restoration of the Assistant Engineer position will be funded through the CMAQ Increase in Service Credits described above in Line 12 ($401,650). This increase in expense of $100,044 combined with the increase in Service Credit Revenue results in a net increase in revenue of $301,606. This Assistant Engineer will work solely on projects that are funded by CMAQ funds.	Ongoing	Accepted	Accep
14	Exp	Community and Economic Development						Kramer Telecom Consultant contract		$20,000	This amount represents the balance remaining after completion of the cell tower ordinance.	One-time	Accepted	Accep
15	Exp	Community and Economic Development						Printing & Binding		$2,000	This reduction eliminates the ability to print documents necessary for business attraction and retention.	One-time	Accepted	Accep
16	Exp	Community and Economic Development						Advertising		$8,000	This reduces the advertising budget to $1,325 for business attraction and retention. This significantly impairs the Department's ability to advertise in this area.	One-time	Accepted	Accep
17	Exp	Community and Economic Development						Office Supplies		$1,000	This reduction in the office supply budget will impact the Department's ability to attract and retain businesses in the City of Modesto.	One-time	Accepted	Accep
18	Exp	Community and Economic Development						PE Pay for ACBO		$7,584	The incumbent has announced his retirement. This reduction anticipates the successor will NOT have a PE Certification.	One-time	Accepted	Accep
19	Exp	Community and Economic Development						Printing & Binding		$1,500	This reduction will impact the LDE Division's ability to prepare documents for distribution.	One-time	Accepted	Accep
20	Exp	Community and Economic Development						Office Supplies		$300	This reduction will impact the LDE Division's ability to pay for office supplies needed to operate.	One-time	Accepted	Accep
21	Exp	Community and Economic Development						Business Expense		$525	This reduction eliminates all business expense funding for the business attraction and retention efforts by the Department.	One-time	Accepted	Accep
22	Exp	Community and Economic Development						Office Supplies		$1,000	This reduction in office supplies for the Planning Division will impact the Division's ability to produce and duplicate documents for staff and the public.	One-time	Accepted	Accep
23	Exp	Community and Economic Development						Reduce App C		$14,000	General Reduction on Remaining discretionary funding in appropriation unit C in Building Safety, org 1401. This reduction is made in anticipation of the transfer of NPU to the Division. If this transfer does not occur, this reduction will not be possible.	One-time	Accepted	Accep

FINANCE COMMITTEE ACCEPTED FY 2009-10 ADDITIONAL GF REDUCTIONS

ATTACHMENT 1

	A	B	G	H	J	K	L	M	N	O	P	Q	R	S
1	FY 2009-10 GENERAL FUND ADDITIONAL REDUCTIONS LIST													
2	Category (Rev/Exp)	Dept	If position (list salaries and benefits combined on one line with a object description of 0184 & 0194); If contract svc (list each service); If closing park/pool/recreation areas (list each one/location & every object reduction)	Class Title or Vendor Name	If position is filled, place an X in this column	Full-time Employee	Part-time Employee	Proposed Budget Adjustment (explain in detail service being reduced/deducted)	Increase	Decrease	Program Impact:	Frequency (One Time vs. On-going)	Mayor Accepted/Not Accepted	Finance Committee Accepted/Not Accepted
24	Exp	Community and Economic Development						Training		$12,000	This reduction will eliminate all training for building inspectors and plan review staff. This reduction will impact the ability to remain informed on code changes and updates that impact inspection and plan review.	One-time	Accepted	Accepted
25	Exp	Community and Economic Development						Fleet Savings		$21,431	This savings is expected from the elimination of positions that require an assigned vehicle. This savings is estimated and may be greater or lesser than projected.	One-time	Accepted	Accepted
26	Exp	Community and Economic Development						Professional Services		$88,859	This reduction will impact the Building Safety Division's ability to send plan review to the outside consultants. This reduction may have a negative impact on turn-around time.	One-time	Accepted	Accepted
27		Community and Economic Development Total				0.0	0.0		$140,290	$77,715				
28	Exp	Fire		Part-time Employee (Vacant)			1.0	Part-Time Wages - Elimination - position not currently filled		$7,000	Planning/Mapping Programs	Ongoing	Accepted	Accepted
29	Exp	Fire						Part-time Wages Increase - Draftsman - 1000 Hour		($20,000)	Mapping Program	Ongoing	Accepted	Accepted
30	Exp	Fire		Service and Maintenance Aide	X		1.0	Part-time Wages - Station supply and mail clerk elimination. Supplies and mail will be delivered by Storekeeper.		$23,000	Suppression Program	Ongoing	Accepted	Accepted
31	Exp	Fire		Hourly Temporary Employee	X		1.0	Part-time wages - Plan check part-time help reduction. Currently plan check workload has decreased.		$18,511	Fire Prevention Program	Ongoing	Accepted	Accepted
32	Exp	Fire		Emergency Medical Services Coordinator			1.0	Part-time Wages Inrease - EMS Coordinator - 1000 Hour		($39,196)	ALS Program	Ongoing	Accepted	Accepted
33	Exp	Fire	0110 = (44,846); 0150 = (48); 0151 = (9,768); 0152 = (1,360); 0153 = (336); 0154 = (300); 0160 = (7,572); 0181 = (900); 0184 = (24)	Administrative Services Tech II	X	1.0		Reduce Admin Services Tech II (Draftsman) from full time position to part-time. Costs would be reduced from $65,174 to $20,000.		$65,174	Mapping Program ($23,848 and $20,328)	Ongoing	Accepted	Accepted
34	Exp	Fire						Battalion Chief Stipend. Eliminate 1/6 of the stipend to correspond with single Battalion Chief elimination.		$15,000	Suppression Program	Ongoing	Accepted	Accepted
35	Exp	Fire						Engine 21 - Brown-out 100 shifts		$265,000	Suppression Program	Ongoing	Accepted	Accepted
36	Exp	Fire						Overtime Reduction - the final O/T figure needs to be at $1,300,000.		$342,368	Suppression Program	Ongoing	Accepted	Accepted
37	Exp	Fire						Truck 11 Elimination (taken as part of June 2nd, 2009 Accepted Reductions) decrease in Overtime Expense.		$85,000	Suppression Program	Ongoing	Accepted	Accepted
38	Exp	Fire						MCFFA Contract Restructure		$745,000	Suppression Program	Ongoing	Accepted	Accepted
39	Exp	Fire						Worker's Compensation Reimbursement		$123,500	Suppression Program	Ongoing	Accepted	Accepted
40		Fire Total				1.0	4.0		$0	$1,533,397				
41	Exp	Police		Asst. Police Chief		1.0		Full year salary savings for the Asst. Police Chief position.		$269,036	The Department will operate with the Asst. Chief becoming Interim Police Chief. This estimate assumes full year salary savings offset by acting pay for the Asst. Chief.	One-time	Accepted	Accepted
42	Exp	Police		Sr. AOA	X	1.0		Elimination of Sr. AOA assigned as support for the Asst. Chief		$56,720	Support for the Office of the Chief of Police will be reduced. Asst Chief will need to rely on other clerical staff.	Ongoing	Accepted	Accepted

FINANCE COMMITTEE ACCEPTED FY 2009-10 ADDITIONAL GF REDUCTIONS

ATTACHME

	A	B	G	H	J	K	L	M	N	O	P	Q	R	S
1	FY 2009-10 GENERAL FUND ADDITIONAL REDUCTIONS LIST													
2	Category (Rev/Exp)	Dept	If position (list salaries and benefits combined on one line with a object description of 0184 & 0194); If contract svc (list each service); If closing park/pool/recreation areas (list each one/location & every object reduction)	Class Title or Vendor Name	If position is filled, place an X in this column	Full-time Employee	Part-time Employee	Proposed Budget Adjustment (explain in detail service being reduced/deducted)	Increase	Decrease	Program Impact:	Frequency (One Time vs. On-going)	Mayor Accepted/Not Accepted	Finar Comm Accepte Accep
59	Exp	Parks, Recreation and Neighborhoods	0140 = (12,510 + 13,789); 0189 = (2,367); 0260 = (10,898)		X		2.0	Elimination of part time Museum Registrar and part time Rental Coordinator. Reduction in set up services.		$28,666	This reduction will reduce the recording of McHenry Museum pieces. This reduction may reduce the ability to rent out Museum and Mansion spaces and increase the workload for other staff members. Events will take longer to set up.	One-time	Accepted	Accep
60	Exp	Parks, Recreation and Neighborhoods	0140 = (15,000); 0558 = (3,569)					Elimination of Night Swim program. If Night Swim program is eliminated, there is no need for Police Dept. to cover it.		$18,569	Johansen pool would only be open during daylight hours.	One-time	Accepted	Accep
61	Exp	Parks, Recreation and Neighborhoods						Eliminate funding for the Modesto Sister Cities program at the end of the contract		$27,587	The program can be eliminated with a one year notice	One-time	Accepted	Accep
62	Rev	Parks, Recreation and Neighborhoods						Increase impact fee on garbage company to allowed rate of 10.3%	$60,000		This would bring all garbage companies to the same allowable impact fee amount	Ongoing	Accepted	Accep
63		Parks, Recreation and Neighborhoods Total =				0.0	2.0		$60,000	$210,435				
64	Exp	Public Works	Interfund Labor Charges					Eliminate service credit to Public Works Administration		$391	Eliminate service credit contract between Public Works Administration and the Community Forestry Division based on the move of Forestry to the Parks, Recreation and Neighborhoods Department effective 7/1/09.	Ongoing	Accepted	Accep
65	Exp	Public Works	Overtime Paid					Eliminate overtime in Graffiti		$8,000	Eliminates after-hours graffiti removal	On-going	Accepted	Accep
66	Exp	Public Works	Materials					Reduce Graffiti Abatement materials and supplies		$2,000	This action will impact the replacement and repairs of existing sprayers and equipment for graffiti removal.	On-going	Accepted	Accep
		Public Works Total =				0.0	0.0		$0	$10,391				
68	Exp	Building Services	Custodian II Salary and Benefits		X	1.0		Eliminate one custodian at PD		$55,850	Reduction in custodial work at PD	Ongoing	Accepted	Accep
69	Exp	Building Services	Custodial Service Contract with PRIDE					Reduce custodial service levels to general fund buildings		$8,304	Reduction in custodial level of care to general fund buildings	Ongoing	Accepted	Accep
70	Exp	Building Services	Custodial Service Contract with PRIDE					Additional reductions in custodial service levels to general fund building		$4,567	Reduction to custodial work	Ongoing	Accepted	Accep
71		Building Services Total =				1.0	0.0		$0	$68,721				
72	Rev	Information Technology	Information Technology Unit Manager		x			Position (vendor) to pay for five months of salary for Manager to work on CAD	$60,000		Other staff members will need to step up for 5 months during the 5 months employee is assisting with the CAD project	One-time	Accepted	Accep
73	Exp	Information Technology	Maintenance for the IBM AS400 at the City					The old AS400 was replaced and the new unit is covered for the next year for maintenance		$16,228	Previously planned cutover period of redundancy will be eliminated. Based on positive results of installation, staff is willing to recommend acceptance of this risk	Ongoing	Accepted	Accep
74	Exp	Information Technology	Maintenance for the IBM RS6000 at the City					The old RS6000 was replaced and the new unit is covered for the next year for maintenance		$33,500	Previously planned cutover period of redundancy will be eliminated. Based on positive results of installation, staff is willing to recommend acceptance of this risk	Ongoing	Accepted	Accep
75	Exp	Information Technology	3D Aerial Pictometry					Postpone 3D Aerial Pictometry		$28,875	Will need to rely on old images which may miss new changes that have occurred	One-time	Accepted	Accep
76	Exp	Information Technology	Linux Development					Cut remaining Linux development related to General Fund		$10,000	Possible postponement to future Linux "proof of concept" projects.	Ongoing	Accepted	Accep
77	Exp	Information Technology	IBM Box Upgrades					Cut General Fund IBM Upgrades scheduled for the next fiscal year and postpone for one year		$45,000	Systems may run slower and less efficient and if the system were to go down, funding would need to come from the General Fund Reserve to offset the cost	One-time	Accepted	Accep
78	Exp	Information Technology	Network Infrastructure					Cut the General Fund portion of the routers, switches and networking infrastructre		$32,500	If a router, switch or networking infrastructure were to go down funding would need to be obtained by the General Fund Reserves to pay for equipment	One-time	Accepted	Accep
79		Information Technology Total =				0.0	0.0		$60,000	$168,103				
80		Total Accepted Additional Reductions				18.0	6.0		$444,151	$4,905,379				

FINANCE COMMITTEE ACCEPTED FY 2009-10 ADDITIONAL GF REDUCTIONS

ATTACHMENT 1

	A	B	G	H	J	K	L	M	N	O	P	Q	R	S
1	FY 2009-10 GENERAL FUND ADDITIONAL REDUCTIONS LIST													
2	Category (Rev/Exp)	Dept	If position (list salaries and benefits combined on one line with a object description of 0184 & 0194); If contract svc (list each service); If closing park/pool/recreation areas (list each one/location & every object reduction)	Class Title or Vendor Name	If position is filled, place an X in this column	Full-time Employee	Part-time Employee	Proposed Budget Adjustment (explain in detail service being reduced/deducted)	Increase	Decrease	Program Impact:	Frequency (One Time vs. On-going)	Mayor Accepted/Not Accepted	Finance Committee Accepted/Not Accepted
43	Rev	Police		Police Officer				Funding for CalMet Officer assigned to SDEA	$106,943		CalMet funding has been approved for FY10 after being eliminated last year. One officer will be funded 100% from this grant administered by Stanislaus County.	Ongoing	Accepted	Accepted
44	Rev	Police		Sergeant				Total Reimbursement for Sergeant Assigned to SDEA	$96,781		At the May 13, 2009 SDEA Board meeting, approval was given to fund any position assigned to the SDEA 100% for up to three years.	Ongoing	Accepted	Accepted
45	Rev	Police		Crime Analyst				Total Reimbursement for Crime Analyst Assigned to SDEA	$55,455		At the May 13, 2009 SDEA Board meeting, approval was given to fund any position assigned to the SDEA 100% for up to three years.	Ongoing	Accepted	Accepted
46	Rev	Police						New OTS grant that will fund CSO 100% from 10/1/09 to 9/30/10	$46,980		The Office of Traffic Safety has awarded the Modesto Police Department a grant that includes 100% funding of a CSO position. This position had been funded with Buckle Up Stanislaus grant which will end 9/30/09	One-time	Accepted	Accepted
47	Exp	Police						Partial funding of Police Officer assigned to the High Risk Offender program to 12/31/09	$40,000		The High Risk Offender program has been in existence since 2000. We have a commitment for $40,000 reimbursement from the Probation Department up to 12/30/09.	One-time	Accepted	Accepted
48	Exp	Police		Police Officers (9)	x	9.0		Eliminate 9 Police Officer positions.		$900,000	The Department will maintain 100 Police Officers in Patrol and achieve reductions by reducing the number of officers in special assignments such as School Resource Officers, Beat Health, Traffic Unit.	Ongoing	Accepted	Accepted
	Exp	Police		Sergeant (1)	x	1.0		Eliminate one Sergeant position.		$121,528	This will result in a reduction in the Sergeant ranks from 31 to 30. The impact of this reduction will be a greater span of control for the remaining Sergeants and less direct oversight of some of the special assignment programs run by the department. As a result of this, a Sgt. will demote and an officer will be laid-off.	Ongoing	Accepted	Accepted
	Exp	Police		Police Clerk (2)	x	2.0		Eliminate 2 Police Clerks		$103,652	Police management will determine which areas are impacted depending on where other reductions in the department occur.	Ongoing	Accepted	Accepted
51	Exp	Police		Lieutenant (1)	x	1.0		Eliminate one Lieutenant position		$147,511	This will reduce the Lieutenant ranks from ten positions to nine. The reduction will most likely be in the Support Division where two Lts are currently assigned. This will result in a loss of management oversight and more responsibilities moving to the Support Captain on day-to-day issues. There will also be an associated savings since there will be no need for repair/maintenance of one vehicle. As a result of this, a Lt. will demote and an officer will be laid-off.	Ongoing	Accepted	Accepted
52	Exp	Police		Police Community Services Officer (1)	x	1.0		Eliminate one CSO position assigned to Crime Prevention		$61,917	This reduction will eliminate 1 of the 3 positions of the Crime Prevention Unit. This will result in a reduction of crime prevention efforts throughout the city such as Neighborhood Watch and National Night Out activities.	Ongoing	Accepted	Accepted
53	Exp	Police						Increase in parking violation fines from adoption of a new parking citation fine schedule.	$90,000		Adoption of a new parking citation fine schedule by Council on June 2, 2009 allows the City to recover the new costs imposed by the state and county in the form of surcharges for each paid parking citation.	Ongoing	Accepted	Accepted
54		Police Total				13.0	0.0		$446,180	$1,560,544				
55	Rev	Parks, Recreation and Neighborhoods						Fee for Alcohol Permits. 538 per year 468 one time at $10 and 70 for all season at $25.	$6,430		No program impact. This is the permit issued by PRN for which a fee is currently not charged.	Ongoing	Accepted	Accepted
56	Exp	Parks, Recreation and Neighborhoods						Reduction in General Fund subsidy to Centre Plaza. Centre Plaza will replace with funds from the Fund 6700 reserve		$150,000	Centre Plaza building is 20 years old and there are areas of the building that need repair. Repairs will have to be delayed.	One-time	Accepted	Accepted
57	Exp	Parks, Recreation and Neighborhoods						Reduction in General Fund subsidy to Centre Plaza. Elimination of Booking Assistant 1000 hr employee.		$19,675	This reduction will slow the ability to rent out Centre Plaza and increase the workload for other staff members	One-time	Accepted	Accepted
58	Exp	Parks, Recreation and Neighborhoods						Elimination of Grover Landscaping contract and watering at Parkettes.		$44,958	Parkettes sites will not be tended, trash will accumulate, sites will be brown, etc.	One-time	Accepted	Accepted

MODESTO CITY COUNCIL / MODESTO REDEVELOPMENT AGENCY
RESOLUTION NO. 15-2009

A JOINT RESOLUTION OF THE CITY COUNCIL AND REDEVELOPMENT AGENCY OF THE CITY OF MODESTO AUTHORIZING THE CITY ATTORNEY/REDEVELOPMENT AGENCY GENERAL COUNSEL TO COOPERATE WITH THE LEAGUE OF CALIFORNIA CITIES, THE CALIFORNIA REDEVELOPMENT ASSOCIATION, OTHER CITIES AND COUNTIES IN LITIGATION CHALLENGING THE CONSTITUTIONALITY OF ANY SEIZURE BY STATE GOVERNMENT OF THE CITY'S STREET MAINTENANCE AND REDEVELOPMENT FUNDS

WHEREAS, the current economic crisis has placed the City of Modesto and other cities under incredible financial pressure and caused them to make painful budget cuts, including layoffs and furloughs of City workers, decreasing maintenance and operations of public facilities, and reductions in direct services to keep spending in line with declining revenues, and

WHEREAS, since the early 1990s the State Government of California has seized over $10 billion of City property tax revenues statewide, now amounting to over $900 million each year, to fund the State Budget even after deducting public safety program payments to cities by the state, and

WHEREAS, on April 30, 2009, in the case of *CRA v. Genest*, the Sacramento Superior Court found similar efforts by the State to seize redevelopment tax increment for the state general fund to be in direct violation of Article XVI, Section 16 of the State Constitution, added by the voters in 1952 as Proposition 18, which requires that tax increment be used exclusively for the benefit of redevelopment project areas; and

WHEREAS, since the early 1990s the state government also has seized $ 1.04 billion of redevelopment tax increment statewide, and the Governor and Legislature are

now considering seizing $350 million each year for three years, beginning in the current fiscal year; and

WHEREAS, in the State of California's proposed FY 2009-10 Budget, the Governor has proposed transferring $1 billion of local gas taxes and weight fees to the State General Fund to balance the State Budget, and over $700 million in local gas taxes permanently in future years, immediately jeopardizing the ability of the City to maintain its Surface Transportation Program, which consists of street maintenance operations, traffic operations and electrical operations, traffic engineering, forestry cycle pruning, curb, gutter, and sidewalk repair, Capital Improvement Program projects for streets, and related traffic safety facilities for the use of the motoring public, and

WHEREAS, the loss of almost all of the City's gas tax funds will seriously compromise the City's ability to perform critical traffic safety-related street maintenance, including, but not limited to, drastically curtailing patching, resurfacing, street lighting/traffic signal maintenance, payment of electricity costs for street lights and signals, bridge maintenance and repair, street trees and cycle pruning, sidewalk and curb ramp maintenance and repair, and more, and

WHEREAS, some cities report to the League of California Cities that they will be forced to eliminate part or all of their street maintenance operations while others will be forced to cut back in other areas (including public safety staffing levels) to use city general funds for basic street repair and maintenance. Furthermore, there is a serious concern about significant impacts, including increased traffic accidents and injuries and the potential for additional liability that could result due to deferred maintenance of streets should these funds be lost, and

WHEREAS, in both Proposition 5 in 1974 and Proposition 2 in 1998 the voters of our state overwhelmingly imposed restriction on the state's ability to do what the Governor has proposed, and any effort to permanently divert the local share of the gas tax would violate the State Constitution and the will of the voters; and

WHEREAS, cities and counties maintain 81% of the state road network while the state directly maintains just 8%, and

WHEREAS, ongoing street maintenance is a significant public safety concern. Lack of proper maintenance of street pavement (potholes filling, sealing, overlays, etc.), traffic signals, signs, and street lights can have a direct correlation to traffic accidents, injuries, and deaths, and

WHEREAS, according to a recent statewide needs assessment[1] on a scale of zero (failed) to 100 (excellent), the statewide average pavement condition index (PCI) is 68, or "at risk." Local streets and roads will fall to "poor" condition (Score of 48) by 2033 based on existing funding levels available to cities and counties.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL AND THE REDEVELOPMENT AGENCY OF THE CITY OF MODESTO hereby directs the City Attorney/Redevelopment Agency General Counsel to take all necessary steps to cooperate with the League of California Cities, California Redevelopment Association, other cities, counties and redevelopment agencies in supporting litigation against the state of California if the legislature enacts and the governor signs into law legislation that unconstitutionally diverts the redevelopment tax increment and the City's share of

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[1] *California Statewide Local Streets and Roads Needs Assessment*, Nichols Consulting Engineers, Chtd. (2008), sponsored by the League of California Cities, California State Association of Counties and County Engineers Association of California.

funding from the Highway Users Tax Account (HUTA), also known as the "gas tax," to fund the state general fund; and

BE IT RESOLVED FURTHER, that the city manager/agency executive director or clerk shall send this resolution with an accompanying letter from the mayor/agency chair to the Governor and each of the city's state legislators, informing them in the clearest of terms of the City's adamant resolve to oppose any effort to frustrate the will of the electorate as expressed in Proposition 18 (1952), Proposition 5 (1974) and Proposition 2 (1998) concerning the proper use and allocation of the redevelopment tax increment and the gas tax; and

BE IT FURTHER RESOLVED, that a copy of this Resolution shall be sent by the City Clerk to the League of California Cities, the California Redevelopment Association, the Modesto Chamber of Commerce, and other community groups whose members are affected by this proposal to divert funds from vital local services and projects.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto and the Redevelopment Agency held on the 23rd day of June, 2009, by Councilmember/Agency member Hawn, who moved its adoption, which motion being duly seconded by Councilmember/Agency member Lopez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers/Agency members: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers/Agency members: None

ABSENT: Councilmembers/Agency members: None

ATTEST: _____
STEPHANIE LOPEZ
City Clerk / Agency Secretary

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD
City Attorney/Agency General Counsel

BE IT FURTHER RESOLVED that no General Fund loan is needed for Fiscal Year 2009-2010.

BE IT FURTHER RESOLVED that for the purpose of assisting with business park development, funds shall be transferred into the existing Capital Improvement Project Account – Kansas Woodland Business Park Land Q243 for the budgeted amount of $170,000 from Account No. 9020-120-DS92.

BE IT FURTHER RESOLVED that for the purpose of assisting with an affordable housing project(s), funds shall be transferred into the existing Capital Improvement Project Account – Affordable Housing Projects Q244 for the budgeted amount of $961,169 from Account No. 9060-140-1491.

BE IT FURTHER RESOLVED that the Treasurer is hereby authorized to take the necessary steps to implement the provisions of this resolution.

BE IT FURTHER RESOLVED that the budgetary control and authority policy defined in **Exhibit "B"**, which is **attached** hereto and made a part hereof by this reference, is hereby adopted for the Fiscal Year 2009-2010.

The foregoing resolution was introduced at a special meeting of the Redevelopment Agency of the City of Modesto, held on the 23rd day of June, 2009, by Agency Member Lopez, who moved its adoption, which motion being duly seconded by Agency Member Marsh, was upon roll call carried and the resolution adopted by the following votes:

AYES:	Agency Members:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Agency Members:	None
ABSENT:	Agency Members:	None

ATTEST: _____
STEPHANIE LOPEZ, Agency Secretary

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, General Counsel

REDEVELOPMENT AGENCY
RESOLUTION NO. 16-2009

A RESOLUTION ADOPTING THE ANNUAL REDEVELOPMENT AGENCY OPERATING AND CAPITAL IMPROVEMENT (CIP) BUDGET FOR THE FISCAL YEAR ENDING JUNE 30, 2010

WHEREAS, pursuant to Health & Safety Code Section 33606, a proposed budget for the 2009-2010 Fiscal Year has been submitted to the Redevelopment Agency by the Executive Director, and the Redevelopment Agency has made such revisions as it has deemed advisable and is **attached** hereto as **Exhibit "A"** and made a part hereof by this reference, and

WHEREAS, the proposed budget was reviewed by the Finance Committee on June 22, 2009, and the Committee recommended the budget to the Agency for approval which approval includes, but is not limited to, the following specific recommendations more particularly described in the Budget Summary located on Page 11 of the budget document:

A. The Tax Increment revenues for FY 09-10 are budgeted in the amount of $5,868,000 and will be allocated between the following funds in the amount stated:

    a. Debt Service Fund 9020 (Debt Service) - $3,288,499

    b. Debt Service Fund 9020 (Pass-throughs) - $1,136,499

    c. Administration Fund 9050 - $154,795

    d. Housing Set-Aside Fund 9060 - $1,173,600

    e. RDA Projects Fund 9080 - $114,607

B. No General Fund loan is needed for Fiscal Year 2009-2010

C. Transfer funds into the existing Capital Improvement Project Account – Kansas Woodland Business Park Land Q243 for the purpose of assisting with business park development for the budgeted amount of $170,000 from Account No. 9020-120-DS92

D. Transfer funds into the existing Capital Improvement Project Account – Affordable Housing Projects Q244 for the purpose of assisting with an affordable housing project(s) for the budgeted amount of $961,169 from Account No. 9060-140-1491

WHEREAS, the Citizens Redevelopment Advisory Commission reviewed the proposed budget on May 28, 2008, and recommended its adoption, and

WHEREAS, in accordance with Health & Safety Code Section 33606, a public hearing was held on June 23, 2009 to review the proposed Agency budget and allow for public comment, and

WHEREAS, copies of the proposed budget have been and are available for inspection by the public at the office of the Agency Secretary, and

WHEREAS, the Agency has reviewed the budgetary control and authority policy report prepared by staff,

NOW, THEREFORE, BE IT RESOLVED by the Redevelopment Agency of the City of Modesto that the Operating and Capital Improvement Budget for the Fiscal Year ending June 30, 2010 is hereby adopted.

BE IT FURTHER RESOLVED that the Tax Increment Revenues for FY 09-10 budgeted in the amount of $5,868,000 shall be allocated between the Agency funds as set forth in said budget document and this resolution.

ModestoRedevelopmentAgency

Proposed Budget

Fiscal Year 2009-10

1010 Tenth Street, Suite 3300
PO Box 642
Modesto, CA 95353-0642
209.571.5111
Fax 209.491.5798
Email rda@modestogov.com

June 23, 2009

To: Chair and Members of the Modesto Redevelopment Agency

I am very pleased to present the Agency with the Modesto Redevelopment Agency budget for Fiscal Year 2009-2010. In accordance with State Health & Safety Code Section 33606 et seq., the Agency's FY 09-10 budget includes the following:

(1) The proposed expenditures of the Agency, including administrative expenses
(2) The proposed indebtedness of the Agency
(3) The anticipated revenues of the Agency
(4) The proposed work program for Fiscal Year 2009-2010, including goals
(5) A review of FY 2008-2009 achievements and a comparison of these achievements with the goals set by the Agency in FY 2007-2008

We have provided the Agency with a budget that accurately reflects Redevelopment Law and details the requirements for each fund within the Agency budget. The Agency budget document is organized into three major sections: (1) Agency History, Work Program, Accomplishments and Future Plans; (2) Proposed Agency budget for FY 2009-2010; and (3) Capital Improvement Project Programs. These sections define each of the Agency's projects and detail the corresponding funds needed to complete these projects. The enclosed Executive Summary outlines the overall revenues, expenditures and projects.

A summary financial Proforma detailing the revenue and expenditures for Fiscal Year 2009-2010 is shown on Page 11. I would like to identify some key elements of this year's Agency budget. First, because of the decline in property values throughout the Project Area, the tax increment is not expected to increase as it has every year since 1983. Rather, the estimated gross revenue of $5,868,000 represents a 10% decline from the initial projections for FY 2008-2009 and is consistent with the revenue received. The Agency's revenues will not exceed operating costs in FY 2009-2010.

Secondly, because of the uncertainty of both the Agency's revenue projections, the proposed Proforma **does not** include funding for three additional obligations as follows:

1. The Agency has an outstanding loan from the City of Modesto General Fund in the current principal amount of $20,476,000. The proposed FY 09-10 budget does not include a loan repayment, but it does include a repayment schedule proposed to begin in FY 14-15. (Page 12)

2. During FY 2008-2009, the State budget mandated an Educational Revenue Augmentation Fund ("ERAF") payment of $414,522. In addition, there was a revenue shortfall in the debt service fund. In order to pay the ERAF expense and to remedy the debt shortfall, the Agency approved a $930,000 loan from the Housing Fund (Fund 9060) to the Agency's Debt Service Fund (DS92). The proposed FY 09-10 budget includes a loan repayment amount of $103,096 with a 5-year repayment schedule of $103,096 for each additional fiscal year. At this time, the Sacramento Superior Court ruled to invalidate and enjoin the operation of Health and Safety Code section 33875, stopping all ERAF payments to the State.

3. In March 2009, the Agency staff determined that there is an Excess Surplus of funds remaining within the Housing Fund, which is a violation of redevelopment law. This Excess Surplus is required to be spent within 3 years from the date the funds became legally surplus. In order to remedy this violation, $299,145 in additional funds must be spent from General Tax Increment Revenues (***not*** Housing Fund Revenues). These additional funds must be spent prior to June 30, 2009 on an eligible affordable housing project. At the time of printing, staff is reviewing the calculation of the excess surplus to verify the penalty amount.

The difficult economic times will impact the Redevelopment Agency revenues as well as our ability to develop new projects. It is our goal to maintain as many programs and projects as possible during the next fiscal year.

Sincerely,

Greg Nyhoff

Greg Nyhoff
RDA Executive Director

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Executive Summary

The Modesto Redevelopment Agency was formed to eliminate the amount of physical and economic blight in Modesto's downtown, as well as areas west of State Route 99 and along Scenic Drive. Since 1983, the Agency has accomplished many of the strategies set forth in the Implementation Plan, which is the framework used to guide the Agency's activities.

The Agency budget for FY2009-10 is outlined below.

• REVENUES •

The estimated gross tax increment for FY 2009-10 is $5,868,000, which is equivalent to the gross tax increment received for FY2008-09. Due to a decrease in property value and a slowdown in construction within the Project Area, the estimated revenue will remain static from the previous fiscal year. In addition, the Agency will receive approximately $239,860 in miscellaneous revenue from property leases and interest from funds within the RDA reserves. In addition, we anticipate carry over reserves in three funds, $19,174 in fund 9050; $414,522 in fund 9060 and $93,181 in fund 9080. From the gross revenue of $5,868,000 (including reserves), we deduct the following non-discretionary, statutory payments:

1. $1,136,499 - Tax revenue pass-throughs to outside agencies
2. $1,173,600 - 20% revenue transfer to the Housing Set-aside fund
3. $ 105,624 - County administrative expenses

After these deductions, it is estimated that the Agency will net approximately $3,452,277.

• EXPENDITURES •

For annual debt service, approximately $2.93M is budgeted for FY 2009-10. For staff services, approximately $363,084 is budgeted and is shown in the form of service credits from the Agency to the City. The Agency does not employ staff. Instead, the Agency provides service credits to certain City staff for needed services including legal, financial and administrative.

In addition, approximately $206,380 is budgeted for administrative costs and contracts with outside service providers including McDonough, Holland and Allen for legal review and Keyser-Marston for financial review of prospective developments. Urban master planning is also funded from Account 9080 for changes to land uses within the Project Area.

The beginning budget funding within the Capital Improvement Project fund, before adding new revenues, totals approximately $7.38M. Additional revenue is anticipated in the amount of $1,131,169 to total $8.514M. The Agency will be using these funds to assist in developing a mixed-use project in the Downtown as well as for several other proposed Area projects. The Housing Set-aside fund is expected to receive approximately $1.355M in tax increment and interest on cash balances for FY 09-10. Several affordable housing projects are under consideration, including Archway Commons on N. 9th Street, Tower Park at 17th and G Sts and the Downey Avenue Senior Housing Project. The Agency will combine their housing funds with Community Development Block Grant Funds and HOME funds to maximize the financial leverage.

• FY 2009-10 WORK PROGRAM •

The Agency has identified the following projects and programs for FY 2009-2010. For detailed descriptions and objectives of the Capital Improvement Project (CIP) accounts, please refer to the Capital Improvement Project section in this budget document.

Total CIP: $8,513,656. See CIP Section for details.

Executive Summary

(cont.)

Project 1:	Affordable Housing Projects	Start Date:	Pending	Est. Comp.:	Pending
Status:	Projects under review				
Details:	Please refer to the description included in the Capital Improvement Program Section of this Budget				

Project 2:	Kansas-Woodland Business Park	Start Date:	2002	Est. Construction Start:	Fall 2011
Status:	Purchasing the property				
Details:	Please refer to the description included in the Capital Improvement Program Section of this Budget				

Project 3:	Mixed-Use Project - 10th & H Streets	Est. Start:	June 2010	Est. Comp.:	Jan 2012
Status:	Negotiating Development Agreement				
Details:	This Mixed-use Project is intended to meet several Agency objectives, including: (1) Add covered public parking; (2) Add retail space; (3) Add office space; and (4) Add market-rate residential. The proximity of this project to existing destinations is critical to its success. The Gallo Center for the Arts is directly across 10th Street and the main theater and restaurant district is within one block of this location. The Agency owns four (4) parcels of land at the southwest corner of 10th & H Streets, which is the Project Site. The Agency Board distributed a Request for Proposal (RFP) to solicit a public-private partnership for the development of a high-quality, Mixed-Use Project on this 31,500 square-foot Site. The Agency selected a developer ("Team Modesto") for this project and entered into an Agreement to Negotiate Exclusively with Team Modesto. The goal is to deliver the desired development and provide for the redevelopment of this critical corner property. Team Modesto has negotiated with the Agency to expand the project to include the east side of the block between 9th & 10th Streets and G & H Streets. It is the Agency's desire to partner with Team Modesto, negotiate an acceptable development agreement (including a detailed scope of development and respective responsibilities of both the Agency and the Developer), determine financing needs and details, and complete project clearance and development within a two-year period ending Summer 2010. The Agency may consider several funding options that may include streetscape construction and assistance with parking.				

Project 4:	Public Parking Garages in Downtown Area	Est. Start:	Pending	Est. Comp.:	Pending
Status:	Projects under review				
Details:	Parking within the Downtown Area is in extremely short supply. This project is intended to meet the Agency objective of providing needed infrastructure to support the variety of uses within the Downtown Core, including propsed residential, commercial and entertainment. As part of the Gallo Center for the Arts, a new parking garage was constructed at 12th & I Streets which included an adjacent office building. In conjunction with this project, the Agency provided funding for the private sector portion of the office building, specifically for annual funding for public parking spaces. The Agency staff is working with private sector developers to identify additional sites for public parking garages. There is a severe parking shortage in the downtown and the Agency will continue to utilize partnerships to develop additional spaces to meet the growing demand.				

Executive Summary
(cont.)

Project 5:	Implement amendments to the City of Modesto Zoning Code to encourage mixed-use development in the Downtown Core	Est. Start:	Jan 2009	Est. Comp.:	Dec 2009
Status:	Completion of the Mixed Use Zone is anticipated for Dec. 2009				
Details:	The RDA intends to encourage mixed-use development by working with the City of Modesto to create and adopt a Downtown Core Mixed-Use zone as part of a specific area plan for the Downtown Core. A mixed use zone can allow the City to adopt more comprehensive and detailed development standards that could help to foster a human-scaled, pedestrian-oriented environment. The mixed use zone should include design guidelines that should address, at minimum, specifications for setbacks, building massing, signage, street furniture, lighting, and landscaping. Application of new development standards should dictate that the Downtown Core will include the highest residential densities and the greatest intensity of land uses in the city.				

Project 6:	Conduct a Land Use & Business Survey on Carpenter Road, including Modesto Junior college West	Est. Start:	May 2009	Est. Comp.:	Dec 2009
Status:	Activity on this project is dependent upon available funding				
Details:	The Agency intends to initiate several steps to foster the development of the Carpenter Road Corridor as a cohesive commercial corridor with mutually supporting uses. The preponderance of home improvement businesses on North Carpenter Road suggests that this market niche could be expanded. The Agency will conduct a land use survey of North Carpenter Road to determine what types of businesses are present. In addition, business owners will be surveyed to determine what type of new development they believe would complement and support existing development. These surveys will help to determine whether there is an adequate cluster of businesses that warrants further recruitment in a particular niche, such as home improvement. If so, the Agency could actively target new development that expands this niche.				

Project 7:	Implement streetscape improvements on 10th Street, from J Street to the Tuolumne River	Est. Start:	Sept 2009	Est. Comp.:	June 2011
Status:	Activity on this project is dependent upon available funding				
Details:	Produce a Design Plan for implementation of streetscape improvements on 10th Street, from J Street to the Tuolumne River. The ultimate goal is to have a Plan in place that can be used as a partnership document between the Agency and private sector developers. A companion goal is to use the Plan to receive and target future funding. The streetscape will promote shade, walkability, and public gathering places. Streetscape improvements will be designed to fit the context of the block as well as the street. The Plan will also consider the installation of traffic calming measures on I Street, particularly at the intersections of 10th and I Streets, to promote pedestrian access and safety.				

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Why Have Redevelopment?

The purpose of forming a Redevelopment Agency is to eliminate physical and economic blight in a specific area of a community. The State of California enacted the Redevelopment Law for the specific purpose of assisting cities and counties in breathing new life into those targeted areas of cities that had fallen into economic and physical ruin. The heart of Modesto, our downtown, was one of those targeted areas. Modestans remember what the downtown was like before 1999. Back then, many were hesitant to walk alone in certain areas of the downtown because of the vacant buildings and seedy areas that seemed to be everywhere.

The only way to bring a blighted area to life is to attract private investment dollars to rebuild and redevelop the blighted properties. But, as one can imagine, investors are not anxious to put money into a dilapidated area with high risk and a very low rate of return. Understanding this, a Redevelopment Agency is formed for the specific purpose of providing a small amount of public funding to encourage investors to make a commitment within a blighted area. The Redevelopment Agency is given the role of using minimal public funds to leverage a much larger amount of private investment dollars to transform the blighted area from high risk to high activity --- which is what we have done with the new Tenth Street Place and other projects within the Redevelopment Project Area.

There are two key points to understand about a Redevelopment Agency. ***First, the Agency is a distinct political body that is totally separate from the City.*** In some cities, such as San Jose, the redevelopment agency is a separate board with separate offices and staff. In Modesto, as in many other California cities, the City Council agreed to become the Agency board. This provides a cost savings to the Agency since the same offices and staff are used for both the City and the Agency. But, while it is a cost savings, it can be confusing. It is important to remember that the Agency and the City are separate agencies with separate laws, separate budgets and separate funding sources.

The second key factor is the source of funding for the Redevelopment Agency. The funds for redevelopment come from the property taxes of only those properties within the Redevelopment Project Area. The Redevelopment Project Area was established by law when the Redevelopment Agency was formed and it includes the downtown and areas along Carpenter Road, Paradise Road and Scenic Drive. The Agency receives a specified percentage of the property taxes as properties are improved and then incurs debt by reinvesting this money back into the Project Area to improve even more properties. Again, the goal is to leverage a small amount of public funds with private investment dollars to redevelop the Project Area before the Agency is terminated. The Agency can operate for 40 years and then there is an additional 10 years to pay off all debt. For Modesto, the Agency will terminate in November 2031 and all debt will be paid by November 2041.

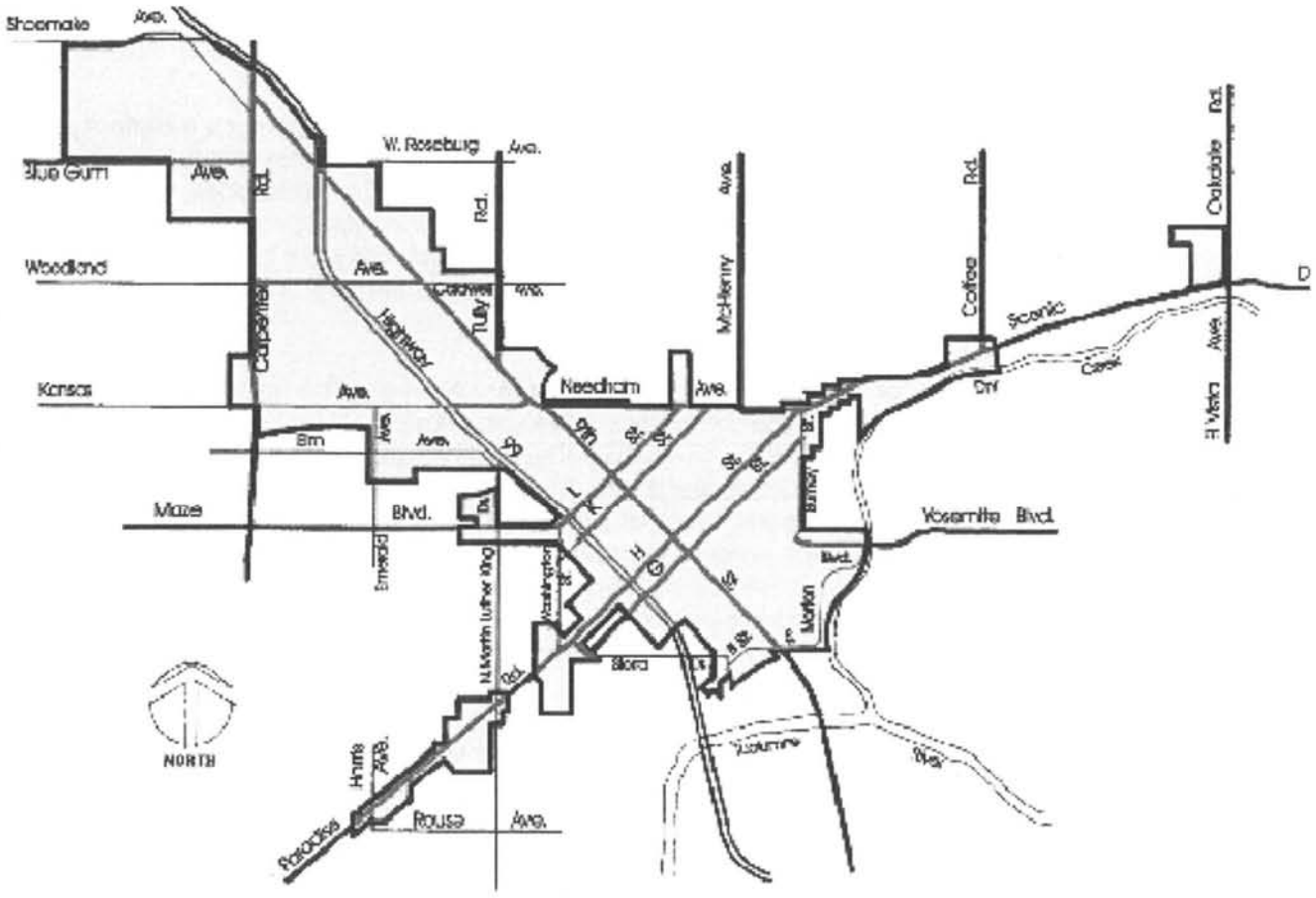
State law allows a redevelopment agency to invest in very specific uses. For example, a redevelopment agency cannot build a new city hall nor can they use the funds for operation or maintenance of any private or government-owned facility. The Redevelopment Agency can invest in many types of private projects including office buildings, parking garages and retail centers within the Project Area. For example, Modesto's Agency has partnered with the private sector to construct Tenth Street Place and two new office buildings on Tenth Street and 12th Street. Also, the Agency has joined with the private sector and Stanislaus County to construct the Gallo Center for the Arts. This Center will not only provide a benefit to the downtown but it will also increase the assessed value of the properties in the Project Area that, in turn, will increase the assessed property value. When the assessed value goes up, the taxes go up which means there is more money for the Agency to repay the debt they

Why Have Redevelopment?

(cont.)

have incurred and contribute towards future projects. This is a perfect example of the redevelopment funding cycle and the role of redevelopment in a community.

Redevelopment has been an important and successful tool in renovating many cities. In Modesto, we think that it has been the main reason for attracting new investors into the downtown and for creating alliances between the City and the County to provide better services for our citizens in a central location. Also, we have added entertainment destinations in the downtown along with restaurants and new retail stores. All in all, redevelopment is performing its job well here in Modesto. Beyond the projects now under construction, housing is another objective for the Redevelopment Agency and we expect to see new housing projects starting within the next year.



Implementation Plan

The Redevelopment Agency's goal is to eliminate blighting influences and stimulate new private and public investment in the Redevelopment Area. The Agency can help to stimulate investment through land assembly, construction of upgraded public improvements, incentive programs for building renovation, participation in catalyst projects aimed at spurring other complementary private investments, and expenditure of its low and moderate income housing funds for development of affordable housing.

To create a framework to guide the Agency's activities, the Agency has adopted a Vision and an Implementation Plan.

• Goals •

This Plan was approved in December 2005 for the period of 2005-2009.

• The Vision •

- Modesto's parks, plazas, and greenways contribute to a public realm that provides an attractive, inviting "Oasis in the Valley."
- Modesto's unique history and character are preserved to make the city a pleasant place to live, and are actively promoted to attract new investment.
- The downtown is a vibrant mixed-use area with an established residential element.
- Transportation opportunities are multi-modal and well-connected throughout the Redevelopment Area, city, and region.

1. Create a unique and recognizable image for Modesto and use it to strenuously promote the City.
2. Promote the economic viability of the Redevelopment Area by attracting new development.
3. Implement higher density, mixed-use development to create a balanced, vibrant downtown and active neighborhood centers.
4. Provide the rationale and impetus for the City to update its development standards to support the goals identified in this document.
5. Develop a variety of housing types in the Redevelopment Area, including affordable housing, particularly in the downtown, to act as a catalyst for other types of development.
6. Enhance the visual appeal of Modesto's public spaces by upgrading existing parks, plazas, and streets, and by creating new parks and plazas that offer public access.
7. Develop historic I and 10th Streets as an attractive, pedestrian-oriented zone. Create a clear sense of arrival at Modesto's downtown by enhancing the 6th and I Street Gateway and the intersection of I and 10th Streets.
8. Promote efficient automobile, bicycle, and pedestrian circulation and linkages into and through the Redevelopment Area.

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Agency Achievements

Completed Projects

- Modesto Centre Plaza
- DoubleTree Hotel
- 9th Street Garage

- Gallo Center for the Arts
- City Towers Offices
- Renaissance Office & Garage

- Affordable Housing
  - Gateway
  - Ashwood Village
  - Woodstone
  - Dan West Court
  - Town Center

- Master Plan and EIR
- Facade Grants
- Wayfinding Signage

- Tenth Street Place
  - Parking Garage
  - Brenden Theatres
  - First Floor Retail

- Shopping Center on Paradise Road

FY 2007 - 2008 Project Goals

- Amend Zoning Code to create Downtown Mixed-Use Zoning Plan:
  - Completion Date: 12/09
- Kansas-Woodland Business Park - Approval of Parcel Acquisition:
  - Completion Date: 12/08
- 10th & H Street Mixed-Use Project: CEQA Review and Planned Development Zone Application
  - Completion Date: 06/09
- Affordable Housing Projects:
  1. Archway Commons - Agency funding of parcel acquisition
     - Completion Date: 01/09
  2. Plan Valley Apartments - Agency funding of handicapped unit
     - Completion Date: 11/08
  3. Downey Avenue Senior Housing - Agency funding of land assembly and related items
     - Completion Date: 06/09
- Downtown Parking Garage: Create parking garage plan in conjunction with private projects
  - Completion Date: 06/09

FY 2008- 2009 Goals Achieved

- Amend Zoning Code to create Downtown Mixed-Use Zoning Plan:
  - Projected Completion Date: 12/09
- Kansas-Woodland Business Park - Approval of Parcel Acquisition:
  - Projected Completion Date: 09/09
- 10th & H Street Mixed-Use Project: CEQA Review and Planned Development Zone Application
  - Projected Completion Date: 06/09
- Affordable Housing Projects:
  1. Archway Commons - Agency funding of parcel acquisition
     - Completion Date: 06/09
  2. Town Center - Agency funding of affordable units
     - Completion Date: 10/08
  3. Palm Valley Apartments - Agency funding of handicapped unit
     - Completion Date: 05/09
  4. Downey Avenue Senior Housing - Agency funding of land assembly and related items
     - Completion Date: 06/09
- Downtown Parking Garage: Create parking garage plan in conjunction with private projects
  - Projected Completion Date: 06/10

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FY2009-10		Debt Service 9020	Administration 9050	Housing Set-aside 9060	Project Plan 9080
Estimated Beginning Working Capital(1)	$		19,174	414,522	93,181
Adjusted Reserves	$		19,174	414,522	93,181
Bond Reserve Fund (COPS) (2)	$	1,977,050			
Revenues		**Projected Total TI: $ 5,868,000**			
TI - Revenue Received	$	3,288,499	154,795	1,173,600	114,607
TI for Pass-thrus (3)	$	1,136,499			
Interest (4)	$	40,000	2,000	50,000	10,000
Miscellaneous - Mobile Home Assistance	$	-		28,000	
Loan Repayment from Fund 9020	$			103,096	
Leases (5)	$	109,860			
Total	$	4,574,858	175,969	1,769,218	217,788
Expenditures:					
9th Street Garage Lease (6)	$	1,954,017			
Debt - Tenth Street Place Bond - 2007 Re-fi: (7)	$	980,676			
County Administrative Costs (8)	$	79,650	2,786	21,125	2,063
Administration	$				
Professional and Admin Services	$		69,174	33,502	103,704
Staff/Service Credits (9)	$	34,669	104,009	112,385	112,021
City Internal Cost Allocations	$	29,467		1,144	
Pass-thrus	$	1,136,499			
TI Rebate - Renaissance Project (10)	$	86,784			
ERAF - (Estimate)	$				
Refund loan to Fund 9060	$				
Loan Repayment to Fund 9060	$	103,096			
Loan Repayment - City General Fund	$			50,000	
Mobile Home Rental Assistance	$			56,000	
Transfer Out: Housing CIP's	$			961,169	
Transfer Out: KWBP Land - Q243	$	170,000			
Total	$	4,574,858	175,969	1,235,325	217,788
Available Working Capital	$			533,893	
Transfer to Reserves	$			533,893	
MULTI-YEAR BUDGETS RDA CIP Budget:		Beginning Budget	Transfers In	(Transfers Out)	Anticipated Expenditures
KWBP Land - Q243 (Fund 9080)	$	507,928	170,000		677,928
KWBP Plan - Q246 (Fund 9080)	$	559			559
Public Improvement - K732 (Fund 9080)	$				
Downtown Cameras - K002 (Fund 9080)	$	259,000			259,000
Housing - Q244 (Fund 9060)	$	15,000	961,169		976,169
Archway Commons - K743 (Fund 9060)	$	5,250,000			5,250,000
Palm Valley - K745 (Fund 9060)	$	830,000			830,000
Downey Avenue - K746 (Fund 9060)	$	520,000			520,000
Developer Funded Projects		Beginning Budget (Developer Funds)			Anticipated Expenditures
10th & H Mixed Use - 9080 - 1494	$	1,755			1,755
Archway Commons - 9060 - 1495	$	73,150			73,150
KWBP - TT Modesto - 9080 - 1496	$	1,000			1,000

1. Distribution of Ending Working Capital from FY 08-09
2. 1993 Certificates of Participation (COPS) - Trustee requires set aside of the Reserve Requirement
3. Estimated projections for annual Pass-Through costs provided by Keyser-Marston, Inc
4. Interest is estimated based on cash balances
5. Lease for First Floor Retail of Tenth Street Place Project
6. Includes $6500 Trustee Fee; See Reimbursement Agreement for Agency to City reimbursement
7. Includes $1015 Trustee Fee
8. County Administration Costs projected at 1.8% of Gross TI Revenues per Fund
9. Operating duties are performed by City staff and paid per Service Credits
10. Agreement with developer of Renaissance Project for rebate of tax increment of $86,784

Repayment Schedules

Repayment Schedules for Agency Loans

• Repayment Schedule for Loans from Housing Fund 9060 •

Fiscal Year	Payment
2009 - 2010	$103,096
2010 - 2011	$103,096
2011 - 2012	$103,096
2012 - 2013	$103,096
2013 - 2014	$103,096
Total Principal:	$515,478

• Repayment Schedule for City Loan to Redevelopment Agency •

Recommended Criteria

1. Minimum of $1M in Net Revenue required in a given FY before loan repayment is considered for that FY

2. If Net TI equals $1M in a given FY, then minimum annual repayment is $100K or set 10%, whichever is greater

3. The last 10 years of Net TI (2032 - 2042) will go entirely to loan repayment to ensure that loan is not repaid before 2042

Projection: First Year of Repayment is FY 14-15 (Estimate)

Redevelopment FAQ

1. The Redevelopment Agency of the City of Modesto is commonly referred to as the "RDA" or the "Agency". You will see these references used in many reports and budget documents related to the Redevelopment Agency.

2. The primary source of revenue to the Agency comes from Tax Increment funding. This is funding that is generated from new development within the RDA Project Area. As each parcel is developed, the property taxes increase. A designated portion of these increased taxes flows to the Agency to promote more new development within the Project Area.

3. Another source of revenue to the Agency is property lease revenue. Currently, the Agency is receiving monthly lease payments from the retail shops located on the First Floor of the City-County Government Building located at 1010 Tenth Street within the Tenth Street Place project.

4. A smaller source of revenue to the Agency is the interest earned on each account through investments made by the Agency's Treasurer.

5. The Agency does not hire staff independently. As is common in California, the Agency pays City staff to provide the day-to-day work for the Agency. This City staff work is paid for through the use of service credits between the Agency and the City, reimbursing the City for each hour spent providing Agency work. In addition, the Agency contracts with private professional firms who provide a variety of services, from legal review to property appraisal.

6. The Bond Reserve Fund of $1,977,050 is included in the RDA's budget as part of the legal requirements for the Modesto Centre Plaza Certificates of Participation ("COPs"). The COPs is the type of bonding mechanism that was used to fund the Modesto Centre Plaza. The Bond Trustee requires the RDA to maintain a specific account including one (1) year of payment for the on-going debt. This Reserve Fund will no longer be maintained once the debt is paid in full.

7. Stanislaus County charges the Agency for processing the property tax revenue each year. This Administration charge is estimated at 1.8% of the total revenue collected and is shown under County Administration Costs in the Agency's budget.

8. Stanislaus County collects property taxes on all parcels throughout the RDA Project Area. Generally, parcels owned by the Agency do not pay property taxes. However, when the Agency leases a parcel and/or building to a private company, then there is a required property tax collected called a "Possessory Interest Tax".

   This is the case for the 9th Street Garage, between K Street and L Street. The Agency owns the garage and leases it to the City of Modesto for use in downtown parking. The City, in turn, sub-leases a large portion of the garage to the Doubletree Hotel for their private customers. The Doubletree Hotel is located just across 9th Street from the garage and the two structures are connected by way of a pedestrian bridge. The use of the garage by this private business creates a Possessory Interest Tax. As required by the Lease between the Agency and the City, the City pays any Possessory Interest Tax that is due as a result of this private use.

Debt Service

9020-DS92

Revenue	Actual 2008	Adopted 2009	Estimated 2009	Proposed 2010
Tax Increment	$ 2,329,322	$ 2,994,710	$ 2,580,822	$ 3,288,499
Tax Increment/Pass-thrus	$ 1,115,992	$ 1,259,000	$ 1,259,000	$ 1,136,499
(Less ERAF)	$	$	$	$ 0
Interest	$ 238,020	$ 200,000	$ 65,000	$ 40,000
Misc	$	$	$	$
Leases	$ 108,550	$ 108,550	$ 108,550	$ 109,860
General Fund Loan	$	$	$	$
Transfer In from 9050 (Administration)	$ 191,962	$	$	$
Transfer in from 9080 (Project Plan)	$ 728,471	$	$	$
Total Source of Funds	**$ 4,712,317**	**$ 4,562,260**	**$ 4,013,372**	**$ 4,574,858**
Expenditures				
Debt - Centre Plaza	$ 1,949,925	$ 1,954,318	$ 1,954,318	$ 1,954,017
Debt - TSP	$ 869,170	$ 974,140	$ 974,140	$ 980,676
County Admin Costs	$ 44,503	$ 76,567	$ 76,567	$ 79,650
Staff/Service Credits	$ 23,475	$ 29,367	$ 21,000	$ 34,669
City Internal Cost Allocations	$ 18,868	$ 18,868	$ 18,868	$ 29,467
Pass-thrus	$ 1,115,992	$ 1,259,000	$ 1,259,000	$ 1,136,499
TI Rebate - Renaissance Project	$	$	$	$ 86,784
ERAF Payment (AB 1389)	$	$	$ 414,522	$
Loan Repayment to Housing Fund	$	$	$	$ 103,096
Loan Repayment to GF	$ 1,321,000	$ 250,000	$ 250,000	$
Transfer Out: KWBP Land - CIP # Q243	$	$	$	$ 170,000
Total Use of Funds	**$ 5,342,933**	**$ 4,562,260**	**$ 4,968,415**	**$ 4,574,858**

Explanation

This fund maintains the accumulation of resources for and the payment of general long-term debt principal and interest. It also receives tax increment designated for the pass-throughs to various taxing agencies, including Stanislaus County, school districts and special districts.

Subordinated Tax Sharing Allocations (Original and Amended Area): (in 1,000's)								
	06-07	07-08	08-09	09-10	10-11	11-12	12-13	13-14
Stanislaus County (1)	0	414	488	434	588	688	1,063	1,094
County Office of Education (2)	61	71	83	65	101	118	145	150
Yosemite Community College (2)	71	82	96	75	116	136	168	173
Modesto City & HS District (2)	422	487	574	400	692	809	999	1,029
City of Modesto (3)			TBD					
Woodland Avenue Fire Protection District (3)							TBD	
Burbank/Paradise Fire Protection District (3)							TBD	
East Side Mosquito Abatement District (3)			TBD					
Total Tax Sharing Agreements	$554	$1,053	$1,241	$1,137	$1,496	$1,750	$2,375	$2,445

(1) County tax sharing agreement provides that the Agency receives 100% of the County's share of tax increment in years 1 to 15 (FY 1992-93 thru 2006-07). The County will receive 30% of its share in years 16 to 20 (FY 2007-08 thru 2011-12). The allocation increases to 45% in year 21 (FY 2012-13), 60% in year 26, 70% in year 31 and 90% in year 36.

(2) School District allocation formulas are based upon 25% of the Districts' respective share of net tax increment commencing in year 6 (FY 1997-98) to year 20 (FY 2011-12). This projection assumes that the allocation formula provided in Section 5 of the respective agreements remains in effect. The allocation increases to 30% in year 21 (FY 2012-13), 40% in year 31 and 50% in year 36.

(3) Additional taxing agencies added pursuant to SB211 adoption.

Administration

9050-1490

Revenue	Actual 2008	Adopted 2009	Estimated 2009	Proposed 2010
Estimated Beginning Working Capital	$	$	$	$ 19,174
Tax Increment	$ 231,033	$ 358,019	$ 327,000	$ 154,795
Interest	$ 735	$ 2,000	$ 2,000	$ 2,000
Total Source of Funds	**$ 231,768**	**$ 360,019**	**$ 329,000**	**$ 175,969**

Expenditures				
County Admin Charges	$ 2,221	$ 6,444	$ 6,444	$ 2,786
Administration	$	$	$	$
Professional Services	$ 92,368	$ 137,849	$ 137,849	$ 69,174
Staff Charges	$ 139,435	$ 164,703	$ 173,232	$ 104,009
Internal Service Fund Charges	$	$	$	$
City Internal Cost Allocations	$ 51,023	$ 51,023	$ 51,023	$
Pass-thrus	$	$	$	$
Taxes	$	$	$	$
Transfer Out to 9020 (Debt Service)	$ 191,962	$	$	$
Total Use of Funds	**$ 477,009**	**$ 360,019**	**$ 368,548**	**$ 156,795**

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Explanation

This fund contains expenditures for services provided to the Redevelopment Agency by City staff in Community & Economic Development, Finance and the City Attorney's office.

Housing Set-aside

9060-1491

Revenue	Actual 2008	Adopted 2009	Estimated 2009	Proposed 2010
Estimated Beginning Working Capital	$	$	$	$ 414,522
Tax Increment	$ 1,162,764	$ 1,300,000	$ 1,173,509	$ 1,173,600
Interest	$ 202,959	$ 125,000	$ 108,000	$ 50,000
Direct Loan Interest	$ 3,467	$	$ 10,091	$
General Fund Loan	$	$ 295,000	$ 295,000	$
Misc - Mobile Home Assistance	$ 13,250	$	$ 14,000	$ 28,000
Loan Repayment from Fund 9020	$	$	$	$ 103,096
Total Source of Funds	**$ 1,382,440**	**$ 1,720,000**	**$ 1,600,600**	**$ 1,769,218**
Expenditures				
Administrative Costs	$	$ 23,400	$ 15,000	$ 21,125
Professional Services	$	$ 32,526	$ 12,000	$ 33,502
Staff Charges	$ 79,818	$ 116,203	$ 107,131	$ 112,385
City Internal Cost Allocations	$	$ 1,325	$ 1,325	$ 1,144
Loan to Fund 9020	$	$	$ 930,000	$
Loan Repayment - City GF	$	$	$	$ 50,000
Mobile Home Rental Assistance	$	$	$	$ 56,000
Transfer Out Housing CIP's	$	$ 1,251,546	$ 321,546*	$ 961,169
Total Use of Funds	**$**	**$ 1,425,000**	**$ 1,387,002**	**$ 1,235,325**

* $930,000 loan to 9020

Explanation

This is a special revenue fund created pursuant to the Health & Safety Code Section 33334.3. All transactions related to Housing Set-Aside projects must be accounted for in this separate fund.

Fiscal Years 2009-2010
Low and Moderate Income Housing Fund
Expenditures for Planning and Administrative Activities

The Agency is required to adopt annual determinations that consider the necessity and proportionality of Low and Moderate Income Housing Fund (LMIHF) expenditures for planning and administrative activities.

Expenditures from the LMIHF for planning and administrative costs, relative to the total budget for Fiscal Years 2009-2010 and expenses are noted below:

Housing Set-aside

9060-1491
(cont.)

Percent of Planning and Administrative Expenditures of LMIHF Budget

Expenditures from the LMIHF for planning and administrative costs (Admin), and their relationship to the total budget are noted below:

Fiscal Year	LMIHF Budget	Admin Expenditures	Admin % of Budget
FY 05/06	$ 802,000	$ 6,821	0.88%
FY 06/07	$ 1,075,000	$ 98,208	9.13%
FY 07/08	$ 1,215,000	$ 111,910	9.21%
FY 08/09	$ 1,300,000	$ 116,203	8.94%
FY 09/10 Est.	$ 1,769,218	$ 112,385	6.35%

Percent of Planning and Administrative Expenditures of LMIHF Expenditures

Expenditures from the LMIHF for planning and administrative costs (Admin), and their relationship to actual LMIHF expenditures are noted below:

Fiscal Year	LMIHF Expended	Admin Expenditures	Admin % of LMIHF
FY 05/06	$ 6,821*	$ 6,821	100%
FY 06/07	$ 770,000**	$ 98,208	12.75%
FY 07/08	$ 5,567,772**	$ 111,910	2.00%
FY 08/09	$ 7,751,546***	$ 116,203	1.49%
FY 09/10 Est.	$ 7,576,169***	$ 112,385	1.48%

* The Administrative and Planning expenditures for FY 2005-2006 were for legal review, only, of proposed affordable housing developments and compliance issues.

** Beginning with FY 2006-2007 and continuing through FY 2009-2010, the Agency has worked with the City of Modesto to evaluate several sites for possible affordable housing projects. The Agency has identified the following projects and continues to work with the owner/developers to increase the affordable housing units in Modesto:

1 Town Center (Roselle/Belharbour) - 20 rental units; 7 single-family units
2 Archway Commons (N. 9th St) - 150 rental units
3 Palm Valley Apartments (201 E. Coolidge) - 40 units, including rehabilitation of unit to handicapped standards and other security upgrades
4 Downey Avenue Senior Housing (412-416 Downey) - 12 units
5 Tower Park (17th & G) - Potential mixed-use project including affordable housing component

*** The revenue for FY 2009-2010 Housing Fund is $1,769,218. There is also a Capital Improvement Program ("CIP") account with a total of $7,576,169, which includes the current budget revenue. All existing funds within the Housing budget and the CIP Account will be utilized for the above affordable housing projects within FY 2009-2010. Agency funding will be expended in conjunction with funding from the Community Development Block Grants, HOME and other housing funding.

Legislative Regulations and Associated Guidelines:

Criteria: Health and Safety Code Section 33334.3(d) expresses the Legislature's intent that LMIHF expenditures for general planning and administrative activities not be disproportionate to actual costs for housing production, improvement, and preservation; and requires agencies to determine annually that planning and administrative expenses are necessary for the projection, improvement, or preservation of low- and moderate-income housing.

State Controller's Office, Guidelines for Compliance Audits of California Redevelopment Agencies, November 1998, requires independent auditors to test for a written annual determination concerning the necessity and appropriateness of any planning and administrative expenditures from the LMIHF.

Health and Safety Code Section 33334.3(e) provides that the planning and administrative costs that may be paid by the LMIHF are those expenses incurred by the Agency which are directly related to the programs and activities authorized by Section 33334.2(e) and are limited to: (A) costs incurred for salaries, wages, and related costs of the Agency's staff or for services provided through interagency agreements and agreements with contractors; and (B) costs incurred by a nonprofit organization not directly attributable to a specific project.

Revenue	Actual 2008	Adopted 2009	Estimated 2009	Proposed 2010
Estimated Beginning Working Capital	$	$	$	$ 93,181
Tax Increment	$ 974,710	$ 588,271	$ 531,000	$ 114,607
Interest	$ 81,423	$ 75,000	$ 33,720	$ 10,000
Total Source of Funds	**$ 1,056,133**	**$ 663,271**	**$ 564,720**	**$ 217,788**

Expenditures				
County Admin Costs	$ 12,609	$ 10,589	$ 10,589	$ 2,063
Professional Services	$ 10,875	$ 100,000	$ 76,690	$ 103,704
Staff/Service Credits	$ 131,886	$ 146,853	$ 142,414	$ 112,021
Internal Service Funds	$	$	$	$
City Internal Cost Allocations	$ 4,722	$ 4,722	$ 4,722	$
Project Area Revitalization	$	$ 200,000	$ 2,482	$
RDA Master Plan/EIR (K871)	$ 94,601	$	$	$
KWBP Plan (Q246)	$ 41,831	$	$	$
Gallo Center (Q260)	$ 59,932	$	$	$
KWBP Land (Q243)	$	$ 150,000	$ 135,000	$
Public Improvement (K732)	$ 333,018	$ 51,107	$ 1,500	$
Transfer Out to 9020 (Debt Service)	$ 728,471	$	$	$
Total Use of Funds	**$**	**$ 663,271**	**$ 373,397**	**$ 217,788**

• • •

Explanation

This fund pays for various services associated with the Agency's project planning and project implementation. Services provided include funding for market studies, feasibility studies, funds for project partnerships pursuant to adopted development agreements and other Project Area Revitalization projects.

Modesto**Redevelopment**Agency

Capital Improvement Program
Fiscal Year 09-10 • Proposed

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Capital Improvement Program

RDA CIP Budget	Beginning Budget	Transfers In	Transfers Out	Anticipated Expenditures
KWBP Land CIP - Q243	$ 507,928	$ 170,000	$	$ 677,928
KWBP Plan CIP - Q246	$ 559	$	$	$ 559
Public Impr CIP - K732	$	$	$	$
Downtown Cameras - K002	$ 259,000	$	$	$ 259,000
Housing - Q244	$ 15,000	$ 961,169	$	$ 976,169
Archway Commons - K743	$ 5,250,000	$	$	$ 5,250,000
Palm Valley - K745	$ 830,000	$	$	$ 830,000
Downey Avenue - K746	$ 520,000	$	$	$ 520,000
Developer-Funded Projects	**Beginning Budget (Developer Funds)**			**Anticipated Expenditures**
10th & H Mixed Use - 9080 - 1494	$ 1,755	$	$	$ 1,755
Archway Commons - 9060 - 1495	$ 73,150	$	$	$ 73,150
KWBP - TT Modesto - 9080 - 1496	$ 1,000	$	$	$ 1,000

Kansas Woodland Business Park Property Option

Project Manager: Brent Sinclair

Budget: $ 677,928

• History •

The purpose of the Agency's Business Park Development Program, and specifically the Kansas Woodland Business Park, is to further economic development and redevelopment in the community. As an excellent redevelopment project, this Park has the potential to create an estimated 20-25 jobs/acre totaling more than 800 new jobs at build-out. This is a classic example of a redevelopment project where a "brownfield" site is cleaned and the future business conditions are improved for the site and the surrounding property owners. An essential part of this development process is the partnership with the adjacent landowners. They have been very supportive of the project and have provided valuable input in both the Park design and the options for land use strategies.

The Agencymembers have received more than 20 progress reports, in both Closed and Public Sessions, since 2002. The following is a brief summary of the milestone actions taken by the Agency to date:

November 6, 2002: Agency authorized:

1. Purchase Option Agreement for the FMC property, including various related agreements, with a three (3) year term to expire on November 6, 2005.
2. Request for Proposals process for a Master Developer
3. Approval of $405,000 loan from Stanislaus County ED Bank to hire consultants, etc. to be repaid upon sale of property.

December 9, 2002: Agency authorized:

1. Distribution of the approved Request for Proposal for Master Developer
2. Formation of a 10-member Selection Committee, including two Agencymembers, to consider RFP proposals and recommend a developer to the Agency

February 11, 2003: Agency authorized:

1. Draft Conceptual Site Plan Scenarios A & B for the proposed development
2. Draft Design and Use Guidelines to be included in the future Specific Plan for a Development Agreement.

March 25, 2003: Agency approved Terrence J. Rose, Inc. as the Master Developer and directed the Executive Director to begin negotiations for a Development Agreement.

Sept. 13, 2005: Agency received a Project Status Report Update and authorized a one-year extension to the Purchase Option Agreement with a new expiration date of Nov. 6, 2006.

October 24, 2006: Agency received a Project Status Report Update and authorized a second one-year extension to the Purchase Option Agreement with an expiration date of Nov. 6, 2007.

January 2, 2008: In Closed Session, Agency received a Status Report and provided direction to staff on negotiations for the potential purchase of the site.

April 8, 2008: In Closed Session, Agency received a report on final negotiations and the draft Purchase & Sales Agreement. Agency provided direction to staff.

Capital Improvement Project

9080 - Q243
Continued

Kansas Woodland Business Park Property Option, Continued

• History Continued •

January 27, 2009: Agency approved Purchase & Sale Agreement between the FMC Corporation and the Agency. In addition, the Agency approved a Memorandum of Understanding with TT Modesto, LLC (Developer) to produce environmental review and a final development agreement.

• Next Steps •

Purchase and Sale Agreement: On January 27, 2009, the Agency approved the Purchase & Sale Agreement between the Agency and the FMC Corporation. This escrow process will move forward until all State mandated reports are completed by FMC Corporation. Once all reports are complete, the escrow will close and the Agency will own the three parcels in this transaction.

Disposition and Development Agreement: To date, the Agency has expended approximately $1,300,000 on pre-development costs. As the Master Developer, Terrence J. Rose, Inc. has expended funds over a period of 5 years to perform pre-development activities. Included in this work, Terrence Rose has completed review of all remediation documents, the Draft Specific Plan, the Tentative Subdivision Map and all other aspects of the project.

In a separate future action, the Agency will consider the approval of the Disposition and Development Agreement between the Agency and Terrence Rose, Inc. for the business park development. As part of that Agreement, the Agency will sell the parcels for a negotiated price. Incorporated into these future cost negotiations will be the potential for repayment of the Agency's costs to date, including the Stanislaus County Economic Development Bank Loan in the amount of $405,000 and other pre-development costs. Further budget amendments and appropriations will be addressed at the time the Agency considers the Development Agreement for approval.

Kansas Woodland Business Park Concept Master Plan

Project Manager: Brent Sinclair

Budget: $ 559

• History •

The purpose of the Agency's Business Park Development Program, and specifically the Kansas Woodland Business Park, is to further economic development and redevelopment in the community. As an excellent redevelopment project, this Park has the potential to create an estimated 20-25 jobs/acre totaling more than 800 new jobs at build-out. This is a classic example of a redevelopment project where a "brownfield" site is cleaned and the future business conditions are improved for the site and the surrounding property owners. An essential part of this development process is the partnership with the adjacent landowners. They have been very supportive of the project and have provided valuable input in both the Park design and the options for land use strategies.

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January 2, 2008: In Closed Session, Agency received a Status Report and provided direction to staff on negotiations for the potential purchase of the site.

April 8, 2008: In Closed Session, Agency received a report on final negotiations and the draft Purchase & Sales Agreement. Agency provided direction to staff.

Capital Improvement Project

9080 - Q246
Continued

Kansas Woodland Business Park Concept Master Plan, Continued

• History Continued •

January 27, 2009: Agency approved Purchase & Sale Agreement between the FMC Corporation and the Agency. In addition, the Agency approved a Memorandum of Understanding with TT Modesto, LLC (Developer) to produce environmental review and a final development agreement.

• Next Steps •

Purchase and Sale Agreement: On January 27, 2009, the Agency approved the Purchase & Sale Agreement between the Agency and the FMC Corporation. This escrow process will move forward until all State mandated reports are completed by FMC Corporation. Once all reports are complete, the escrow will close and the Agency will own the three parcels in this transaction.

Disposition and Development Agreement: To date, the Agency has expended approximately $1,300,000 on pre-development costs. As the Master Developer, Terrence J. Rose, Inc. has expended funds over a period of 5 years to perform pre-development activities. Included in this work, Terrence Rose has completed review of all remediation documents, the Draft Specific Plan, the Tentative Subdivision Map and all other aspects of the project.

In a separate future action, the Agency will consider the approval of the Disposition and Development Agreement between the Agency and Terrence Rose, Inc. for the business park development. As part of that Agreement, the Agency will sell the parcels for a negotiated price. Incorporated into these future cost negotiations will be the potential for repayment of the Agency's costs to date, including the Stanislaus County Economic Development Bank Loan in the amount of $405,000 and other pre-development costs. Further budget amendments and appropriations will be addressed at the time the Agency considers the Development Agreement for approval.

Capital Improvement Project

9080-K732

Project Area Public Improvements

Project Manager: Brent Sinclair

Budget: No funding available

Construct various public improvements within the RDA Project Area to support public-private development partnerships. Improvements may include, but are not limited to, various types of construction such as: street construction, streetscape, signage, public garages, land acquisition/disposition.

• History •

Over the past several years, the Agency has focused on assisting commercial and retail businesses within the Project Area in various ways. These programs have included the Façade Improvement Rebate Program that assisted commercial/industrial property owners and tenants with improvements to the exterior appearance of commercial buildings located in the Redevelopment Project Area. This program offered rebates ranging from 10% to 50% (maximum $10,000 per project) of improvement costs for each property. In addition, the Agency has produced designs for wayfinding signage and will be constructing signage throughout the Downtown area to guide visitors to specific landmarks and destinations.

The Agency will now be focusing on a variety of public works projects that will include street construction, streetscape, signage, public garages, land acquisition/disposition and other projects that will grow from public-private partnerships in accordance with the Redevelopment law. These projects may include mixed-use projects, public parking, public amenities for market-rate housing, etc.

• Next Steps •

1. 10th & H Street Mixed-Use Project: The Agency owns four parcels of land at the southwest corner of 10th & H Streets. The Agency Board selected a developer ("Team Modesto") for development of a mixed use project on this block and has entered into a Memorandum of Understanding with Team Modesto to develop the site plan and to complete the environmental review. It is the Agency's desire to partner with Team Modesto, negotiate an acceptable development agreement (including a detailed scope of development and respective responsibilities of both the Agency and the Developer), determine financing needs and details, and initiate development within a two-year period ending Summer 2010. In addition to the land value of the four parcels, the Agency may also consider other funding options per the Project Area Improvements CIP Account that may include streetscape construction and assistance with parking.

2. Implement streetscape improvements on 10th Street, from J Street to the Tuolumne River: The Agency will produce a Design Plan for implementation of streetscape improvements on 10th Street, from J Street to the Tuolumne River. The ultimate goal is to have a Plan in place that can be used as a partnership document between the Agency and private sector developers. A companion goal is to use the Plan to receive and target future funding per the Project Area Improvements CIP Account. The streetscape will promote shade, walkability, and public gathering places. Streetscape improvements will be designed to fit the context of the block as well as the street. The Plan will also consider the installation of traffic calming measures on I Street, particularly at the intersections of 10th and I Streets, to promote pedestrian access and safety.

Capital Improvement Project

9080 - K002

Downtown Cameras

Project Manager: Ron Cloward

Budget: $ 259,000

• History •

Municipalities and other government agencies across the United States have implemented video surveillance programs in their downtown areas, including the regional cities of Clovis, Fresno, Stockton and Ripon. The City of Long Beach has also implemented a camera program that serves a very vibrant downtown with a variety of nightlife, similar to Modesto. Based on the success of these deployments, the Modesto Police Department has designed a camera system that will serve the interest of public safety and local business.

On any Friday or Saturday night there can be as many as 5,000 to 8,000 people in the downtown area. The ability to police this area has grown in cost over recent years. The cameras will allow the police department to conduct low profile policing that will aid in responses to incidents and investigations of crimes.

These cameras support City efforts to provide a safe public environment to conduct business, transit our public spaces, and enjoy our downtown with minimal fear of crime. Once deployed, the system will be beneficial and useful to many of the Departments within the City. Some potential uses are:

- Tactical deployment of Police, Fire and Ambulance - Video coverage will allow Dispatch, first responders and the Watch Commander to obtain immediate information via the cameras.
- Investigations - Video will be used as an investigative tool and as evidence per the Evidence Code.
- Crime Prevention - Cameras act as a deterrent to criminal activity.

CelPlan Technologies, Inc. has been selected as the vendor for this camera project for a total product and service cost of $239,788.27.

• Next Steps •

1. In addition, there will be added storage of 10 TB in the City's computer system to accommodate a 60-day instant accessibility as well as added capability to bookmark specific events for future Police review and possible prosecution. The cost for this additional storage capacity is $20,000.
2. It is anticipated that additional cameras will be purchased and installed using funding from other agencies and/or adjacent businesses for future epansion of the camera system.

9060 - Q244;
K743: K745

Affordable Housing Projects

Project Manager: Julie Hannon

Budget: $ 7,576,169

• History •

Beginning in 2000, the Agency has focused on producing an affordable housing project in the Downtown. The primary barriers to this project have been:

a. Increased land prices coupled with unwilling sellers that could necessitate eminent domain proceedings

b. Reduced site acreage available for purchase

c. Increased need for parking for the housing development and for the general population of downtown workers, customers and merchants

Because of the above issues, the Agency determined that additional funds would be needed for a downtown project versus a housing project in another area of the City. The Agency placed funds into this CIP Account in order to accumulate Housing Set-aside monies specifically for a downtown project.

In 2007, the administration of the Affordable Housing Funds was moved to the City's Parks, Recreation & Neighborhoods Department. The purpose of the administration relocation was to combine all affordable housing funds under one staff division, for ease in development and reporting.

• Next Steps •

Beginning in FY 2006-2007, the Agency worked with the City of Modesto to evaluate several sites for possible affordable housing projects. The Agency identified the following projects and continues to work with the owner/developers to increase the affordable housing units in Modesto:

- Town Center (Roselle/Belharbour) - 20 rental units (Complete); 7 single-family units (In progress)
- Archway Commons (N. 9th St) - 150 rental units (In progress)
- Palm Valley Apartments (201 Coolidge) - 40 units (Complete), including rehabilitation of unit to handicapped standards and other security upgrades (In progress)
- Downey Avenue Senior Housing (412-416 Downey) - 12 units (In progress)
- Tower Park (17th & G) - Potential mixed-use project including affordable housing component (In progress)

The Agency in FY 2009-2010 intends to start looking at new potential projects for future development. The Agency's Housing staff will work with the Citizen's Housing and Community Development Committee (CH&CDC) to develop and approve new projects as directed by the Agency's Board. Once a recommendation is made by the CH&CDC a recommendation will be forwarded to the Agency's Board for final approval.

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EXHIBIT A

FY 2009-2010 REDEVELOPMENT AGENCY OPERATING AND CIP BUDGET

EXHIBIT B

BUDGETARY CONTROL & AUTHORITY

The Redevelopment Agency's Budgetary Control & Authority policy is adopted by the Agency as a part of the resolution adopting the annual budget.

Basic Policy
The Agency budget is adopted at the fund level, and the authorized amount of expenditure for each fund is listed in **Exhibit "A"** of the budget resolution.

Multi-year appropriations authorized in previous years and not yet expended continue to be valid until explicitly revoked, notwithstanding the annual appropriation shown on **Exhibit "A."**

Executive Director's Authority
The Executive Director may take the following budgetary actions without Agency approval:

- Transfer appropriations between and within a fund
- Appropriate unbudgeted Agency revenues
- Appropriate reserves approved for litigation on a case-by-case basis
- Revoke multi-year appropriations and close CIP projects

Finance Officer's Authority
The Finance Officer may take the following budgetary actions without Agency approval:

- Appropriate unbudgeted grant interest
- Make technical budget corrections to implement the intent of Agency-approved actions and resolutions
- Transfer appropriations between sub-funds of a single fund

Assistant Executive Director's Authority
The Agency Assistant Executive Director may take the following budgetary actions without Agency approval:

- Transfer appropriations between non-salary line-items within a department, within a single fund

Actions Reserved to the Agency
All other budgetary actions require the approval of the Agency. In addition, the following specific actions always require Agency approval, any other provision of this policy notwithstanding:

- Appropriation of undesignated reserves
- Appropriation of revenues
- Budgeting of inter-fund transfers
- Budgeting of inter-fund loans
- Creating or increasing any multi-year appropriation including CIP projects

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-274

A RESOLUTION APPOINTING STEVEN CARTER 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 June 18, 2009, and recommended appointment of Steven Carter to the Planning Commission.

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

SECTION 1. Steven Carter is hereby appointed to the Planning Commission 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 Planning Commission, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-275

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF PHILLIP HAWLEY FROM THE GOLF COURSE ADVISORY COMMISSION

WHEREAS, Phillip Hawley was appointed a member of the Golf Course Advisory Commission on July 3, 2007, and

WHEREAS, Phillip Hawley has tendered his resignation from the Golf Course Advisory Commission, and

WHEREAS, Phillip Hawley has been a devoted and sincere public servant and has contributed greatly to our civic progress.

NOW, THERFORE, BE IT RESOLVED that the resignation of Phillip Hawley from the Golf Course Advisory Commission be, and hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of the City, hereby expresses its sincere appreciation to Phillip Hawley for his outstanding service to the community.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-276

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF MICHAEL FORD FROM THE GOLF COURSE ADVISORY COMMISSION

WHEREAS, Michael Ford was appointed a member of the Golf Course Advisory Commission on September 23, 2008, and

WHEREAS, Michael Ford has tendered his resignation from the Golf Course Advisory Commission, and

NOW, THERFORE, BE IT RESOLVED that the resignation of Michael Ford from the Golf Course Advisory Commission be, and hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of the City, hereby expresses its sincere appreciation to Michael Ford 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 7th day of July, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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. 2009-277

Print

RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR EXTERNAL FINANCIAL STATEMENT AUDIT SERVICES TO BROWN, ARMSTRONG AND PAULDEN, BAKERSFIELD, CA, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO ISSUE A CONTRACT, FOR AN ESTIMATED ANNUAL COST OF $133,750

WHEREAS, Section 1306 of the Modesto City Charter mandates, "The Council shall employ, at the beginning of each fiscal year, an independent certified public accountant who, at such time or times as may be specified by the Council, at least annually, who shall examine the books, records, inventories, and reports of all officers and employees who receive, handle or disburse public funds and all such other officers and employees and departments as the Council may direct. As soon as practicable after the end of the fiscal year, a final audit and report shall be submitted by such accountant to the Council," and

WHEREAS, on January 27, 2009, the Purchasing Manager issued Request for Proposal No. 0809-19 for the procurement of external financial statement audit services to forty (40) prospective proposers, posted the proposal on the City's website and formally advertised as required by law, and

WHEREAS, on March 11, 2009, bids were formally opened in the City Auditor's Office, eight (8) companies chose to respond, and

WHEREAS, based on being ranked highest in total evaluation criteria by an evaluation committee and after negotiation with the proposer, the City Auditor recommended the award of contract for external financial statement audit services to Brown, Armstrong and Paulden, Bakersfield, CA for an estimated annual cost of $133,750, and

WHERAS, funds are budgeted and available in account 0100-060-0601-0235, for external financial audit services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for external financial statement audit services to Brown, Armstrong and Paulden, Bakersfield, CA, for a four (4) year contract, with an option to extend the contract for one (1) additional year, for an estimated annual cost of $133,750.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-278

RESOLUTION APPROVING A STANDARD AGREEMENT FOR CONSULTANT SERVICES WITH AARON READ & ASSOCIATES FOR STATE LOBBYING SERVICES FOR AN AMOUNT NOT TO EXCEED $20,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on January 1, 2001, the City entered into an agreement with Aaron Read & Associates (ARA) to perform legislative advocacy in Sacramento, and

WHEREAS, ARA has provided key and critical advocacy for the City since January 2001, and

WHEREAS, staff recommends that the City of Modesto execute a standard agreement for consultant services with Aaron Read & Associates for state lobbying services for an amount not to exceed $20,000 in FY 2009-10, and

WHEREAS, on June 2, 2009, the City Council approved a FY 2009-10 General Fund operating budget which included funding for said contract,

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Modesto that it hereby approves a standard agreement for consultant services with Aaron Read & Associates for state lobbying services for an amount not to exceed $20,000.

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 7th day of July, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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. 2009-279

Print

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO ACTING AS THE GOVERNING BODY OF ALL OF ITS COMMUNITY FACILITIES DISTRICTS ORDERING JUDICIAL FORECLOSURE OF DELINQUENT SPECIAL TAXES PURSUANT TO THE MELLO-ROOS COMMUNITY FACILITIES ACT OF 1982 AND ORDERING THAT THE STANISLAUS COUNTY TAX COLLECTOR BE CREDITED WITH THOSE TAXES (FUNDING SOURCE: COMMUNITY FACILITIES DISTRICTS NOS. 2003-1 (FAIRVIEW VILLAGE) AND 2004-1 (VILLAGE ONE #2)

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 3, 2007, the City Council authorized the City Manager to execute a legal services agreement ("Agreement") with Sherman & Feller, a Law Corporation ("Attorney"), a firm experienced and qualified to prosecute such judicial foreclosure actions; and

WHEREAS, Attorney is still under contract to provide said services; and

WHEREAS, in an effort to prevent large delinquencies from accumulating, the City desires to reaffirm an additional administrative foreclosure threshold in the amount of $5,000; and

WHEREAS, this additional threshold will allow foreclosure proceedings to commence on any parcel where the special tax delinquency is $5,000 or greater, regardless of the number of delinquent payments,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto acting as the Legislative Body of all of the City of Modesto 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 Attorney to require payment on its behalf of all costs and all attorneys' fees incurred to collect the delinquent special taxes as a condition of such redemption as provided in the Agreement.

4. An additional administrative foreclosure threshold in the amount of $5,000 is reaffirmed. This additional threshold will allow foreclosure proceedings to commence on any parcel where the special tax delinquency is $5,000 or greater, regardless of the number of delinquent payments.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009 by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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

Exhibit "A"

Delinquent Parcels as of July 8, 2009
CFD 2003-1 (Fairview Village)

APN	CFD	Tax Year	Unpaid Taxes
056-094-007-000	2003-1 (Fairview Village)	2009	$462.61
056-094-008-000	2003-1 (Fairview Village)	2009	$462.61
056-094-026-000	2003-1 (Fairview Village)	2009	$462.61
056-094-061-000	2003-1 (Fairview Village)	2009	$462.61
056-094-065-000	2003-1 (Fairview Village)	2009	$462.61
056-094-076-000	2003-1 (Fairview Village)	2009	$462.61
056-094-085-000	2003-1 (Fairview Village)	2009	$462.61
056-094-095-000	2003-1 (Fairview Village)	2009	$462.61
056-094-098-000	2003-1 (Fairview Village)	2009	$462.61
056-095-023-000	2003-1 (Fairview Village)	2009	$462.61
056-095-029-000	2003-1 (Fairview Village)	2009	$462.61
056-095-043-000	2003-1 (Fairview Village)	2009	$462.61
056-095-044-000	2003-1 (Fairview Village)	2009	$462.61
056-096-034-000	2003-1 (Fairview Village)	2009	$462.61
056-096-047-000	2003-1 (Fairview Village)	2009	$462.61
056-096-054-000	2003-1 (Fairview Village)	2009	$462.61
056-096-112-000	2003-1 (Fairview Village)	2009	$462.61
056-096-130-000	2003-1 (Fairview Village)	2009	$462.61
056-096-131-000	2003-1 (Fairview Village)	2009	$462.61
056-097-022-000	2003-1 (Fairview Village)	2009	$462.61
056-097-024-000	2003-1 (Fairview Village)	2009	$462.61
056-097-066-000	2003-1 (Fairview Village)	2009	$462.61
056-097-086-000	2003-1 (Fairview Village)	2009	$462.61
056-094-043-000	2003-1 (Fairview Village)	2009	$925.22
056-094-047-000	2003-1 (Fairview Village)	2009	$925.22
056-094-048-000	2003-1 (Fairview Village)	2009	$925.22
056-094-068-000	2003-1 (Fairview Village)	2009	$925.22
056-094-081-000	2003-1 (Fairview Village)	2009	$925.22
056-094-089-000	2003-1 (Fairview Village)	2009	$925.22

Exhibit "A"

Delinquent Parcels as of July 8, 2009
CFD 2003-1 (Fairview Village)

APN	CFD	Tax Year	Unpaid Taxes
056-094-105-000	2003-1 (Fairview Village)	2009	$925.22
056-095-002-000	2003-1 (Fairview Village)	2009	$925.22
056-095-011-000	2003-1 (Fairview Village)	2009	$925.22
056-095-024-000	2003-1 (Fairview Village)	2009	$925.22
056-095-031-000	2003-1 (Fairview Village)	2009	$925.22
056-095-041-000	2003-1 (Fairview Village)	2009	$925.22
056-096-036-000	2003-1 (Fairview Village)	2009	$925.22
056-096-042-000	2003-1 (Fairview Village)	2009	$925.22
056-096-051-000	2003-1 (Fairview Village)	2009	$925.22
056-096-056-000	2003-1 (Fairview Village)	2009	$925.22
056-096-067-000	2003-1 (Fairview Village)	2009	$925.22
056-096-083-000	2003-1 (Fairview Village)	2009	$925.22
056-096-084-000	2003-1 (Fairview Village)	2009	$925.22
056-096-085-000	2003-1 (Fairview Village)	2009	$925.22
056-096-087-000	2003-1 (Fairview Village)	2009	$925.22
056-096-088-000	2003-1 (Fairview Village)	2009	$925.22
056-096-089-000	2003-1 (Fairview Village)	2009	$925.22
056-096-090-000	2003-1 (Fairview Village)	2009	$925.22
056-096-091-000	2003-1 (Fairview Village)	2009	$925.22
056-096-092-000	2003-1 (Fairview Village)	2009	$925.22
056-096-093-000	2003-1 (Fairview Village)	2009	$925.22
056-096-094-000	2003-1 (Fairview Village)	2009	$925.22
056-096-095-000	2003-1 (Fairview Village)	2009	$925.22
056-096-096-000	2003-1 (Fairview Village)	2009	$925.22
056-096-098-000	2003-1 (Fairview Village)	2009	$925.22
056-096-099-000	2003-1 (Fairview Village)	2009	$925.22
056-096-100-000	2003-1 (Fairview Village)	2009	$925.22
056-096-102-000	2003-1 (Fairview Village)	2009	$925.22
056-096-103-000	2003-1 (Fairview Village)	2009	$925.22

Exhibit "A"

Delinquent Parcels as of July 8, 2009
CFD 2003-1 (Fairview Village)

APN	CFD	Tax Year	Unpaid Taxes
056-097-006-000	2003-1 (Fairview Village)	2009	$925.22
056-097-020-000	2003-1 (Fairview Village)	2009	$925.22
056-097-027-000	2003-1 (Fairview Village)	2009	$925.22
056-097-028-000	2003-1 (Fairview Village)	2009	$925.22
056-097-029-000	2003-1 (Fairview Village)	2009	$925.22
056-097-061-000	2003-1 (Fairview Village)	2009	$925.22
056-097-070-000	2003-1 (Fairview Village)	2009	$925.22
056-097-095-000	2003-1 (Fairview Village)	2009	$925.22

Exhibit "A"

Delinquent Parcels as of July 8, 2009
CFD 2004-1 (Village One #2)

APN	CFD	Tax Year	Unpaid Taxes
085-050-001-000	CFD 2004-1 (Village One #2)	2009	$24,126.76
077-062-009-000	CFD 2004-1 (Village One #2)	2009	$1,480.86
085-034-082-000	CFD 2004-1 (Village One #2)	2009	$1,386.60
085-054-033-000	CFD 2004-1 (Village One #2)	2009	$865.08

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-280

A RESOLUTION APPROVING AMENDMENT #1 TO TASK ORDER NO. 1 TO THE MASTER PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES WITH OMNI-MEANS, LTD. FOR THE UPDATE OF THE STREETS PORTION OF THE CAPITAL FACILITIES FEES PROGRAM; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE AMENDMENT #1 TO TASK ORDER NO. 1 TO THE MASTER PROFESSIONAL SERVICES AGREEMENT

WHEREAS, on December 12, 2007, by Resolution No. 2007-734, the Council approved a Master Professional Services Agreement for Consultant Services ("Master Agreement") with OMNI-MEANS, Ltd. ("Consultant") for the preparation of various technical studies as well as on-call consultant services relating to the City's transportation and circulation system, and

WHEREAS, on December 12, 2007, by Resolution No. 2007-735, the Council approved Task Order No. 1 to the Master Agreement with Omni-Means for the update of the streets portion of the Capital Facilities Fees Program (CFF), and

WHEREAS, the City desires to expand the initial scope of work to include a functional expenditure tracking system necessary, and

WHEREAS, it is in the City's best interest to complete the tracking system and streets update to the CFF program as there are a number of changes to the fee update that would not be ratified and would leave the validity of the current fee outdated and inconsistent with current planning and proposed capital improvement planning, and

WHEREAS, there are sufficient appropriations in the CFF operating budget to fund the cost of the tracking system and to complete the update,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Amendment #1 to Task Order No. 1 to the Master Professional Services Agreement

for Consultant Services with OMNI-MEANS, Ltd. for the update of the streets portion of the Capital Facilities Fees Program, in an amount not to exceed $15,970 is hereby approved.

IT IS FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute Amendment #1 to Task Order No. 1 to the Master Professional Services Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

AMENDMENT #1 TO TASK ORDER NO. 1
FOR OMNI-MEANS MASTER PROFESSIONAL SERVICES
AGREEMENT FOR CONSULTANT SERVICES

This AMENDMENT TO TASK ORDER No. 1, made and entered into in the City of Modesto, State of California, this ____ day of _____, by and between the CITY OF MODESTO, a Charter City and municipal corporation of the State of California, hereinafter referred to as "CITY", and OMNI-MEANS, LTD., hereinafter referred to as "CONSULTANT".

RECITALS: This Amendment #1 to Task Order No. 1 is made with reference to the following recitals:

A. A Master Professional Services Agreement for Consultant Services was entered into between CITY and CONSULTANT on December 12, 2007,

B. Task Order No. 1 to the Master Professional Services Agreement for Consultant Services was entered into between CITY and CONSULTANT on December 12, 2007,

C. CITY and CONSULTANT have agreed that an additional $15,970 will be paid to Consultant in full compensation for the additional work.

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. Section 2 of Task Order No. 1 to the Master Professional Services Agreement for Consultant Services shall be amended to read as follows:

SCOPE OF SERVICES. Consultant shall perform the services described in Exhibit "A" and Exhibit "B" attached hereto and incorporated herein by

reference. CONSULTANT shall not replace its Authorized Representative, nor shall CONSULTANT use any subcontractors or subconsultants not listed in this Task Order, without the prior written consent of the CITY.

2. Section 4 of Task Order No. 1 to the Master Professional Services Agreement for Consultant Services shall be amended to read as follows:

COMPENSATION: For services performed by CONSULTANT in accordance with this Task Order, CONSULTANT agrees to accept a sum not to exceed $114,690. CONSULTANT shall be paid at the times and manner set forth in Paragraph 3 of the Master Professional Services Agreement, unless expressly provided otherwise in the attached Task Order.

3. Except as otherwise provided herein, each and every and all of the terms and conditions of Task Order No. 1 to the Master Professional Services Agreement for Consultant Services between the parties dated December 12, 2007, shall continue in full force and effect.

IN WITNESS WHEREOF, the City of Modesto, a municipal corporation, has authorized the execution of this Amendment #1 to Task Order No. 1 for Omni-Means Master Professional Services Agreement for Consultant Services in duplicate by its City Manager and attestation by its City Clerk under authority of Resolution No. 2009-____, adopted by the Council of the City of Modesto on the _____ day of _____, 2009. and CONSULTANT has caused this Amendment to Task Order No. 1 to be duly executed.

CITY OF MODESTO,
a municipal corporation

By _____
GREG NYHOFF, City Manager

CONSULTANT,
OMNI-MEANS, Ltd.

By_____
Name Title ,

By

_____
Name Title

APPROVED AS TO FORM:
SUSANA ALCALA WOOD, City Attorney
(Seal)

By _____
ROLAND STEVENS,
Senior Deputy City Attorney

#_____
ATTEST:

By _____
STEPHANIE LOPEZ, City Clerk

Consultant's Federal ID

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

Partnership - signature of a partner required

omni · means
ENGINEERS · PLANNERS

EXTRA WORK AUTHORIZATION

Attn.: Amy Gedney

Address: City of Modesto
1010 Tenth Street, Suite 6100
Modesto, CA 95353

Date: 5/7/09 **Contract Date:** 11/21/07

Project: Capital Facilities Fee 2008 Update

Job No.: 25-4750-02

File No.: EM569EWA001

Project Manager Martin Inouye

Type: ☐ **Task Authorization** ☒ **Additional Work** ☐ **Change of Scope** ☐

THE FOLLOWING WORK WILL BE PERFORMED UNDER THE SAME TERMS AND CONDITIONS AS IN THE ORIGINAL AGREEMENT UNLESS OTHERWISE STATED.

DESCRIPTION OF ADDITIONAL SERVICES	COMPENSATION
EWA Task 1 – Finalize Expense Tracking System & provide training to staff as necessary. Principal 8 hours @ $200 = $1,600 Transportation Planner 40 hours @ $83 = $3,320* **Time needed dependent on amount of revisions City requests. Could be higher or lower than projected here.*	$4,920.00
EWA Task 2 – Finalize Draft Report to City Council with comments from City Staff, including recent changes to CIP (Barnes) Principal 12 hours @ $200 = $2,400 Project Engineer 20 hours @ $105 = $2,100* Transportation Planner 30 hours @ $83 = $2,490* **Time needed dependent on amount of revisions City requests. Could be higher or lower than projected here.*	$6,990.00
EWA Task 3 – Attend City Council meetings as required for fee update approval (assume 2 meeting) Principal 12 hours @ $200 = $2,400 Transportation Planner 20 hours @ $83 = $1,660* **Time needed dependent on amount of revisions City requests. Could be higher or lower than projected here.*	$4,060.00
	$0.00
TOTAL	**$15,970.00**

Consultant:

OMNI-MEANS, LTD.

5/7/09
Date

943 Reserve Drive, Suite 100, Roseville, CA 95678 ~ (916) 782-8688 fax (916) 782-8689

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-281

Print

A RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 OPERATING BUDGET FOR THE UPDATE OF THE STREETS PORTION OF THE CAPITAL FACILTIES FEE PROGRAM AND APPROPRIATING $15,970, FROM CFF FUND 1390-140-0260-0242 TO MY ACCOUNT 1390-140-0266-0242

WHEREAS, the City has determined that the Capital Facilities Fee Program should be updated every five years to ensure that fees are in place for the construction of infrastructure to serve development, and

WHEREAS, on December 12, 2007, by Resolution No. 2007-736, the Council of the City of Modesto approved a Master Professional Services Agreement for Consultant Services ("Master Agreement") with OMNI-MEANS, Ltd. for the preparation of various technical studies as well as on-call consultant services relating to the City's transportation and circulation system, and

WHEREAS, on December 12, 2007, by Resolution No. 2007-737, the Council of the City of Modesto approved Task Order No. 1 to the Master Agreement for the preparation of the streets portion of the Capital Facilities Fee update, and

WHEREAS, on July 7, 2009, by Resolution No. 2009-280, the Council of the City of Modesto approved Amendment #1 to Task Order No. 1 to the Master Agreement,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby amends the Fiscal Year 2009-2010 operating budget for the preparation of the streets portion of the Capital Facilities Fee program and transfer $15,790 from 1390-140-0260-0242 to 1390-140-0266-0242 for professional services.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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. 2009-282

Print

RESOLUTION AMENDING THE FISCAL YEAR 2008-2009 ANNUAL BUDGET

WHEREAS, a monthly financial analysis has been completed and it has been determined that certain adjustments are required to the Annual Budget of the City of Modesto for Fiscal Year 2008-2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the Fiscal Year 2008-2009 budget have been adjusted as shown in **Exhibit A**, which is 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.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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

FINANCE

A Sub-Fund has been created in the Wastewater Fund to account for future PCE Litigation settlement payments. This adjustment transfers previously received settlement payments in the Wastewater Fund to the PCE Litigation Sub-Fund.

APPROPRIATIONS

FROM:		
6210-800-8000-8003	Contingency Reserves	(11,723,289)
TO:		
6212-800-8000-8003	Contingency Reserves	11,723,289

TRANSFERS BETWEEN FUNDS

FROM:		
6210-700-7000-7621	Transfer Out to Fund 6212	11,723,289
TO:		
6212-700-7000-9621	Transfer In from Fund 6210	11,723,289

A Sub-Fund has been created in the Water Fund to account for future PCE Litigation settlement payments. This adjustment transfers previously received settlement payments in the Water Fund to the PCE Litigation Sub-Fund.

APPROPRIATIONS

FROM:		
6100-800-8000-8003	Contingency Reserves	(11,636,577)
TO:		
6112-800-8000-8003	Contingency Reserves	11, 636,577

TRANSFERS BETWEEN FUNDS

FROM:		
6100-700-7000-7610	Transfer Out to Fund 6112	11, 636,577
TO:		
6112-700-7000-9610	Transfer In from Fund 6100	11, 636,577

PUBLIC WORKS

This budget adjustment recognizes unbudgeted revenue in Capital Improvement Project H461, Pelandale 6-Lanes Dale to McHenry, 1410-430-H461-8122, for the reimbursement of escrow fees, and appropriates these revenues for Land/ROW Acquisition, 1410-430-H461-6030.

REVENUES

TO:		
1410-430-H461-8122	Refund	8

APPROPRIATIONS

TO:		
1410-430-H461-6030	Land/ROW Acquisition	8

This budget adjustment recognizes unbudgeted revenue in Capital Improvement Project W003, Downstream Improvements Industrial Tank/Pipe, 6180-430-W003-8122, for the reimbursement of escrow fees, and appropriates these revenues for Land/ROW Acquisition, 6180-430-W003-6030.

REVENUES

TO:		
6180-430-W003-8122	Refund	182

APPROPRIATIONS

TO:		
6180-430-W003-6030	Land/ROW Acquisition	182

This budget adjustment recognizes unbudgeted revenue in the Gas Tax Fund, 0700-160-1612-8122, for reimbursements made to the City of Modesto for damages to traffic signal and/or street lighting due to automobile accidents, and appropriates these revenues to the Electrical Division to restock materials, 0700-160-1612-0308.

REVENUES

TO:		
0700-160-1612-8122	Refund	28,000

APPROPRIATIONS

TO:		
0700-160-1612-0308	Tools/Shop and Field Supplies	28,000

This budget adjustment recognizes unbudgeted Interfund Labor revenue and re-appropriates these funds to offset overtime expenses in the Gas Tax Fund.

REVENUES

TO:		
0700-480-4724-4909	Interfund Labor	10,000

APPROPRIATIONS

0700-480-4724-0130	Overtime	10,000

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-283

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, in May 2002, Council directed staff to consolidate the procurement of advertising through a central source in order to obtain the best contractual pricing available for the City, and

WHEREAS, Council has also requested that the annual retail advertising contracts be put in place to coincide with the fiscal year calendar, and

WHEREAS, the City's Purchasing Manager annually meets with the Modesto Bee and based on advertising volume commitments over the prior year identifies two (2) retail contract options which would best meet the City's retail advertising needs, and

WHEREAS, both retail contracts will expire on June 30, 2009, 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 both retail advertising contracts for another year based on the fiscal year calendar, and

WHEREAS, based on lean economic times and the uncertainty of grant funding for advertising purposes, the City will not be able to sign a commitment rate contract which will result in the City paying the higher non-profit rate for its retail advertising needs, and

WHEREAS, the "non-profit no-commitment" will be at a contract rate of $51.68 per column inch, and

WHEREAS, the Purchasing Manager has determined that a process other than the formal bid procedure will result in a procurement of advertising for the City at the lowest cost commensurate with the desired quality, as provided for in Modesto Municipal Code Section 8-3.204(d), 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 Technician 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), to coincide with the fiscal year calendar, consisting of one contract for a retail "no-commitment" non-profit rate of $51.68 per column inch.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-284

RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF CHEMICAL FEED METERING PUMPS FOR THE PUBLIC WORKS DEPARTMENT, WATER DIVISION, TO PREFERRED PUMP & EQUIPMENT, FRESNO, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE AGREEMENT FOR A TWO (2) YEAR PERIOD, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF $103,878

WHEREAS, on October 14, 2008, the City Council, by Resolution No. 2008-580, authorized the Purchasing Manager to issue formal Request for Bids for the purchase of chemical feed metering pumps for the Public Works Department, Water Division, for a two (2) year agreement with three (3) one-year extension options at the sole discretion of the City, and

WHEREAS, on February 11, 2009, the Purchasing Division issued Request for Bid (RFB) No. 0809-14 Chemical Feed Metering Pumps to twelve (12) companies, four (4) of which were local companies, posted the bid on the City's website and formally advertised as required by law, and

WHEREAS, on March 17, 2009, RFB's were formally opened in the City Clerk's Office. Of the twelve (12) prospective bidders, four (4) companies chose to respond, and

WHEREAS, the City received one responsive and responsible bid, and

WHEREAS, based on providing a responsive and responsible bid, City staff recommends the award of bid and contract for the purchase of chemical feed metering pumps for the Public Works Department, Water Division, to Preferred Pump & Equipment, Fresno, CA, 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. The award of bid and contract for the purchase of chemical feed metering pumps for the Public Works Department, Water Division, to Preferred Pump & Equipment, Fresno, CA, conforms to the Modesto Municipal Code, and

WHEREAS, sufficient funds will be budgeted in Fiscal Year 2009-10 in Appropriation Unit: 6100-480-5013-0312,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase of chemical feed metering pumps for the Public Works Department, Water Division, to Preferred Pump & Equipment, Fresno, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase agreement for a two (2) year period, with three (3) one-year extension options at the sole discretion of the City, for an estimated annual cost of $103,878.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-285

RESOLUTION APPROVING AN AGREEMENT WITH FINAL CUT MEDIA FOR A PERIOD OF FIVE YEARS FOR THE MANAGEMENT OF THE EDUCATION AND GOVERNMENT (EG) TELEVISION MASTER CONTROL ROOM IN THE SUM OF $167,000 IN YEARS ONE THROUGH THREE, $183,700 IN YEAR FOUR, AND $202,070 IN YEAR FIVE

WHEREAS, Final Cut Media will provide management of the daily operations of the Education and Government (EG) television control room facility, including scheduling of multi-media programming, and

WHEREAS, Final Cut Media will provide production and management of the Education and Government programming as stated in **Exhibit "A"** and **Exhibit "B"** included in the Agreement, and

WHEREAS, the expenditures for maintenance contracts/support agreements have been approved by Council through the budget process,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Final Cut Media for a period of five years for the management of the Education and Government (EG) television master control room.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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"
SCOPE OF SERVICES
FOR
MANAGEMENT SERVICES OF
EDUCATION & GOVERNMENT PROGRAMMING

Final Cut Media shall provide the following services for the City:

A. Management of the Education, and Government television master control room facility. Scheduling of all programming on the Education and Government channels, plus web casting via the Internet.

B. Consultant reports solely to the Director of the Information Technology Department (IT) or to designated IT staff regarding the management of the Education and Government Channels and master control facility.

C. Production and Broadcasting Services – Consultant will provide camera crew to produce, broadcast and/or video tape the following meetings originating from the basement chambers of Tenth Street Place, Modesto Centre Plaza, Modesto Police Department, Stanislaus County Office of Education and/or any I-NET sites:

   a. All regularly or specially scheduled Modesto City Council Meetings
   b. All regularly or specially scheduled Modesto City Council Committee Meetings (upon request)
   c. All regularly or specially scheduled Modesto City Planning Commission Meetings
   d. Specially scheduled City of Modesto Department and/or Citizen Advisory Committee Meetings (upon request).
   e. All regularly or specially scheduled Stanislaus County Board of Supervisors Meetings
   f. All regularly or specially scheduled Stanislaus County Board of Supervisors Committee Meetings (upon Request).
   g. All regularly or specially scheduled Stanislaus County Planning Commission Meetings.
   h. Specially scheduled Stanislaus County Department Meetings.
   i. Regularly scheduled "Making the Grade" programs of the Stanislaus County Office of Education.
   j. Specially scheduled Stanislaus County Office of Education meetings.
   k. Government Youth Commission Meetings.
   l. Yearly City and County Budget Meetings.

D. The City's I-NET has the capability of live broadcasting at all the listed sites in exhibit "B. Consultant may be asked to broadcast at any of the listed sites in exhibit "B".

E. Tape Duplication – Consultant staff will duplicate tapes of all Modesto City Council and Stanislaus County Board of Supervisors, meetings, providing copies of said meetings to the City of Modesto Clerk's Office and the Stanislaus County Clerk of the Board's Office and storing master copies of all meetings in the Master Control Room library. Master copies shall not be discarded or destroyed without the prior written consent from the City Clerk or Clerk of the Board.

F. Create Video bulletin boards that appear between taped or live programming. Information will be submitted to Consultant at least (5) five days prior to the requested start date.

G. Any new programming airing on the Government and Education must be pre-approved by IT staff.

H. Consultant will provide ongoing recommendations to IT staff for the effective management of the Master Control Room facility. All final decisions pertaining to the Master Control Room facility shall be made by IT staff, unless upon emergency and staff is unavailable for direction.

I. Consultant will work with IT staff and contracted broadcast engineers to ensure the proper maintenance and installation of new equipment at the Master Control Room location of 1100 H Street, basement floor, Modesto, California.

J. Consultant agrees that any commercial use of equipment is prohibited. Consultant may not rent City-owned equipment to other parties. Consultant also may not profit from programs produced with City equipment and facilities. Any questions regarding commercial use should be directed to the IT staff.

K. Additional production or equipment setup that is not listed on the scope of work shall pay consultant a fee of $75.00 per hour.

L. Consultant shall provide staff possessing a qualified skill-level and working knowledge of operating and maintaining broadcast equipment for the transmission of Education and Government programming.

M. Consultant agrees to maintain the Regular Hours of Operation as:

   a. Monday through Friday 10 am – 7 pm for Master Control Room Operation
   b. Monday through Saturday as needed for Education & Government programming
   c. Saturday and Sunday – Open only for Master Control Room Operation
   d. On-Call – 24 hours per day and 365 days per year to oversee the use of the facility and provide technical management as needed

INET SITES, CITY OF MODESTO AND SCHOOLS (Exhibit "B")

Site	Address	Comments
Main Office	600 10th Street	
ew Command Center	Sutter and Chicago	Moved from 401 #D Paradise (March 2004)
ortheast Area Command (C W Center)	3705 Oakdale Road	
orthwest Area CMD	3401 Dale Road	
Property Evidence Bldg	1124 F Street	
Police Dept. Evidence	11th and G Streets	
Fire		
Fire Administration	600 11th Street	
Station 1	610 11th Street	
Station 2	629 2nd Street	
Station 3	637 El Vista Ave	
Station 4	1505 Blue Gum Ave	
Station 5	200 W. Briggsmore Ave	
Station 6	2700 Standiford Ave	
Station 7	1800 Mable Ave	
Station 8	737 Airport Ave	
Station 9	4025 Fara Buindo Drive	
Station 10	148 Imperial Ave	
Fire Prevention	1010 10th Street	
Station 11 (Proposed)	Carver and Pelandale	
Station 2A (Proposed)	Sutter and Chicago	
Training Center	1220 Fire Science Lane	
Other City Facilities		
Recreation Center	720 Coldwell Ave.	
Senior Opportunity Services	416 Downey Ave.	
King Kennedy Memorial	601 Martin Luther King	
Modesto Centre Plaza	1000 L Street	
Boy Scout Clubhouse	400 Enslen Ave	
enior Citizens Center	211 Bodem Street	
cHenry Mansion	906 15th Street	
cHenry Museum	1402 I Street	
American Legion Hall	1021 S. Santa Cruz Ave	
Maddux Youth Center	615 Sierra Drive	
Graceda Park/Mancini Bowl	410 Needham (Needham and Sycamore)	
John Thurman Field	601 Neece Drive	Added (May 2003)
Modesto Municipal Golf Course	400 Toulumne Boulevard	Added (March 2004)
Corporation Yard	501 N. Jefferson Street	
Portable Bldg	115 Elm Street	
Transportation Center	9th Street & J Street	
Airport Terminal	617 Airport Way	
Airport General Aviation	700 Tioga Drive	
Sanitation Plant	1221 Sutter Ave	
Amtrak Station	1700 Held Drive	
Intersection of Hatch and Morgan	Hatch and Morgan	
Modesto City Schools		
Administration Offices		
District Office	426 Locust St	
Technology Center	Reno Ave, Building A	
Corporation Yard	1300 Woodland Ave	
K-6 Schools		
Pearson	500 Locust St	
Beard	915 Bowen Ave	C6
Bret Harte	909 Bret Harte Place	C7
Burbank	1135 Paradise Rd	C8
Vista/Mitchell Rd Corridor	450 El Vista Ave.	C9
nslen	515 Coldwell Ave	C10
erett	1530 Mt. Vernon Drive	C11
Fairview	1937 West Whitmore Ave	C12
Franklin	120 S. Emerald Ave.	C13
Fremont	1220 S. Orangeburg Ave.	C14
Kirchien	1900 Kirchen Dr	C15
Lakewood	2920 Middlebrook Pl	C16

INET SITES, CITY OF MODESTO AND SCHOOLS (Exhibit "B")

Site	Address	Comments
Marshall	515 Sutter Ave	C17
Garrison	1811 Teresa St	C18
Martone	1413 Pourst Rd	C19
John Muir	1215 Lucerne	C20
Robertson Rd.	1821 Robertson Rd	C22
Rose Ave	1120 Rose Ave	C23
Shackelford	100 School Ave.	C24
Sonoma	1325 Sonoma Ave	C25
Toulumne	707 Herndon Rd	Out of Comcast Service Area. Will not be built
Wilson	201 Wilson Ave	C27
Wright	1602 Monterey	C28
7-8 Schools		
Hanshaw	1725 Las Vegas St	C29
La Loma	1800 Encina Ave	C30
Mark Twain	707 Emerald Ave	C31
Roosevelt	1330 College	C32
Proposed	Village One Area	Future School
High Schools		
Beyer	1717 Sylvan Ave.	C34
Davis	1200 Rumble Rd.	C35
Downey	1000 Coffee Rd	C36
Johansen	641 Norseman Dr	C37
Modesto High	18 H Street	C38
Elliot	1440 Sunrise	C39
James Enoch High School	3201 Sylvan Ave	C40 Proposed
Joe Gregori High School	5518 Stoddard Road	Out of Comcast Service Area. Will not be built
Future School	Near Carver and Pelendale	Future School Added 5/28/04
Sylvan Union School District		
Freedom Elementary School	2101 Fine Avenue	F1
Elementary School (Sylvan)	NW Corner of Kodiak Dr and Fine	F2
Middle School (Sylvan)	NW Corner of Merle Ave & Fine Ave	F3
Elementary School #10 (Sylvan)	SE Corner of Hillglen Avenue (NW of Ustach Middle School)	
Sylvan District Office	605 Sylvan Ave	F4
Coleman Brown Elementary	2024 Vera Cruz Dr	F5
Orchard Elementary School (Sylvan)	1800 Wisdom Way	F6
Sherwood Elementary School (Sylvan)	819 Rumble Way	F7
Somerset Elementary School (Sylvan)	1037 Floyd Ave	F8
Standiford Elementary School (Sylvan)	605 Tokay Ave	F9
Stockard Coffee Elementary School (Sylvan)	3900 Northview Dr	F10
Sylvan Elementary School (Sylvan)	2808 Coffee Rd	F11
Elizabeth Ustach Middle School (Sylvan)	2701 Kodiak Dr	F12
Woodrow Elementary School	800 Woodrow Ave	F13
Stanislaus County Office of Education (Besides 1100 H Street)		
SCOE Building	1100 H Street	
SCOE Media Services	917 Oakdale Rd.	I1
SCOE Child Development Programs	1324 Celeste Dr	I2
SCOE Charter School	715 13th St	I3
Juvenille Hall/Probation/N.H. Evaluation	2209 Blue Gum Ave	
SCOE Valley Business High School	109 Campus Way	

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-286

A RESOLUTION APPROVING A FIRST AMENDMENT TO THE AGREEMENT WITH REDFLEX TRAFFIC SYSTEM, INC., FOR A SEVEN-YEAR AGREEMENT, WITH OPTION FOR A ONE TWO-YEAR RENEWAL; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT

WHEREAS, on June 8, 2004, the City Council, by Resolution No. 2004-301, approved implementing the automated red light enforcement program and approved a five-year base contract with Redflex Traffic Systems, Inc., of Culver City, California, for the installation of red light photo enforcement equipment and all related maintenance services at up to ten (10) City designated intersections under a phased implementation plan, and

WHEREAS, the City currently has four intersections installed with red light camera systems, and

WHEREAS, on April 6, 2009, the Safety & Communities Committee approved adding four additional intersections for installation:

Northbound Carpenter Rd & Blue Gum Avenue
Eastbound Coffee Rd and Briggsmore Avenue
Eastbound Tully Rd and Briggsmore Avenue
Southbound Tully Rd and Briggsmore Avenue

WHEREAS, the remaining two intersections recommended for installation of red light photo enforcement technologies are at McHenry (S/R 108) at Briggsmore Avenue and McHenry (S/R 108) at Sylvan Avenue), and

WHEREAS, both of these intersections are part of a state route requiring Cal-Trans approval before installation, and

WHEREAS, cost neutrality is assured to the City of Modesto, which means the City of Modesto will never pay Redflex more than actual cash received from the County through collection of red light citations, and

WHEREAS, the City of Modesto agrees to pay Redflex Traffic Systems, Inc. within thirty (30) days after the invoice is received, and

WHEREAS, a monthly late fee of 1.5% is payable for payments 60 days past due, and

WHEREAS, in the event the contract ends or is terminated, all subsequent receipts from automated red light violations for a period of 12 months from the date of termination will be paid to Redflex, and

WHEREAS, each year the pricing will increase by the Consumer Price Index ("CPI"), as published by the Bureau of Labor Statistics for the United States Department of Labor, and

WHEREAS, the term of this Amendment will for be for a seven-year "Initial Term," and

WHEREAS, the Safety and Communities Committee reviewed this item at its June 1, 2009 meeting, and referred to full Council for approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the First Amendment to Agreement with Redflex Traffic System, Inc., for a seven-year agreement, with the option for a one two-year renewal.

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

The foregoing resolution was introduced at a regular meeting, of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-287

RESOLUTION APPROVING AN AGREEMENT WITH LARRY WALKER ASSOCIATES FOR STORMWATER MANAGEMENT PLAN WORK IN AN AMOUNT NOT TO EXCEED $300,000

WHEREAS, the City's current National Pollutant Discharge Elimination System (NPDES) permit for Stormwater was issued by the Regional Water Quality Control Board (Board) in June 2008, and

WHEREAS, as part of the NPDES permit, the City is required to perform special studies identified in the Stormwater Management Plan (SWMP), which need to be completed by 2013, with several phases due by 2011, and

WHEREAS, failure to complete these special studies could result in Board enforcement actions for non-compliance, and

WHEREAS, since 2001 Larry Walker Associates (LWA) has assisted the City with its Stormwater program and permit compliance, and

WHEREAS, in October 2005, the City Council, by Resolution 2005-534, approved an agreement with LWA for assistance in the development and implementation of a Stormwater Management Program, and

WHEREAS, LWA worked on the City's 2008 Draft SWMP, which Council accepted on December 2, 2008, by Resolution 2008-656, and

WHEREAS, the draft SWMP is currently being reviewed by the Board, and the draft will be released for public comment before final Board approval, and

WHEREAS, LWA has demonstrated that they are the leading consulting firm specializing in the development of Wastewater and Stormwater permitting programs for California agencies, and

WHEREAS, in order to maintain the continuity of the current SWMP, staff requests retention of LWA to continue to perform the work required under this program, and

WHEREAS, funds are available in Account 6280-480-5314-0235 in the amount of $300,000 to fund this agreement, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement with Larry Walker Associates in an amount not to exceed $300,000.

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 7th day of July, 2009, by Councilmember Hawn, 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: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-288

RESOLUTION AMENDING THE FY 2009-10 OPERATING BUDGET TO APPROPRIATE $131,000 FROM STORM DRAIN FUND RESERVES TO ACCOUNT NO. 6280-480-5314-0235 FOR STORMWATER MANAGEMENT PLAN WORK

WHEREAS, the City's current National Pollutant Discharge Elimination System (NPDES) permit for Stormwater was issued by the Regional Water Quality Control Board (Board) in June 2008. As part of the NPDES permit, the City is required to perform special studies, and

WHEREAS, these special studies identified in the Stormwater Management Plan (SWMP) need to be completed by 2013, with several phases due by 2011, and

WHEREAS, failure to complete these special studies could result in Board enforcement actions for non-compliance, and

WHEREAS, funds are available in Storm Drain Fund Reserves (6280-800-8000-8003) to fund the $131,000 balance necessary for Stormwater Management Plan work,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the FY 2009-10 Operating Budget to appropriate $131,000 from Storm Drain Fund Reserves to Account No. 6280-480-5314-0235 for Storm Drain Management Plan work

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Hawn, 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: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-289

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE DOWNSTREAM IMPROVEMENTS YOSEMITE BOULEVARD (S.R. 132) WATER LINE INSTALLATION: DRY CREEK TO SO. SANTA ROSA PROJECT, ACCEPTING THE BID, AND APPROVING A CONTRACT WITH MID CAL PIPELINE & UTILITIES, INC. IN THE AMOUNT OF $206,724 FOR THE DOWNSTREAM IMPROVEMENTS YOSEMITE BOULEVARD (S.R. 132) WATER LINE INSTALLATION: DRY CREEK TO SO. SANTA ROSA PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Downstream Improvements Yosemite Boulevard (S.R. 132) Water Line Installation: Dry Creek to So. Santa Rosa project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Downstream Improvements Yosemite Boulevard (S.R. 132) Water Line Installation: Dry Creek to So. Santa Rosa project were opened at 11:00 a.m. on June 9, 2009, and later tabulated by the Director of Public Works for the consideration of the Council, and

WHEREAS, the Director of Public Works has recommended that the bid of $206,724 received from Mid Cal Pipeline & Utilities, Inc. be accepted as the lowest responsible bid and the contract be awarded to Mid Cal Pipeline & Utilities, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Downstream Improvements Yosemite Boulevard (S.R. 132) Water Line Installation: Dry Creek to So. Santa Rosa project, accepts the bid of Mid Cal Pipeline & Utilities, Inc. in the amount of $206,724, and awards Mid Cal Pipeline & Utilities, Inc. the contract for the Downstream Improvements Yosemite Boulevard (S.R. 132) Water Line Installation: Dry Creek to So. Santa Rosa project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract with Mid Cal Pipeline & Utilities, Inc. in the amount of $206,724, for the Downstream Improvements Yosemite Boulevard (S.R. 132) Water Line Installation: Dry Creek to So. Santa Rosa project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-290

A RESOLUTION ACCEPTING THE WORK BY COLLINS ELECTRIC COMPANY, INC. FOR THE PROJECT TITLED "MODIFICATION OF TRAFFIC SIGNALS AT THREE LOCATIONS: 12TH/J STREET, LA LOMA/BURNEY AND BRIGGSMORE/CARVER" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $353,624

WHEREAS, a report has been filed by the Director of Public Works that the project titled "Modification of Traffic Signals at Three Locations; 12th/J Street, La Loma/Burney and Briggsmore/Carver" has been completed by Collins Electric Company, Inc. in accordance with the contract agreement dated September 23, 2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Modification of Traffic Signals at Three Locations; 12th/J Street, La Loma/Burney and Briggsmore/Carver" is hereby accepted as complete from said contractor Collins Electric Company, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $353,624 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 July, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-291

A RESOLUTION APPROVING THE PROSPECTIVE BIDDER PREQUALIFICATION APPEALS PANEL, FOR PUBLIC WORKS' PROJECTS, CONSISTING OF NICHOLAS PINHEY, DIRECTOR OF PUBLIC WORKS, RICHARD ULM, DEPUTY DIRECTOR OF PUBLIC WORKS, AND MARK AVERELL, PURCHASING MANAGER

WHEREAS, the 2009/2010 Capital Improvement Program involves many Public Works' projects that are large and require special construction methods, resources, and experience, and

WHEREAS, many projects are located in a busy corridor with numerous roadways, railroad, utility, and canal crossings, high pressure gas and water lines, high tension electrical, and other difficult interferences, and

WHEREAS, because of the unique nature and size of these projects, City staff recommends prequalifying contractors for the proposed work based on prior experience with projects of similar size and complexity, and

WHEREAS, the City will evaluate the prospective bidders' qualifications and place the qualified bidders on the bidder's list included in the project bid documents, and

WHEREAS, contractors who receive ratings below that necessary to pre-qualify, may file an appeal with the City within seven calendar days of receiving notification, and

WHEREAS, a hearing must be held by an appeals panel within ten calendar days of such appeal being filed, and

WHEREAS, the City Council has the authority to name the appeals panel, consisting of at least three persons, and

WHEREAS, staff recommends Nicholas Pinhey, Director of Public Works, Richard Ulm, Deputy Director of Public Works, and Mark Averell, Purchasing Manager to serve in this capacity, upon Council approval, and

WHEREAS, in addition to the persons listed above, the Mayor may appoint a Councilmember to observe any appeal hearings,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Prospective Bidder Prequalification Appeals Panel, for Public Works' projects, consisting of Nicholas Pinhey, Director of Public Works, Richard Ulm, Deputy Director of Public Works, and Mark Averell, Purchasing Manager.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-292

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE FURNISHING OF WATER STORAGE TANK INSPECTION SERVICES AND REPAIRS FOR A PERIOD OF TWO YEARS, WITH THREE ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR A TOTAL ANNUAL ESTIMATED COST IS $25,000

WHEREAS, the City of Modesto operates eight (8) steel potable water storage tanks, and

WHEREAS, per industry standards, an aggressive maintenance program is necessary to maintain the integrity and longevity for all water storage tanks, and

WHEREAS, these types of programs are important for protection of the facilities from corrosion and prevention of contamination of the treated water by the products of corrosion and sediment, and

WHEREAS, inspection services and repairs are required to maintain the integrity and longevity of these steel tanks, and

WHEREAS, the City currently has an agreement with an outside contractor that provides inspection services and repairs which will expire on September 27, 2009, and

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

WHEREAS, the issuance of a formal RFB for the water storage tank inspection services and repairs conforms to the Modesto Municipal Code,

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

SECTION 1. The City Clerk is hereby authorized to call for public formal bids for the water storage tank inspection services and repairs, for a two (2) year agreement with three (3) one-year extension options at the sole discretion of the City, to be opened in the office of the City Clerk, 1010 Tenth Street, in the City of Modesto. The City Clerk is hereby directed to give notice inviting such sealed bids in the time, form, and manner provided by law.

SECTION 2. After the sealed bids are opened they shall be tabulated and analyzed by the Purchasing Division and a report submitted to Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-293

A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH WEST YOST ASSOCIATES, INC. FOR FINAL DESIGN AND DESIGN SUPPORT DURING CONSTRUCTION SERVICES FOR THE PROJECT TITLED, "DOWNSTREAM IMPROVEMENTS TIER 1 – NORTH TANK" IN THE NOT-TO-EXCEED AMOUNT OF $487,110, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO AGREEMENT

WHEREAS, the City of Modesto and the Modesto Irrigation District (MID) is nearing completion to expand the Modesto Regional Water Treatment Plant (MRWTP) from its existing capacity of 30 million gallons per day (mgd) to 60 mgd, and

WHEREAS, downstream improvements consisting of water storage tanks, booster pumping stations, pressure and/or flow control valves, and pipelines are needed to fully integrate the Phase Two Expansion of the MRWTP with the City's water system, and

WHEREAS, this item was discussed at the Economic Development Committee meeting on March 8, 2004, where a favorable recommendation was given to be forwarded to the Council for consideration, and

WHEREAS, the Economic Development Committee also directed staff to proceed with negotiations with West Yost Associates, Inc. (West Yost) for design services for the critical (Tier 1) Downstream Improvements, and

WHEREAS, City staff determined that Design Services for the City Water System Tier 1 Downstream Improvements to accommodate the MRWTP Phase Two Expansion would be prepared in two stages, namely Preliminary Engineering and Final Design, and

WHEREAS, on December 14, 2004, by Resolution 2004-671, Council approved a professional services agreement with West Yost for $710,200 to complete Preliminary

Engineering Services for the City Water System Tier 1 Downstream Improvements to accommodate the MRWTP Phase Two Expansion, and

WHEREAS, on November 22, 2005, by Resolution No. 2005-579, Council approved a professional services agreement with West Yost for $1,262,000 to complete the Final Design for the City Water System Tier 1 Downstream Improvements to accommodate the MRWTP Phase Two Expansion, and

WHEREAS, on April 7, 2009, by Resolution No. 2009-154, Council approved a Purchase Agreement, for a 6.3-acre parcel in fee and 2.33 acre portion for a temporary construction easement of a parcel located near the northeast corner of the Tully Road/Bangs Avenue intersection (APN 046-012-002), in the amount of $997,117, and an Agreement to Grant Revocable Conditional License of Egress, for the Downstream Water System Improvements, Tier 1-North Tank Project, and

WHEREAS, the City now needs to complete the design of the North Tank and Booster Pump Station, and

WHEREAS, West Yost submitted a revised scope of services and fee proposal to complete the North Tank project design documents,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to Agreement with West Yost Associates, Inc. for final design and design support during construction services for the project titled, "Downstream Improvements Tier 1 – North Tank" in the not-to-exceed amount of $487,110.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-294

A RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FULLY FUND THE AMENDMENT TO AGREEMENT FOR THE FINAL DESIGN OF THE MODESTO REGIONAL WATER TREATMENT PLANT PHASE TWO EXPANSION – TIER ONE DOWNSTREAM IMPROVEMENTS PROJECT

WHEREAS, a budget adjustment in the amount of $426,940 is necessary to fully fund the Amendment to Agreement with West Yost Associates for final design and design support during construction for Modesto Regional Water Treatment Plant Phase Two Expansion – Tier One Downstream Improvements project, and

WHEREAS, the Fiscal Year 2009-2010 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 2009-2010 Capital Improvement Program budget as shown in **Exhibit A**.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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

FUND:

Water Fund - CIP

EXPENDITURES:		Increase/(Decrease)
Downstream Improvements Tier 1-No Tank	6180-430-W363-6030	($426,940)
Downstream Improvements Tier 1-No Tank	6180-430-W363-6010	$426,940

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-295

A RESOLUTION APPROVING THE SUBMITTAL OF THE FUNCTIONAL CLASSIFICATION CHANGE FOR VARIOUS STREETS THROUGHOUT THE CITY OF MODESTO TO THE STATE OF CALIFORNIA, DEPARTMENT OF TRANSPORTATION

WHEREAS, incorporated cities are responsible for initiating requests for changes to the functional classifications of streets under their jurisdiction, and

WHEREAS, the City of Modesto receives State and Federal road improvement and maintenance funding based on street designations, and

WHEREAS, said Functional Classification Change, as presented in **Exhibit "A,"** has been reviewed and examined by the City 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 a Functional Classification Change for various streets in the City of Modesto to the State of California, Department of Transportation.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Keating, Lopez, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Functional Classification Change Request Form

Submitted by _____

Exhibit "A" Date _____

CRS Map Sheet Number	Coordinate	CT District	County	Jurisdiction	Change/ New/ Delete	Road	From	To	(From) Class	(To) New Class	Length (mi)	Number of Through Lanes	Current AADT
07L45	H5	10	STA	MODESTO	CHANGE	HOUSER LN	CARPENTER RD	PANAMA DR	19	17	0.399	2	4347
07L45	H5	10	STA	MODESTO	CHANGE	PANAMA DR	HOUSER LN	CALIFORNIA AVE	19	17	0.254	2	1844
07L45	J5	10	STA	MODESTO	CHANGE	MADISON ST	CALIFORNIA AVE	VINE ST	19	17	0.143	2	4457
07L45	J5	10	STA	MODESTO	CHANGE	VINE ST	MADISON ST	S WASHINGTON ST	19	17	0.162	2	2964
07L45	K5	10	STA	MODESTO	CHANGE	ROSELAWN AVE	SOUTH AVE	SIERRA DR	19	17	0.478	2	738
07L45	K3	10	STA	MODESTO	CHANGE	10TH ST	NEEDHAM ST	L ST	19	17	0.325	2	3450
07L45	K3	10	STA	MODESTO	CHANGE	11TH ST	NEEDHAM ST	L ST	19	17	0.262	2	2965
07L45	K3	10	STA	MODESTO	CHANGE	12TH ST	NEEDHAM ST	L ST	19	17	0.182	2	3847
07L45	J3	10	STA	MODESTO	NEW	KANSAS NEEDHAM OVERPASS	FRANKLIN ST	NEEDHAM ST	-	16	0.298	4	13762
07L45	F2	10	STA	MODESTO	CHANGE	POUST RD	BLUE GUM AVE	WOODLAND AVE	19	17	0.505	2	976
07L45	K3	10	STA	MODESTO	DELETE	KANSAS AVE	8TH ST	9TH ST	19	-	0.042	2	-
07L45	J3	10	STA	MODESTO	CHANGE	FRANKLIN ST	NEEDHAM OVERPASS	KANSAS AVE	19	16	0.067	4	13762
07L35	E6	10	STA	MODESTO	CHANGE	PELANDALE AVE	SISK RD	DALE RD	16	14	1.030	6	30338
07L35	F6	10	STA	MODESTO	CHANGE	PELANDALE AVE	DALE RD	McHENRY AVE	19	14	3.040	6	22944
07L35	D6	10	STA	MODESTO	CHANGE	CHAPMAN RD	PELANDALE AVE	1400' N OF PELANDALE	19	17	0.265	4	940
07L35	F6	10	STA	MODESTO	CHANGE	BANGS AVE	DALE RD	CARVER RD	19	17	1.500	2	5149
07L35	G6	10	STA	MODESTO	CHANGE	PRESCOTT RD	SNYDER AVE	BANGS RD	19	16	0.503	4	4473
07L35	F8	10	STA	MODESTO	CHANGE	HAHN DR	STANDIFORD AVE	VENEMAN AVE	19	17	0.265	2	2694
07L35	E7	10	STA	MODESTO	CHANGE	NIGHTINGALE DR	BLUE BIRD DR	DALE RD	19	17	0.489	2	1461
07L35	G7	10	STA	MODESTO	CHANGE	VENEMAN AVE	CHEYENNE WY	SNYDER AVE	19	17	0.248	2	4818
07L35	J7	10	STA	MODESTO	CHANGE	SNYDER AVE	CARVER RD	TULLY RD	19	17	0.585	2	4308
07L35	G7	10	STA	MODESTO	CHANGE	CHEYENNE WY	MARSALA WY	VENEMAN AVE	19	17	0.437	2	3866
08L41	A3	10	STA	MODESTO	CHANGE	11TH ST	L ST	K ST	19	17	0.089	2	3265
08L41	A3	10	STA	MODESTO	CHANGE	13TH ST	NEEDHAM ST	J ST	19	17	0.297	2	2116
08L41	B3	10	STA	MODESTO	CHANGE	17TH ST	DOWNEY AVE	BURNEY ST	19	17	0.367	3	11239
08L41	D3	10	STA	MODESTO	CHANGE	ENCINA AVE	N CONEJO AVE	700' E OF N CONEJO AVE	19	17	0.132	2	2128
08L41	D4	10	STA	MODESTO	CHANGE	MILLER AVE	LA LOMA AVE	N RIVERSIDE DR	19	17	0.932	2	4946
08L41	G3	10	STA	MODESTO	CHANGE	PENNY LN	LINCOLN AVE	McCLURE RD	19	17	0.488	2	2641
08L41	H3	10	STA	MODESTO	CHANGE	MECHALYS WY	McCLURE RD	CREEKWOOD DR	19	17	0.221	2	1669
08L41	J2	10	STA	MODESTO	CHANGE	NORSEMAN DR	CREEKWOOD DR	GARST RD	19	17	0.198	2	2187
08L41	J1	10	STA	MODESTO	CHANGE	E ORANGEBURG AVE	CLAUS RD	HELD DR	19	17	0.456	2	2644
08L41	E2	10	STA	MODESTO	CHANGE	SURREY AVE	OAKDALE RD	EASTRIDGE DR	19	17	0.735	2	2459
08L41	F3	10	STA	MODESTO	CHANGE	EASTRIDGE DR	SCENIC DR	ORANGEBURG AVE	19	17	0.669	2	2189
08L41	F1	10	STA	MODESTO	CHANGE	MIDDLEBORO PL	EASTRIDGE DR	LAKEWOOD DR	19	17	0.269	2	1322

08L41	D3	10	STA	MODESTO	CHANGE	N CONEJO AVE	ENCINA AVE	YOSEMITE BLVD (S R 132)	19	17	0.484	2	705
08L41	J1	10	STA	MODESTO	CHANGE	HELD DR	E BRIGGSMORE AVE	E ORANGEBURG AVE	19	17	0.242	2	4722
08L31	B6	10	STA	MODESTO	CHANGE	CLARATINA AVE	McHENRY AVE (S R 108)	COFFEE RD	19	17	0.997	2	13682
08L31	D6	10	STA	MODESTO	NEW	CLARATINA AVE	COFFEE RD	OAKDALE RD	-	17	0.987	2	8000
08L31	B7	10	STA	MODESTO	CHANGE	GRECIAN AVE	McHENRY AVE (S R 108)	DRAKESHIRE DR	19	17	0.709	2	1070
08L31	B7	10	STA	MODESTO	CHANGE	LIFESCAPES DR	CLARATINA AVE	GRECIAN AVE	19	17	0.104	2	3282
08L31	B7	10	STA	MODESTO	CHANGE	DRAGOO PARK DR	E UNION AVE	GRECIAN AVE	19	17	0.366	2	1727
08L31	B7	10	STA	MODESTO	NEW	DRAKESHIRE DR	GRECIAN AVE	MONTANA DR	-	17	0.032	2	1436
08L31	C7	10	STA	MODESTO	NEW	MONTANA DR	DRAKESHIRE DR	COFFEE RD	-	17	0.265	2	800
08L31	C7	10	STA	MODESTO	CHANGE	BEYER PARK DR	CLARATINA AVE	SYLVAN MEADOWS DR	19	17	0.453	2	618
08L31	D7	10	STA	MODESTO	CHANGE	MABLE DR	COFFEE RD	OAKDALE RD	19	17	0.981	2	6955
08L31	E8	10	STA	MODESTO	CHANGE	WOOD SORREL DR	SYLVAN AVE	HILLGLENAVE	19	17	0.245	2	1409
08L31	F8	10	STA	MODESTO	CHANGE	ARIA WY	SYLVAN AVE	HILLGLENAVE	19	17	0.245	2	1018
08L31	F8	10	STA	MODESTO	CHANGE	Mc REYNOLDS AVE	SYLVAN AVE	HILLGLENAVE	19	17	0.237	2	2493
08L31	E9	10	STA	MODESTO	NEW	ORCHARD PARK WY	KODIAK DR	MANOR OAK DR	19	17	0.478	2	500
08L31	E8	10	STA	MODESTO	NEW	LA FORCE DR	OAKDALE RD	KODIAK DR	-	17	0.145	2	600
08L31	F8	10	STA	MODESTO	CHANGE	HILLGLEN AVE	LA FORCE DR	ROSELLE AVE	-	17	0.932	2	1294
08L31	F9	10	STA	MODESTO	CHANGE	KODIAK DR	LA FORCE DR	FINE AVE	19	17	1.680	2	468
08L31	E9	10	STA	MODESTO	CHANGE	MANOR OAK DR	OAKDALE RD	LINCOLN OAK DR	19	17	0.518	2	3849
08L31	F10	10	STA	MODESTO	CHANGE	LINCOLN OAK DR	MANOR OAK DR	OAKLAWN DR	19	17	0.033	2	1954
08L31	F10	10	STA	MODESTO	CHANGE	OAKLAWN DR	LINCOLN OAK DR	TEMESCAL DR	19	17	0.227	2	1315
08L31	F10	10	STA	MODESTO	CHANGE	TEMESCAL DR	MERLE AVE	FLOYD AVE	19	17	0.503	2	994
08L31	F10	10	STA	MODESTO	CHANGE	TEMESCAL DR	FLOYD AVE	KODIAK DR	19	17	0.245	2	952
08L31	G10	10	STA	MODESTO	CHANGE	BEI HARBOUR DR	TEMESCAL DR	DEMOND RD	19	17	0.485	2	1017
08L31	H8	10	STA	MODESTO	CHANGE	LITT RD	SYLVAN AVE	KODIAK DR	19	17	0.489	2	1856
08L31	H8	10	STA	MODESTO	CHANGE	HILLGLEN AVE	MILLBROOK AVE	LAUDING WY	19	17	0.497	2	998
08L31	H9	10	STA	MODESTO	CHANGE	FINE AVE	MERLE AVE	LAUDING WY	19	17	0.659	2	2576
08L31	G8	10	STA	MODESTO	CHANGE	ESTA AVE	MILLBROOK AVE	FLOYD AVE	19	17	0.640	2	587
08L31	G8	10	STA	MODESTO	CHANGE	MILLBROOK AVE	SYLVAN AVE	DERMOND RD	19	17	1.140	2	1367
08L31	H9	10	STA	MODESTO	NEW	FLOYD AVE	FINE AVE	CLAUS RD	-	16	0.456	4	3127
08L31	H10	10	STA	MODESTO	CHANGE	SHARON AVE	MILLBROOK AVE	FINE AVE	19	17	0.391	2	1583
08L31	H10	10	STA	MODESTO	CHANGE	MERLE AVE	DERMOND RD	CLAUS RD	19	17	0.741	2	2381
08L31	H10	10	STA	MODESTO	NEW	MAID MARIANE LN	SHARON AVE	MERLE AVE	-	17	0.249	2	1088

Functional Classification Codes

Rural Functional Class Codes:	Urban Functional Class Codes:
01= Principal Arterial Interstate	11=Principal Arterial Interstate
02= Other Principal Arterial	12=Principal Arterial -Other Fwys or Expwy
06= Minor Arterial	14=Other Principal Arterial
07=Major Collector	16=Minor Arterial
08=Minor Collector	17=Collector
09=Local	19=Local

Exhibit "A"

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-296

A RESOLUTION ACCEPTING THE PROJECT DESIGN REPORT, DATED MAY 2008, FOR THE CARPENTER ROAD BRIDGE SEISMIC RETROFIT CONTRACT NO. BRLSZA-5059(064) PROJECT AS COMPLETE

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, on October 10, 2000, by Resolution No. 2000-519, Council approved an agreement with Dokken Engineering, and

WHEREAS, on November 6, 2002, by Resolution No. 2002-538, Council approved an amendment to agreement with Dokken Engineering in the amount of $11,414.00, to include environmental documentation work to be performed by LSA Associates, a sub-consultant to Dokken Engineering, and

WHEREAS, the Project Design Report (PDR) titled, "Seismic Retrofit of Carpenter Road Bridge Over Tuolumne River Bridge No. 38C-0050 PN: BRLSZA-5059(064)" was prepared under the original agreement with Dokken Engineering, and

WHEREAS, the PDR summarizes existing facilities, details proposed project elements, presents preliminary engineering drawings, and provides estimated cost and schedule projections for project implementation, and

WHEREAS, the PDR has been successfully completed and will serve as the basis for the final design of the Carpenter Road Bridge Seismic Retrofit Contract No. BRLSZA-5059(064) project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Project Design Report, dated May 2008, for the Carpenter Road Bridge Seismic Retrofit Contract No. BRLSZA-5059(064) project as complete.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-297

A RESOLUTION APPROVING AN AGREEMENT WITH DOKKEN ENGINEERING FOR FINAL DESIGN SERVICES FOR CARPENTER ROAD BRIDGE SEISMIC RETROFIT CONTRACT NO. BRLSZA-5059(064) IN AN AMOUNT NOT TO EXCEED $275,250.56 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $27,525.00 FOR ADDITIONAL SERVICES (IF NEEDED) FOR A MAXIMUM TOTAL AMOUNT OF $302,775.56, 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, on October 10, 2000, by Resolution No. 2000-519, Council approved an agreement with Dokken Engineering, and

WHEREAS, on November 6, 2002, by Resolution No. 2002-538, Council approved an amendment to agreement with Dokken Engineering in the amount of $11,414.00, to include environmental documentation work to be performed by LSA Associates, a sub-consultant to Dokken Engineering, and

WHEREAS, although the original agreement with Dokken Engineering included environmental documentation, preparation of a Project Design Report (PDR), topographic survey and mapping, right-of-way plats and descriptions, and roadway approach, the environmental documentation was required to be completed first before other design work could begin, and

WHEREAS, the funds available under time and materials were not sufficient to continue the design after preparation of the environmental document and the PDR, and

WHEREAS, the PDR titled "Seismic Retrofit of Carpenter Road Bridge Over Tuolumne River Bridge No. 38C-0050 PN: BRLSZA-5059(064)," summarizes existing facilities, establishes project design criteria and method of design, identifies critical project elements and provides an estimated project cost of $12.5 million for the project, and

WHEREAS, Dokken Engineering successfully completed the Project Design Report, and

WHEREAS, this Design Agreement will allow for the final design, development of biddable documents, and assistance during the bid period for the project, and

WHEREAS, City staff recommends approving an Agreement with Dokken Engineering as the City does not have the staffing level or subject matter expertise to complete the Final Design Services for Carpenter Road Bridge Seismic Retrofit Contract No. BRLSZA-5059(064) 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 Dokken Engineering for final design services for Carpenter Road Bridge Seismic Retrofit Contract No. BRLSZA-5059(064) project in an amount not to exceed $275,250.56 for the identified scope of services, plus $27,525.00 for additional services (if needed) for a maximum total amount of $302,775.56.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-298

A RESOLUTION FREEZING THE ANNUAL INFLATIONARY ADJUSTMENT FOR THE WASTEWATER CAPACITY CHARGE AND THE WATER CONNECTION CHARGE FOR FISCAL YEAR 2009/2010, AND AUTHORIZING THE DIRECTOR OF PUBLIC WORKS TO ADMINISTRATIVELY APPLY AN ANNUAL INFLATIONARY ADJUSTMENT EFFECTIVE JULY 1, 2010, NOT TO EXCEED THE PERCENT CHANGE IN THE ENGINEERING NEWS RECORD CONSTRUCTION COST INDEX FOR THE SAN FRANCISCO REGION USING APRIL 2008 AS THE BASE YEAR FOR THE CALCULATION

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, on May 8, 2007, by Resolution No. 2007-287, Council authorized the Director of Public Works to administratively make an annual inflation adjustment to the Wastewater Capacity Charges, and

WHEREAS, Section 11-1.04 of the Modesto Municipal Code (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, Council adopted Resolution No. 2004-627 rescinding 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, Council adopted Resolution No. 2005-204 amending 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, Council adopted Resolution No. 2005-492 amending and restating 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,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby freezes the annual inflationary adjustment for the Wastewater Capacity Charge and the Water Connection Charge for Fiscal Year 2009/2010, and authorizes the Director of Public Works to administratively apply an annual inflationary adjustment effective July 1, 2010, not to exceed the percent change in the Engineering News Record Construction Cost Index for the San Francisco region using April 2008 as the base year for the calculation.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-299

A RESOLUTION AMENDING AND RESTATING RESOLUTION NO. 2005-492 CLARIFYING POLICY ISSUES ON WATER CONNECTION FEES AND CLARIFYING THE APPLICATION OF THE INFLATOR INDEX FOR FIXED AND VOLUME BASED CHARGES FOR WATER

WHEREAS, Section 11-1.04 of the Modesto Municipal Code (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, MMC Section 11-6.02 authorizes the Council, by resolution, to establish charges for deposits for utility services, and MMC Section 11-6.08 authorizes the Council, by resolution, to establish charges for use of fire hydrants, and

WHEREAS, on November 23, 2004, the City Council adopted Resolution No. 2004-627 rescinding 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 adopted Resolution No. 2005-204 amending 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 adopted Resolution No. 2005-492 amending and restating 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, Resolution No. 2005-492 is reaffirmed in every other respect and repeated in its entirety herein for the sake of administrative convenience, and

WHEREAS, the City Council amended water connection fees on May 24, 2005, and

WHEREAS, the water connection fees were implemented on July 25, 2005, and

WHEREAS, due to the amendment and the substantial increase in fees, several questions have arisen which are at a policy level, and

WHEREAS, staff feels that it is best to memorialize direction from the Council in the form of a resolution so that confusion is minimized and developers can better plan for what fees will be required, and

WHEREAS, the method of administration of the inflation adjustment for connection fees would be improved by specifying the period on which the inflation adjustment is based, and

WHEREAS, most of the policy issues deal with transitional commercial properties, the City Council does amend and restate Resolution 2005-282 to add Section 10A, below,

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

DEFINITIONS:

A. Connection Charge - A one-time prorata charge to be paid by or on behalf of a prospective ratepayer for facilities existing in, or planned to be added to the City water system, minus deficiencies (previously known as Water System Fee).

B. City Water System - The City's physical assets dedicated to the provision of water to the public for human consumption, including assets for the collection, treatment, pumping, storage and distribution of water under the control of the City's operator.

C. Connection - The attachment of pipe facilities to the City water System for one or more water service uses.

D. Costs of Service - All costs appropriately borne by the entire rate base, calculated on a consumption basis to the extent practicable, and consisting of a fixed component, and a variable component including the distribution of estimated costs of service obligations allocated to the System by the City Council on a System-wide basis. Such costs shall exclude all capacity charges, and include all deficiency charges.

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

F. MMC - Modesto Municipal Code.

G. Standard Billing Cycle - A standard period of time, usually consisting of one 28-35 day month commencing from date of initiation of water service, and continuing until water service termination. The Finance Director, or designee, shall have

the authority to, from time to time, redefine the standard billing cycle to better fit the needs and requirements of the City.

H. Water Acquisition Costs - All direct and indirect costs to the City for water purchase, treatment and transmission to a connection with the System.

SECTION 1. WATER CHARGES BASED SOLELY ON COST OF SERVICES TO THE RATEPAYER. In accordance with law, the charge for all water delivered by the System shall be based solely on the cost of service to the ratepayer. Costs of service, in turn, shall consist of two components: fixed costs, such as those for billing, meter reading where applicable, and other general overhead, and variable costs, such as proportionate costs of the acquisition and transmission of water, removal of deficiencies, higher operating and maintenance costs apportioned to ratepayers with service demands requiring larger meters, and the costs of the commitment of the System to high-quality maintenance, and the provision of clean water at adequate pressure under all circumstances under the System's control, or as mandated by agencies outside the City as elaborated more fully below.

The City Council has evaluated the costs of service, including the costs of correcting existing deficiency in its water System and of growth, and of underwriting certain commitments to its rate base on a System-wide basis. The City's water utility is regional in nature, and its revenue requirements, or cash needs, have been attributed to the System as a whole. In certain cases, costs of only the engineering characteristics of the System may vary with a ratepayer's location. Nevertheless the Council believes the cost of service exceeds asset costs, because the Council has committed to intangible service elements in addition to fixed asset costs.

These are:

1. To provide high-quality maintenance at cost.
2. To plan for and provide adequate future supplies of water for the metropolitan area.
3. To act promptly to assure a clean water supply in light of the likelihood that unpredictable and possibly dramatic changes in the regulatory climate will occur.
4. To provide clean water at adequate pressures under all reasonable circumstances.

The Council is advised that some, or perhaps many, of the assets planned to insure its promises will be located geographically apart from existing System components because different areas of a large regional System will have differing physical asset requirements through time. Thus, the primary benefit of the System to any individual ratepayer will be in the fulfillment of the Council's commitments, in contrast to the ratepayer's proximity to any specific existing or planned physical asset. In sum, the principal service of the System is and shall be the keeping of its commitments, not the geographical distribution of its physical components, or their physical effects on the water commodity those assets provide.

SECTION 2. COST OF DELIVERED WATER BASED ON QUANTITY USED IN BILLING CYCLE. It is the policy of the City of Modesto that all charges for water delivered by the System shall be determined by the quantity of water used in a standard billing cycle as determined from metered water usage for metered services, and estimated usage of unmetered (flat-rate) services, where services are metered and said meters are read for billing purposes. All estimated flat rate services will be a metered rate as services are converted and/or as funds become available.

SECTION 3. PAYMENT OF CONNECTION CHARGES. In the case of new subdivisions or parcel maps the fee shall be collected upon the issuance of the building permit.

SECTION 4. DEFICIENCY CHARGES. System modernization and improvement, as opposed strictly to expansion, benefits all of the rate base. Accordingly, the cost of removing deficiencies shall be borne by the entire rate base as a component of the variable cost per 100 cubic feet of delivered water.

SECTION 5. ALLOCATION OF WATER ACQUISITION AND TRANSMISSION COSTS. Water acquisition and transmission costs for the System are appropriately apportioned between existing deficiencies and growth requirements. Accordingly, an engineering determination has been made in the West Yost AJustification and Cost Allocation for Proposed Water System Improvements Study, accepted by Council on September 14, 2004, that 74.2% of the City's water acquisition costs be included in deficiency charges, and that the remaining 25.8% be attributed to growth, and apportioned to and collected in connection charges.

SECTION 6. DETERMINATION OF FIXED AND VOLUME BASED CHARGES FOR DELIVERY OF WATER TO RATEPAYERS. The charge for all water delivered through a metered service where the meters are read for billing purposes, as practical, and as determined by the Finance Director, or designee, with the concurrence of the Public Works Director after December 31, 2004, set forth in the *Water Utility Cost of Service Rate Study* prepared by Foresight Consulting, accepted by Council on September 14, 2004, shall be:

Proposed Monthly Metered Water Rates (by meter size)					
	Year 1 1-Jan-05	Year 2 1-Jul-05	Year 3 1-Jul-06	Year 4 1-Jul-07	Year 5 1-Jul-08
Volume-based Rate ($/hcf)	$0.84	$1.01	$1.16	$1.22	$1.28
Fixed Monthly Meter Charge (in addition to volume-based charges)					
5/8"-3/4" meter	$9.01	$10.82	$12.44	$13.06	$13.71
1" meter	$12.78	$15.34	$17.64	$18.52	$19.45
1-1/2" meter	$22.13	$26.55	$30.53	$32.06	$33.66
2" meter	$33.38	$40.06	$46.06	$48.37	$50.79
3" meter	$63.43	$76.12	$87.53	$91.91	$96.51
4" meter	$97.19	$116.63	$134.13	$140.83	$147.88
6" meter	$190.95	$229.14	$263.51	$276.68	$290.51
8" meter	$303.49	$364.19	$418.82	$439.76	$461.75
10" meter	$434.84	$521.80	$600.07	$630.08	$661.58
12" meter	$809.95	$971.95	$1,117.74	$1,173.62	$1,232.31

hcf = Hundred cubic feet

The above listed fixed meter charges shall be charged to all ratepayers in every billing cycle. This fixed cost will be charged whether or not any water is actually used by a ratepayer in a given billing cycle until such time as water service is terminated by the customer.

The proposed rate increase(s) are based on currently available information. The actual bills are rounded and may be slightly different than listed above.

SECTION 7. CHARGES FOR UNMETERED WATER SERVICES. The charge for all water delivered from an unmetered service after December 31, 2004, has been

cost-estimated as closely as possible to average metered rates as follows: Until such time as the subject residential property is billed at a metered rate:

Proposed Monthly SFR Flat Water Rates*					
	Year 1 1 Jan-05	Year 2 1-Jul-05	Year 3 1-Jul-06	Year 4 1-Jul-07	Year 5 1-Jul-08
0-5,000 sq. ft. lot	$24.47	$29.36	$33.77	$35.45	$37.23
5,001-7,000 sq. ft. lot	$27.81	$33.37	$38.38	$40.30	$42.31
7,001-11,000 sq. ft. lot	$33.00	$39.60	$45.54	$47.82	$50.21
11,001-17,000 sq. ft. lot	$35.03	$42.04	$48.34	$50.76	$53.30
Over 17,000 sq. ft. lot	$41.19	$49.42	$56.84	$59.68	$62.66

SFR = Single Family Residential

* If a SFR property has a water meter that is read, then the appropriate Metered Water Rate will be used.

The proposed rate increase(s) are based on currently available information. The actual bills are rounded and may be slightly different than listed above.

When water service is turned on or off anytime between the beginning and end of a billing cycle, the amount charged to an unmetered (flat-rate) service shall be pro-rated.

SECTION 8. RESCISSION OF ALL PREVIOUS RESOLUTIONS RELATING TO WATER DELIVERY OR WATER OPERATIONS AND MANAGEMENT. All

resolutions of the City Council setting any rates or fees whatsoever for the delivery of water, or for costs associated with operation or management of the water System, are hereby rescinded; except that water rates established by the rescinded resolutions shall remain in effect until the rates established in this resolution take effect on January 1, 2005. This resolution shall be the sole basis for determining any water fee to be charged to a ratepayer or potential ratepayer, or paid on behalf of a potential ratepayer by the City on and after January 1, 2005.

SECTION 9. COST OF METERS AND INSTALLATION. The cost of meters and of meter installation and repair for existing ratepayers when this resolution is enacted has been included in the fixed cost assigned to the rate base for water consumption, since metering has been determined to benefit the rate base as a whole.

SECTION 10. CONNECTION FEES. The law requires that charges attributable purely to growth (new connections) be borne solely by those new connections. Accordingly, the planned infrastructure cost for deficiencies in the existing System, and for costs associated with new growth have been apportioned as follows: 74.2% attributable to existing deficiencies and 25.8% attributable to new growth. These percentages have been applied to anticipated capital costs on a going forward basis for the five-year period following the date of this resolution. Combined with the growth-induced component of water acquisition costs and the apportioned cost of buying-into the existing system, this will result in the establishment of connection charges.

SECTION 10A. CLARIFYING POLICY ISSUES ON WATER CONNECTION FEES

The City Council amended water connection fees on May 24, 2005 and, the water connection fees were implemented on July 25, 2005. Due to the amendment, and due to the substantial increase in fees, several questions have arisen which are at a policy level, staff feels that it is best to memorialize direction from the Council in the form of a resolution so that confusion is minimized and developers can better plan for what fees will be required. Because most of the policy issues deal with transitional commercial properties, the City Council does amend and restate Resolution 2005-492 as follows:

1. Property is changing use but staying with *same* sized water service on the *same* parcel (no change in meter size). No additional connection fees are required if a property has an existing service on a parcel and is not changing the size of the service. The location of the service may change on the parcel and fees would be assessed for establishing a new connection to the main line, if needed, and the cost of the meter and installation.

   Example: Property has a 1-inch service and is an office complex. Property changes to a retail complex with also a 1-inch service. No charge is made under the new connection fees, except for any fees related to a change in the location of the service.

2. Property is changing use and requiring an upgrade to the service (larger meter required). The water connection fees for the new service will be at the new rate for that sized service, less the amount (credit) that *may* have been paid in some way, with the credit based on the current connection fee for the existing or previous service. No credit will be allowed for previous services that have not been active for a continuous period of more than ten years. A service shall be consider active during any period where there is an open account for water service that is in good standing.
   Example: Property has a 1-inch service and the new use requires a 2-inch service. A fee for the 2-inch service based on the connection fee schedule in effect at the time it is assessed, less the current connection fee for a 1" service.

   Example 2: Property has a 1-inch service and wants to add an additional 1-inch service; the connection fee for the additional 1-inch service will be based on the current connection fee for a 1" service.

3. Property is a parcel split or a parcel reduction and fees were assessed originally only for one part of the parcel, due to partial development. Remainder is now in for development. The new or remaining portion of the

parcel pays for the new connection fees necessary to serve the remaining portion of the parcel.
Example: A parcel has paid for a water connection based on the square footage basis but only for the portion that was developed at that time. The remaining portion has had no fees paid for water connection. This would be treated as a new service at whatever the current schedule is for the specific service, with no credit given.

4. Property has paid for a water connection fee based on the $.05 per square foot or other manner for the entire parcel. Development of a previously undeveloped portion of parcel is proposed or an additional service is requested. A new connection fee will be assessed less the amount of a credit for any existing or previous service based on the current connection fee for that size service. No credit will be allowed for previous services that have not been active for a continuous period of more than ten years. A service shall be consider active during any period where there is an open account for water service that is in good standing.
   Example: A parcel has partially developed but has paid the $.05 square foot or other fee for the entire parcel. Additional development occurs. A credit is given for a previous or current service at the current connection fee amount. No credit will be allowed for a previous service that has not been active for a continuous period of more than ten years.

5. Property is NOT changing use but requests a new service for the sole purpose of separating domestic and landscape water use in order to avoid payment of sewer charges for exterior water use. No connection fee will be assessed for the additional service. However, should the property use change in the future such that the additional service is needed for the changed use, the connection fee in place at the time shall be paid for the additional service.
   Example: A professional office complex with a large landscaped area is served with one water service. An additional service is requested to serve landscape water only. No connection fee is charged at that time. At a later date additional office space is proposed on the site displacing some of the landscaped area. The new office space is proposed to be served off the landscape water service. Connection fees for the landscape water service would be required to be paid at that time based on the most current rates.

6. Payment of fees over time for larger projects. This would be applicable to projects where the water connection fees exceed $100,000 and where there is a single owner. This may be one parcel or a group of contiguous parcels. Fifty (50%) of the fees would be due at the time of the building permit issuance for not more than 50% of total permits to be issued. The remaining 50% plus interest would be due prior to issuance of the remaining permits.

The developer must execute an agreement with the City and provide adequate security to protect the City's interests in the form of a letter of credit, cash, or cash equivalent.

SECTION 11. WATER DISCOUNT FOR LOW INCOME SENIOR CITIZENS AND LOW INCOME DISABLED. The law prohibits all such cross-category subsidies requiring one ratepayer to subsidize the costs of another. Accordingly, the City Council may from time to time, by separate resolution, enact subsidies for certain categories of ratepayers, as the City Council may see fit, provided that the source(s) of funds to implement such subsidies are source(s) separate from the water enterprise fund.

SECTION 12. INFLATOR INDEX AND REASSESSMENT OF COST OF SERVICE. The costs of service set forth above shall be re-examined every two years by engineers, consultants, and professionals competent in the field. Such engineers, consultants and professionals shall provide a report to the City updating both fixed and volume based costs as appropriate and as recommended to the Council by the Finance Director and the Public Works Director. After June 30, 2009, the Finance Director, or designee, with the concurrence of the Public Works Director, shall have the authority, on an annual basis, to raise either fixed or variable costs, or both, as appropriate, by an amount not to exceed the percentage increase in the Consumer Price Index, Urban Wage Earners and Clerical Workers Series (CPI-W) for the San Francisco CMSA, as reported for December of the year preceding the year in question compared to the previous December as prepared by the California Department of Finance Demographics Research Unit.

SECTION 13. WATER CHARGES FOR WATER USED DURING BUILDING CONSTRUCTION.

(a) The water service charge furnished to single-family residences, duplexes, and triplexes that are under construction will be a flat rate charge based on the formula below. This charge will be assessed and paid at the time of building permit issuance.

120 Day Residential Construction Water Rate:
Current Flat Rate for Smallest Lot
Area + Current City Utility Tax x 4
months

(b) The water service charge specified in the first paragraph provides for water service for 120 days. Subsequent to that time, the water service fee shall be collected on a regular monthly billing based on the full size of the lot unless the owners request the water to be turned off at the end of 120 days.

(c) In the event construction ceases before the building is completed, the water to the building site will be turned off unless the property owner has made arrangements for regular service.

(d) In the event a structure is occupied before final inspection of the structure, or water is used for other than normally required for construction, the water service charge will be made at the established rate for regular service.

(e) Charges for water services during the construction of apartments, commercial buildings, and industrial buildings will be at the regular metered water service charge.

SECTION 14. Fixed fees for all System operations and management services have been calculated and are hereby imposed as follows:

USER FEES	AMOUNT
Deposit	Not to exceed 3 times the estimated average bill or 2 times the normal monthly bill.
Disconnect	$10.00
Reconnect	$10.00
Late Payment Penalty	$4.35

Returned Check	$10.00
Collection Agency	$16.50
Water Disconnection Notice (final notice mailed or door hangers)	$10.00
Unauthorized Reconnect (illegal on)	$25.00
Lock Breakage/Lock Replacement	$75.00
Disconnect Waterline at Main for Non-payment (line cut)	$375.00

DEVELOPMENT FEES	AMOUNT
Connection Charge *1*3	
5/8" Service *2	$1,960.00
1" Service	$4,900.00
1.5" Service	$9,800.00
2" Service	$15,680.00
3" Service	$31,360.00
4" Service	$49,000.00
6" Service	$98,000.00
8" Service	$156,800.00
10" Service	$225,400.00
12" Service	$421,400.00
Water Main Installation Charge	$18.00 per lineal foot of lot frontage
Water Service Installation Charge	
1" Service	$1,108.00
1-1/2" Service	$1,130.00
2" Service	$1,156.00
4" Service	$2,131.00
6" Service	$2,131.00
8" Service	$2,347.00
10" Service or larger	At Cost
Water Meter Fee	
1" Meter/New Service - pedestrian lid	$115.00
1" Meter/New Service - traffic lid	$176.00
1" Meter/Retrofit Service - pedestrian lid	$520.00
1" Meter/Retrofit /Service - traffic lid	$600.00
1-1/2" Meter with pedestrian lid	$484.00
1-1/2" Meter with traffic lid	$545.00

2" Meter with pedestrian lid 2" Meter with traffic lid 4" Meter 6" Meter 8" Meter 10" Meter or larger	$520.00 $582.00 $1,820.00 $2,400.00 $3,350.00 At Cost
Pavement	$439.00 for each trench
Parcel Reduction	$37.00
Water Connection for Main extension	$2,820.00
Reimbursement Agreement Preparation	$175.00
Outside City Limits Agreement	$35.00
Fire Hydrant Installation (each)	$2,635.00
Fire Hydrant Line from Main per Lineal Foot	$3.00
Pavement Replacement	$439.00
Fire Main Test	$90.00
Deposit to Install Meter on Fire Hydrant for Construction Water	$500.00
Fire Hydrant Meter Use Deposit	$500.00
Fire Service Installation Inspection/Test	$90.00
Install 4" Single Check Valve	$390.00
Install 6" Single Check Valve	$479.00
Install 8" Single Check Valve	$688.00
Voluntary Installation of Fire Sprinklers, Apartments	8.3% of normal charge
Voluntary Installation of Fire Sprinklers, SFD, Duplexes, Townhouses	$50.00

*1 Connection charges effective 7/25/05. These charges will be reviewed and updated annually after fiscal year 2005-06 for inflation adjustments based on the engineering construction cost-index beginning July 1, 2006. The inflation adjustment for connection charges shall be equivalent to the change in the Engineering News Record Construction Cost Index for San Francisco through the month of April of each year as compared to the Engineering News Record Construction Cost Index for San Francisco through the month

of April of the previous year. The Public Works Director is hereby authorized to make the above inflation adjustment administratively.

*2 Single family residences qualify for the 5/8" connection fee only under the following conditions:

- Single story, single family residences on a lot of 4,000 square feet or less.
- Two-story single family residences on a lot of 4,000 square feet or less, provided the request for such a service is accompanied by a report from a licensed professional engineer (and approved by the Public Works Director) that certifies that the 5/8" service is adequate to meet the needs of the proposed dwelling.
- A 5/8" "service" shall not be allowed for single family dwellings of greater than 2 stories on lots less than 4,000 square feet.

*3 Service upgrades shall be subject to the connection charge set forth in this resolution, less the amount of the connection charge set forth in this resolution for the size of the initial installation.

All Development fees shall be due and may only be paid at the time a building permit is issued. Development fees shall be calculated and collected based on the proportionate area of the parcel for which the building permit is being issued and/or the parcel is being developed and only for those connections required for actual issuance of the building permit. No other Development fees for the remainder of the parcel may be paid until further building permits are issued. For purposes of this paragraph the Public Works Director, or designee, shall determine the proportionate area of the parcel being developed. The decision of the Public Works Director in this regard shall be final.

SECTION 15. For purposes of supporting an exemption from CEQA pursuant to Section 15273(4) of the CEQA Guidelines, the City Council finds with respect to the water rates and connection charges set forth above, that they are for the following purposes:

(a) Meeting operating expenses;

(b) Purchasing or leasing supplies, equipment, or materials;
(c) Meeting financial reserve needs and requirements; and
(d) Obtaining funds for capital projects necessary to maintain service within existing service areas.

SECTION 16. This resolution shall become effective on and after July 7, 2009.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-300

A RESOLUTION CONFIRMING THE DIAGRAM AND ASSESSMENTS, AND ORDERING THE LEVY AND COLLECTION OF CHARGES WITHIN LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 1 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 1-6

WHEREAS, the City of Modesto has by Resolution No. 2009-216, adopted on May 26, 2009, declared its intent to levy charges or assessments for the purpose of administering the maintenance of landscaping in the public right-of-way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 1-6 under the provisions of the "Landscaping and Lighting Act of 1972", and

WHEREAS, the proposed annual assessment for Fiscal Year 2009-10 is $26.00 per residential parcel, and

WHEREAS, the charges against the real property are not levied with regard to property values but rather by allocated cost reports prepared by City Engineering, and

WHEREAS, the City of Modesto has determined and certifies that the charges are either exempt from or in compliance with all the provisions of Proposition 218, which was passed by the voters in November 1996, and

WHEREAS, the City of Modesto has further determined the charges are in compliance with all laws pertaining to the levy of such charges,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby orders the levy and collection of $26.00 annual assessment per residential parcel within Landscape Maintenance Assessment District No. 1 for Dry Creek Meadows Subdivisions Nos. 1-6 for the 2009-10 Fiscal Year, and that a certified copy of this

resolution shall be delivered to the Auditor–Controller of the County of Stanislaus for placement of such charges on the 2009-10 County Tax Roll.

BE IT FURTHER RESOLVED that the diagram of said assessment district and amount of levy thereon is hereby confirmed.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-301

A RESOLUTION CONFIRMING THE DIAGRAM AND ASSESSMENTS, AND ORDERING THE LEVY AND COLLECTION OF CHARGES WITHIN LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 7-10, CREEKWOOD MEADOWS SUBDIVISION, AND YOSEMITE MEADOWS SUBDIVISION UNITS 1 & 2

WHEREAS, the City of Modesto has by Resolution No. 2009-217, adopted on May 26, 2009, declared its intent to levy charges or assessments for the purpose of administering the maintenance of landscaping in the public right-of-way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 7-10, Creekwood Meadows Subdivision and Yosemite Meadows Subdivision Units No. 1 & 2, under the provisions of the "Landscaping and Lighting Act of 1972", and

WHEREAS, the cost for Fiscal Year 2009-10 is $129.50 per acre for commercial property and $25.53 for each residential property, and

WHEREAS, the charges against the real property are not levied with regard to property values but rather by allocated cost reports prepared by City Engineering, and

WHEREAS, in June 2000, the City successfully completed a Proposition 218 Ballot Vote which added a cost of living increase based on the Building Cost Index (BCI). This year's assessment was adjusted by the approved "inflator", BCI for the San Francisco Bay Area, as reported in the Engineer News Record in the second week of March of this year. The BCI from the March 2, 2009 issue of the Engineer News Record was 4,766.71, which is a 4.3% increase over the prior year, and

WHEREAS, the City of Modesto has determined and certifies that the charges are either exempt from or in compliance with all the provisions of Proposition 218, which was passed by the voters in November 1996, and

WHEREAS the City of Modesto has further determined that the charges are in compliance with all laws pertaining to the levy of such charges,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby orders the levy and collection of $129.50 per acre for commercial property and $25.53 for each residential property within Landscape Maintenance Assessment District No. 2 for Dry Creek Meadows Subdivisions Nos. 7-10, Creekwood Meadows Subdivision and Yosemite Meadows Subdivision Units 1& 2 for the 2009-10 fiscal year, and that a certified copy of this resolution shall be delivered to the Auditor–Controller of the County of Stanislaus for placement of such charges on the 2009-10 County Tax Roll.

BE IT FURTHER RESOLVED that the diagram of said assessment district and amount of levy thereon is hereby confirmed.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-302

A RESOLUTION DIRECTING THE CITY CLERK TO SUBMIT TO THE VOTERS AT THE NEXT REGULAR MUNICIPAL ELECTION AN ADVISORY MEASURE RELATING TO THE EXTENSION OF SEWER SERVICE TO THE UNINCORPORATED AREA REFERRED TO AS THE "KIERNAN AVENUE CORRIDOR COMPREHENSIVE PLANNING DISTRICTS INCLUDING THE KIERNAN/CARVER NORTH CPD, A PORTION OF THE KIERNAN/CARVER CPD AND A PORTION OF THE SALIDA CPD" IN THE MODESTO URBAN AREA GENERAL PLAN, PROVIDED THE AREA IS FIRST ANNEXED TO THE CITY. THE AREA IS GENERALLY BORDERED ON THE NORTH BY THE CITY GENERAL PLAN BOUNDARY AND THE CENTERLINE OF THE FUTURE EXTENSION OF PIRRONE ROAD WITHIN THE SALIDA CPD, ON THE EAST BY THE CENTERLINES OF TULLY ROAD AND MCHENRY AVENUE, ON THE SOUTH BY THE CENTERLINES OF KIERNAN AND BANGS AVENUES, AND ON THE WEST BY THE CENTERLINES OF AMERICAN AVENUE AND STODDARD ROAD

WHEREAS, on March 6, 1979, the voters enacted the Modesto Citizens' Advisory Growth Management Act (Measure A) which provides that the City Council of the City of Modesto shall not approve, authorize, or appropriate funds for the extension of any sewer trench without first holding an advisory election, and

WHEREAS, on November 4, 1997, the voters enacted the Modesto Citizens' Advisory Growth Management Act of 1995 (Measure M), which provides that the City Council of the City of Modesto shall not approve, authorize, or appropriate funds for sewer improvements without first holding an advisory election, and

WHEREAS, in order to satisfy the requirements of Measure A and Measure M the City Council of the City of Modesto desires to submit to the qualified electors of the City of Modesto, at the regular municipal election to be held on November, 3, 2009, an advisory measure relating to the provisions of sewer service to a certain area of the City,

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

SECTION 1. BALLOT MEASURE.

That pursuant to California Elections Code Section 9603, the Council of the City of Modesto proposes to, and hereby does, on its own motion, submit to the qualified electors of the City of Modesto at a regular election to be held on November 4, 2003, an advisory measure relating to the provision of sewer service to certain areas of the city as set forth below, and hereby designates the form of the ballot measure for use at said special election as follows:

MEASURE A

Shall the City provide sewer service to the following area of the Modesto General Plan, provided the area is first annexed to the City?

The unincorporated area designated **"Kiernan Avenue Corridor CPDs, including Kiernan / Carver North CPD and portions of Kiernan / Carver and Salida CPDs."** Generally bordered north by General Plan boundary and future Pirrone centerline; east by Tully and McHenry centerlines; south by Bangs centerline; west by American and Stoddard centerlines.

SECTION 2. FORM OF BALLOT.

On the ballots to be used at said election, in addition to any other matter required by law to be printed thereon, shall be printed the following question relating to the proposal to extend sanitary sewer service:

MEASURE A City of Modesto Sewer Service Extension Advisory Measure.

Shall the City provide sewer service to the following area of the Modesto General Plan provided the area is first annexed to the City?	Yes	☐
	No	☐

The unincorporated area designated **"Kiernan Avenue Corridor CPDs, including Kiernan / Carver North CPD and portions of Kiernan / Carver and Salida CPDs."** Generally bordered north by General Plan boundary and future Pirrone centerline; east by Tully and McHenry centerlines; south by Bangs centerline; west by American and Stoddard centerlines.

SECTION 3. CONDUCT OF ELECTION.

The advisory election hereby called shall be held and conducted, and the votes thereat canvassed and the returns thereof made, and the results thereof ascertained and determined as herein provided, and in all particulars not prescribed in this resolution, the advisory election shall be held as provided for in the City Charter, and in all particulars not provided for therein, the advisory election shall be held as provided by law for the holding of advisory elections and regular municipal elections in the city of Modesto and otherwise in accordance with the Elections Code of the State of California.

SECTION 4. CITY CLERK CERTIFICATION.

That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the Elections Department of the County of Stanislaus, and the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-303

A RESOLUTION DIRECTING THE CITY CLERK TO SUBMIT TO THE VOTERS AT THE NEXT REGULAR MUNICIPAL ELECTION AN ADVISORY MEASURE RELATING TO THE EXTENSION OF SEWER SERVICE TO THE UNINCORPORATED AREA REFERRED TO AS THE "COLLEGE WEST COMPREHENSIVE PLANNING DISTRICT" AS DESCRIBED IN THE MODESTO URBAN AREA GENERAL PLAN, PROVIDED THE AREA IS FIRST ANNEXED TO THE CITY. THE AREA IS BORDERED ON THE EAST BY THE UNION PACIFIC RAILROAD AND THE CENTERLINE OF POUST ROAD EXTENDED NORTH, ON THE SOUTH BY THE CENTERLINE OF SHOEMAKE AVENUE AND EXISTING RESIDENTIAL PROPERTIES THAT FRONT TO MOZART DRIVE, AND ON THE WEST BY THE CENTERLINE OF MORSE ROAD EXTENDED NORTH

WHEREAS, on March 6, 1979, the voters enacted the Modesto Citizens' Advisory Growth Management Act (Measure A) which provides that the City Council of the City of Modesto shall not approve, authorize, or appropriate funds for the extension of any sewer trench without first holding an advisory election, and

WHEREAS, on November 4, 1997, the voters enacted the Modesto Citizens' Advisory Growth Management Act of 1995 (Measure M), which provides that the City Council of the City of Modesto shall not approve, authorize, or appropriate funds for sewer improvements without first holding an advisory election, and

WHEREAS, in order to satisfy the requirements of Measure A and Measure M the City Council of the City of Modesto desires to submit to the qualified electors of the City of Modesto, at the regular municipal election to be held on November, 3, 2009, an advisory measure relating to the provisions of sewer service to a certain area of the City,

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

SECTION 1. BALLOT MEASURE.

That pursuant to California Elections Code Section 9603, the Council of the City of Modesto proposes to, and hereby does, on its own motion, submit to the qualified electors of the City of Modesto at a regular election to be held on November 3, 2009, an advisory measure relating to the provision of sewer service to certain areas of the city as set forth below, and hereby designates the form of the ballot measure for use at said special election as follows:

MEASURE B

Shall the City provide sewer service to the following area of the Modesto General Plan, provided the area is first annexed to the City?

The unincorporated area designated "**College West Comprehensive Planning District**" in Modesto Urban Area General Plan. Generally bordered on east by Union Pacific Railroad and Poust Road centerline/extended north; south by Shoemake Avenue centerline and existing residential properties that front Mozart Drive; west by Morse road centerline/extended north.

SECTION 2. FORM OF BALLOT.

On the ballots to be used at said election, in addition to any other matter required by law to be printed thereon, shall be printed the following question relating to the proposal to extend sanitary sewer service:

MEASURE B City of Modesto Sewer Service Extension Advisory Measure.

Shall the City provide sewer service to the following area of the Modesto General Plan provided the area is first annexed to the City?	Yes	☐
	No	☐

The unincorporated area designated "**College West Comprehensive Planning District**" in Modesto Urban Area General Plan. Generally bordered on east by Union Pacific Railroad and Poust Road centerline/extended north; south by Shoemake Avenue centerline and existing residential properties that front Mozart Drive; west by Morse road centerline/extended north.

SECTION 3. CONDUCT OF ELECTION.

The advisory election hereby called shall be held and conducted, and the votes thereat canvassed and the returns thereof made, and the results thereof ascertained and determined as herein provided, and in all particulars not prescribed in this resolution, the advisory election shall be held as provided for in the City Charter, and in all particulars not provided for therein, the advisory election shall be held as provided by law for the holding of advisory elections and regular municipal elections in the city of Modesto and otherwise in accordance with the Elections Code of the State of California.

SECTION 4. CITY CLERK CERTIFICATION.

That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the Elections Department of the County of Stanislaus, and the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-304

A RESOLUTION DIRECTING THE CITY CLERK TO SUBMIT TO THE VOTERS AT THE NEXT REGULAR MUNICIPAL ELECTION AN ADVISORY MEASURE RELATING TO THE EXTENSION OF SEWER SERVICE TO THE UNINCORPORATED AREA REFERRED TO AS THE "130-ACRE REGIONAL COMMERCIAL PORTION OF THE HETCH-HETCHY COMPREHENSIVE PLANNING DISTRICT AS DESCRIBED IN THE MODESTO URBAN AREA GENERAL PLAN, PROVIDED THE AREA IS FIRST ANNEXED TO THE CITY. THE AREA IS BORDERED ON THE NORTH BY THE CENTERLINE OF CLARIBEL ROAD, ON THE EAST BY AN IMAGINARY LINE 0.25 MILES (APPROXIMATELY 1,250 FEET) EAST OF THE CENTERLINE OF MCHENRY AVENUE, ON THE SOUTH BY THE CENTERLINE OF CLARATINA AVENUE, AND ON THE WEST BY THE CENTERLINE OF MCHENRY AVENUE

WHEREAS, on March 6, 1979, the voters enacted the Modesto Citizens' Advisory Growth Management Act (Measure A) which provides that the City Council of the City of Modesto shall not approve, authorize, or appropriate funds for the extension of any sewer trench without first holding an advisory election, and

WHEREAS, on November 4, 1997, the voters enacted the Modesto Citizens' Advisory Growth Management Act of 1995 (Measure M), which provides that the City Council of the City of Modesto shall not approve, authorize, or appropriate funds for sewer improvements without first holding an advisory election, and

WHEREAS, in order to satisfy the requirements of Measure A and Measure M the City Council of the City of Modesto desires to submit to the qualified electors of the City of Modesto, at the regular municipal election to be held on November, 3, 2009, an advisory measure relating to the provisions of sewer service to a certain area of the City,

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

SECTION 1. BALLOT MEASURE.

That pursuant to California Elections Code Section 9603, the Council of the City of Modesto proposes to, and hereby does, on its own motion, submit to the qualified electors of the City of Modesto at a regular election to be held on November 3, 2009, an advisory measure relating to the provision of sewer service to certain areas of the city as set forth below, and hereby designates the form of the ballot measure for use at said special election as follows:

MEASURE C

Shall the City provide sewer service to the following area of the Modesto General Plan, provided the area is first annexed to the City?

The unincorporated area designated as **"130-acre Regional Commercial portion of the Hetch-Hetchy Comprehensive Planning District".** Generally, area is bordered on north by Claribel Road centerline; east by imaginary line 0.25 miles east of centerline of McHenry Avenue; south by Claratina Avenue centerline; west by McHenry Avenue centerline.

SECTION 2. FORM OF BALLOT.

On the ballots to be used at said election, in addition to any other matter required by law to be printed thereon, shall be printed the following question relating to the proposal to extend sanitary sewer service:

MEASURE C City of Modesto Sewer Service Extension Advisory Measure.

Shall the City provide sewer service to the following area of the Modesto General Plan provided the area is first annexed to the City?	Yes	☐
	No	☐

The unincorporated area designated as **"130-acre Regional Commercial portion of the Hetch-Hetchy Comprehensive Planning District".** Generally, area is bordered on north by Claribel Road centerline; east by imaginary line 0.25 miles east of centerline of McHenry Avenue; south by Claratina Avenue centerline; west by McHenry Avenue centerline.

SECTION 3. CONDUCT OF ELECTION.

The advisory election hereby called shall be held and conducted, and the votes thereat canvassed and the returns thereof made, and the results thereof ascertained and determined as herein provided, and in all particulars not prescribed in this resolution, the advisory election shall be held as provided for in the City Charter, and in all particulars not provided for therein, the advisory election shall be held as provided by law for the holding of advisory elections and regular municipal elections in the city of Modesto and otherwise in accordance with the Elections Code of the State of California.

SECTION 4. CITY CLERK CERTIFICATION.

That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the Elections Department of the County of Stanislaus, and the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-305

Print

A RESOLUTION DIRECTING THE CITY CLERK TO SUBMIT TO THE VOTERS AT THE NEXT REGULAR MUNICIPAL ELECTION AN ADVISORY MEASURE RELATING TO THE EXTENSION OF SEWER SERVICE TO THE UNINCORPORATED AREA REFERRED TO AS THE "NORTHWEST PORTION OF THE ROSELLE/CLARIBEL COMPREHENSIVE PLANNING DISTRICT" AS DESCRIBED IN THE MODESTO URBAN AREA GENERAL PLAN, PROVIDED THE AREA IS FIRST ANNEXED TO THE CITY. THE AREA IS BORDERED ON THE NORTH BY THE CENTERLINE OF CLARIBEL ROAD, ON THE EAST BY ROSELLE AVENUE, ON THE SOUTH BY CLARATINA AVENUE, AND ON THE WEST BY OAKDALE ROAD

WHEREAS, on March 6, 1979, the voters enacted the Modesto Citizens' Advisory Growth Management Act (Measure A), which provides that the City Council of the City of Modesto shall not approve, authorize, or appropriate funds for the extension of any sewer trench without first holding an advisory election, and

WHEREAS, on November 4, 1997, the voters enacted the Modesto Citizens' Advisory Growth Management Act of 1995 (Measure M), which provides that the City Council of the City of Modesto shall not approve, authorize, or appropriate funds for sewer improvements without first holding an advisory election, and

WHEREAS, in order to satisfy the requirements of Measure A and Measure M the City Council of the City of Modesto desires to submit to the qualified electors of the City of Modesto, at the regular municipal election to be held on November, 3, 2009, an advisory measure relating to the provisions of sewer service to a certain area of the City,

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

SECTION 1. BALLOT MEASURE.

That pursuant to California Elections Code Section 9603, the Council of the City of Modesto proposes to, and hereby does, on its own motion, submit to the qualified electors of the City of Modesto at a regular election to be held on November 3, 2009, an advisory measure relating to the provision of sewer service to certain areas of the city as set forth below, and hereby designates the form of the ballot measure for use at said special election as follows:

MEASURE D

Shall the City provide sewer service to the following area of the Modesto General Plan, provided the area is first annexed to the City?

The unincorporated area designated **"Northwest portion of the Roselle/Claribel Comprehensive Planning District"** in the Modesto Urban Area General Plan. Generally, the area is bordered on north by centerline of Claribel Road, on east by Roselle Avenue, on south by Claratina Avenue, and west by Oakdale Road.

SECTION 2. FORM OF BALLOT.

On the ballots to be used at said election, in addition to any other matter required by law to be printed thereon, shall be printed the following question relating to the proposal to extend sanitary sewer service:

MEASURE D City of Modesto Sewer Service Extension Advisory Measure.

Shall the City provide sewer service to the following area of the Modesto General Plan provided the area is first annexed to the City?	Yes No	☐ ☐

The unincorporated area designated **"Northwest portion of the Roselle/Claribel Comprehensive Planning District"** in the Modesto Urban Area General Plan. Generally, the area is bordered on north by centerline of Claribel Road, on east by Roselle Avenue, on south by Claratina Avenue, and west by Oakdale Road.

SECTION 3. CONDUCT OF ELECTION.

The advisory election hereby called shall be held and conducted, and the votes thereat canvassed and the returns thereof made, and the results thereof ascertained and determined as herein provided, and in all particulars not prescribed in this resolution, the advisory election shall be held as provided for in the City Charter, and in all particulars not provided for therein, the advisory election shall be held as provided by law for the holding of advisory elections and regular municipal elections in the City of Modesto and otherwise in accordance with the Elections Code of the State of California.

SECTION 4. CITY CLERK CERTIFICATION.

That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the County Elections Department of the County of Stanislaus, and the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-306

A RESOLUTION AUTHORIZING THE MEMBERS OF THE CITY COUNCIL, OR ANY OF THEM, TO FILE WRITTEN ARGUMENTS IN FAVOR OF OR IN OPPOSITION TO THE ADVISORY MEASURE RELATING TO THE EXTENSION OF SEWER SERVICE TO A CERTAIN AREA OF THE MODESTO URBAN AREA GENERAL PLAN, COMMONLY REFERRED TO AS THE "KIERNAN AVENUE CORRIDOR COMPREHENSIVE PLANNING DISTRICT, INCLUDING THE KIERNAN/CARVER NORTH CPD, A PORTION OF THE KIERNAN/CARVER CPD AND A PORTION OF THE SALIDA CPD"

WHEREAS, the City Council has directed the City Clerk to submit to the voters at the next regular municipal election to be held on November 3, 2009, an advisory measure concerning the unincorporated area designated as the "Kiernan Avenue Corridor Comprehensive Planning Districts, including the Kiernan/Carver North CPD, a portion of the Kiernan/Carver CPD and a portion of the Salida CPD," the unincorporated area is generally bordered on the north by the City General Plan boundary and the centerline of the future extension of Pirrone Road within the Salida CPD, on the east by the centerlines of Tully Road and McHenry Avenue, on the south by the centerlines of Kiernan and Bangs Avenues, and on the west by the centerlines of American Avenue and Stoddard Road in the Modesto Urban Area General Plan.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that pursuant to California Elections Code Section 9282 the members of the City Council, or any of them, are hereby authorized to file written arguments in favor of or in opposition to said measure and to change such arguments until and including the date and time after which no argument may be filed with the City Clerk.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-307

A RESOLUTION AUTHORIZING THE MEMBERS OF THE CITY COUNCIL, OR ANY OF THEM, TO FILE WRITTEN ARGUMENTS IN FAVOR OF OR IN OPPOSITION TO THE ADVISORY MEASURE RELATING TO THE EXTENSION OF SEWER SERVICE TO A CERTAIN AREA OF THE MODESTO URBAN AREA GENERAL PLAN, COMMONLY REFERRED TO AS THE "COLLEGE WEST COMPREHENSIVE PLANNING DISTRICT"

WHEREAS, the City Council has directed the City Clerk to submit to the voters at the next regular municipal election to be held on November 3, 2009, an advisory measure concerning the unincorporated area referred to as the "College West Comprehensive Planning District," and generally bordered on the east by the Union Pacific Railroad and the centerline of Poust Road extended north, on the south by the centerline of Shoemake Avenue and existing residential properties that front to Mozart Drive, and on the west by the centerline of Morse Road extended north in the Modesto Urban Area General Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that pursuant to California Elections Code Section 9282 the members of the City Council, or any of them, are hereby authorized to file written arguments in favor of or in opposition to said measure and to change such arguments until and including the date and time after which no argument may be filed with the City Clerk.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-308

A RESOLUTION AUTHORIZING THE MEMBERS OF THE CITY COUNCIL, OR ANY OF THEM, TO FILE WRITTEN ARGUMENTS IN FAVOR OF OR IN OPPOSITION TO THE ADVISORY MEASURE RELATING TO THE EXTENSION OF SEWER SERVICE TO A CERTAIN AREA OF THE MODESTO URBAN AREA GENERAL PLAN, COMMONLY REFERRED TO AS THE "130-ACRE REGIONAL COMMERCIAL PORTION OF THE HETCH-HETCHY COMPREHENSIVE PLANNING DISTRICT"

WHEREAS, the City Council has directed the City Clerk to submit to the voters at the next regular municipal election to be held on November 3, 2009, an advisory measure concerning the unincorporated area designated as the "130-acre Regional Commercial portion of the Hetch-Hetchy Comprehensive Planning District," and generally located, the unincorporated area is, bordered on the north by the centerline of Claribel Road, on the east by an imaginary line 0.25 miles (approximately 1,250 feet) east of the centerline of McHenry Avenue, on the south by the centerline of Claratina Avenue, and on the west by the centerline of McHenry Avenue in the Modesto Urban Area General Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that pursuant to California Elections Code Section 9282 the members of the City Council, or any of them, are hereby authorized to file written arguments in favor of or in opposition to said measure and to change such arguments until and including the date and time after which no argument may be filed with the City Clerk.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-309

A RESOLUTION AUTHORIZING THE MEMBERS OF THE CITY COUNCIL, OR ANY OF THEM, TO FILE WRITTEN ARGUMENTS IN FAVOR OF OR IN OPPOSITION TO THE ADVISORY MEASURE RELATING TO THE EXTENSION OF SEWER SERVICE TO A CERTAIN AREA OF THE MODESTO URBAN AREA GENERAL PLAN, COMMONLY REFERRED TO AS THE "NORTHWEST PORTION OF THE ROSELLE / CLARIBEL COMPREHENSIVE PLANNING DISTRICT"

WHEREAS, the City Council has directed the City Clerk to submit to the voters at the next regular municipal election to be held on November 3, 2009, an advisory measure concerning the unincorporated area designated as the "Northwest portion of the Roselle/Claribel Comprehensive Planning District," and generally located, the unincorporated area is, bordered on the north by the centerline of Claribel Road, on the east by the centerline of Roselle Avenue, on the south by the centerline of Claratina Avenue, and on the west by the centerline of Oakdale Road in the Modesto Urban Area General Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that pursuant to California Elections Code Section 9282 the members of the City Council, or any of them, are hereby authorized to file written arguments in favor of or in opposition to said measure and to change such arguments until and including the date and time after which no argument may be filed with the City Clerk.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-310

A RESOLUTION DIRECTING THE CITY CLERK TO TRANSMIT A COPY OF THE ADVISORY MEASURE CONSIDERING THE EXTENSION OF SEWER SERVICE TO A CERTAIN AREA OF THE MODESTO URBAN AREA GENERAL PLAN, COMMONLY REFERRED TO AS THE "KIERNAN AVENUE CORRIDOR COMPREHENSIVE PLANNING DISTRICTS, INCLUDING THE KIERNAN/CARVER NORTH CPD, A PORTION OF THE KIERNAN/CARVER CPD AND A PORTION OF THE SALIDA CPD" GENERALLY LOCATED, THE UNINCORPORATED AREA IS, GENERALLY BORDERED ON THE NORTH BY THE CITY GENERAL PLAN BOUNDARY AND THE CENTERLINE OF THE FUTURE EXTENSION OF PIRRONE ROAD WITHIN THE SALIDA CPD, ON THE EAST BY THE CENTERLINES OF TULLY ROAD AND MCHENRY AVENUE, ON THE SOUTH BY THE CENTERLINES OF KIERNAN AND BANGS AVENUES, AND ON THE WEST BY THE CENTERLINES OF AMERICAN AVENUE AND STODDARD ROAD TO THE CITY ATTORNEY FOR THE PURPOSE OF PREPARING AN IMPARTIAL ANALYSIS OF SAID MEASURE

WHEREAS, the City Council has directed the City Clerk to submit to the voters at the next regular municipal election to be held on November 3, 2009, an advisory measure concerning the unincorporated area designated as the "Kiernan Avenue Corridor Comprehensive Planning Districts, including the Kiernan/Carver North CPD, a portion of the Kiernan/Carver CPD and a portion of the Salida CPD" in the Modesto Urban Area General Plan to the City Attorney for the purpose of preparing an impartial analysis of said measure,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Clerk is hereby directed pursuant to California Elections Code Section 9280 to transmit a copy of said measure to the City Attorney, who is hereby directed to prepare an Impartial Analysis of the measure showing the effect of the measure on existing law on the operation of the measure.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-311

A RESOLUTION DIRECTING THE CITY CLERK TO TRANSMIT A COPY OF THE ADVISORY MEASURE CONSIDERING THE EXTENSION OF SEWER SERVICE TO A CERTAIN AREA OF THE MODESTO URBAN AREA GENERAL PLAN, COMMONLY REFERRED TO AS THE "COLLEGE WEST COMPREHENSIVE PLANNING DISTRICT" AS DESCRIBED IN THE MODESTO URBAN AREA GENERAL PLAN, AND GENERALLY LOCATED, THE UNINCORPORATED AREA IS BORDERED ON THE EAST BY THE UNION PACIFIC RAILROAD AND THE CENTERLINE OF POUST ROAD EXTENDED NORTH, ON THE SOUTH BY THE CENTERLINE OF SHOEMAKE AVENUE AND EXISTING RESIDENTIAL PROPERTIES THAT FRONT TO MOZART DRIVE, AND ON THE WEST BY THE CENTERLINE OF MORSE ROAD EXTENDED NORTH TO THE CITY ATTORNEY FOR THE PURPOSE OF PREPARING AN IMPARTIAL ANALYSIS OF SAID MEASURE

WHEREAS, the City Council has directed the City Clerk to submit to the voters at the next regular municipal election to be held on November 3, 2009, an advisory measure concerning the unincorporated area designated as the "College West Comprehensive Planning District" in the Modesto Urban Area General Plan to the City Attorney for the purpose of preparing an impartial analysis of said measure.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Clerk is hereby directed pursuant to California Elections Code Section 9280 to transmit a copy of said measure to the City Attorney, who is hereby directed to prepare an Impartial Analysis of the measure showing the effect of the measure on existing law on the operation of the measure.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANNA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-312

A RESOLUTION DIRECTING THE CITY CLERK TO TRANSMIT A COPY OF THE ADVISORY MEASURE CONSIDERING THE EXTENSION OF SEWER SERVICE TO A CERTAIN AREA OF THE MODESTO URBAN AREA GENERAL PLAN, COMMONLY REFERRED TO AS THE "130-ACRE REGIONAL COMMERCIAL PORTION OF THE HETCH-HETCHY COMPREHENSIVE PLANNING DISTRICT" AS DESCRIBED IN THE MODESTO URBAN AREA GENERAL PLAN AND GENERALLY LOCATED, THE UNINCORPORATED AREA IS, BORDERED ON THE NORTH BY THE CENTERLINE OF CLARIBEL ROAD, ON THE EAST BY AN IMAGINARY LINE 0.25 MILES (APPROXIMATELY 1,250 FEET) EAST OF THE CENTERLINE OF MCHENRY AVENUE, ON THE SOUTH BY THE CENTERLINE OF CLARATINA AVENUE, AND ON THE WEST BY THE CENTERLINE OF MCHENRY AVENUE TO THE CITY ATTORNEY FOR THE PURPOSE OF PREPARING AN IMPARTIAL ANALYSIS OF SAID MEASURE

WHEREAS, the City Council has directed the City Clerk to submit to the voters at the next regular municipal election to be held on November 3, 2009, an advisory measure concerning the unincorporated area designated as the "130-acre Regional Commercial portion of the Hetch-Hetchy Comprehensive Planning District" in the Modesto Urban Area General Plan to the City Attorney for the purpose of preparing an impartial analysis of said measure,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Clerk is hereby directed pursuant to California Elections Code Section 9280 to transmit a copy of said measure to the City Attorney, who is hereby directed to prepare an Impartial Analysis of the measure showing the effect of the measure on existing law on the operation of the measure.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANNA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-313

A RESOLUTION DIRECTING THE CITY CLERK TO TRANSMIT A COPY OF THE ADVISORY MEASURE CONSIDERING THE EXTENSION OF SEWER SERVICE TO A CERTAIN AREA OF THE MODESTO URBAN AREA GENERAL PLAN, COMMONLY REFERRED TO AS THE "NORTHWEST PORTION OF THE ROSELLE/CLARIBEL COMPREHENSIVE PLANNING DISTRICT" GENERALLY LOCATED IN THE UNINCORPORATED AREA AS BORDERED ON THE NORTH BY THE CENTERLINE OF CLARIBEL ROAD, ON THE EAST BY THE CENTERLINE OF ROSELLE AVENUE, ON THE SOUTH BY THE CENTERLINE OF CLARATINA AVENUE, AND ON THE WEST BY THE CENTERLINE OF OAKDALE ROAD TO THE CITY ATTORNEY FOR THE PURPOSE OF PREPARING AN IMPARTIAL ANALYSIS OF SAID MEASURE

WHEREAS, the City Council has directed the City Clerk to submit to the voters at the next regular municipal election to be held on November 3, 2009, an advisory measure concerning the unincorporated area designated as the "Northwest portion of the Roselle/Claribel Comprehensive Planning District" in the Modesto Urban Area General Plan to the City Attorney for the purpose of preparing an impartial analysis of said measure,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Clerk is hereby directed pursuant to California Elections Code Section 9280 to transmit a copy of said measure to the City Attorney, who is hereby directed to prepare an Impartial Analysis of the measure showing the effect of the measure on existing law on the operation of the measure.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-314

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 2007072023): 2009 URBAN GROWTH REVIEW, AS REQUIRED BY THE ADOPTED MODESTO URBAN AREA GENERAL PLAN "COMMUNITY GROWTH STRATEGY"

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, the Modesto Urban Area General Plan, Community Growth Strategy, calls for review of growth trends in the Modesto Urban Area on a periodic basis, and

WHEREAS, the last Urban Growth Policy Review was approved by the City Council on July 1, 2003, and

WHEREAS, the 2009 Urban Growth Review contains a recommendation that a Measure M ballot measure be prepared for the Kiernan Avenue corridor CPDs, the College West CPD, a portion of the Hetch-Hetchy CPD ("North McHenry Regional Commercial corridor"), and a portion of the Roselle / Claribel CPD ("Tivoli North"), and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for a Master EIR, states that the lead agency shall prepare an Initial Study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the master environmental impact report and whether the subsequent project was described in the master environmental impact report as being within the scope of the project, and

WHEREAS, the City's Community and Economic Development Department by Environmental Assessment Initial Study EA/C&ED No. 2009-15 ("Initial Study") reviewed the 2009 Urban Growth Policy Review to determine whether the Project is within the scope of the project covered by the Modesto Urban Area General Plan Master EIR ("Master EIR"), and concluded that the proposed project is within the scope of the Master EIR and will have no additional significant effect on the environment that was not identified in the Master EIR, and further, that no new additional mitigation measures or alternatives are required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines beginning on June 17, 2009, the City caused to be published a 20-day notice of the City's intent to make a finding that the proposed project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on July 7, 2009, 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 2009 Urban Growth Policy Review, a copy of which is **attached** hereto as **Exhibit "A"**, and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. That the proposed project is contemplated and described in the Master EIR (SCH No. 2007072023) as being within the scope of the Master EIR.

2. That the project will have no new significant effects on the environment not identified or examined in the Master EIR, and no new or additional mitigation measures are required.

3. That, as per Section 21157.1 of the Public Resources Code, no new environmental document or findings are required by the California Environmental Quality Act (CEQA).

4. That there are no specific features which are unique to the proposed project that require project specific mitigation measures. Accordingly, the certified mitigation measures identified in the Master EIR will be sufficient for this project.

5. That all feasible mitigation measures set forth in the Master EIR which are appropriate to the project shall be incorporated in the project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, Olsen, Mayor Ridenour
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

EXHIBIT A

Initial Study

EA/C&ED No. 2009-15

City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study Environmental Checklist
C&ED No. 2009-15

For the proposed:

2009 Urban Growth Policy Review
UGR-09-001

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

July 7, 2009

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 (MEIR). This Initial Study Environmental Checklist (Initial Study) is used in determining whether 2009 Urban Growth Policy Review Measure "M" Ballot Measures, UGR-09-001, is within the scope of the project analyzed in the Modesto Urban Area General Plan MEIR (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 MEIR when:

1. It will have no additional significant effects on the environment that were not addressed as significant effects in the MEIR; 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 MEIR (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: 2009 Urban Growth Policy Review Measure "M" Ballot Measures

B. Address or Location: City of Modesto

C. Applicant: City of Modesto, 1010 Tenth Street, Modesto, CA 95354

D. City Contact Person: Brad Wall, AICP, Principal Planner
Department: Community and Economic Development
Phone Number: (209) 577-5273
E-mail address: bwall@modestogov.com

E. Current General Plan Designation(s): Various, as shown on the Modesto Urban Area General Plan Land Use Diagram

F. 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 2009 Urban Area Growth Policy Review Measure '"M" advisory vote ballot measure(s) described below could be placed on the November 2009 municipal election ballot measure for extension of sewer service. The project implements the General Plan Growth Policy for selection of areas for future development or annexation. The measures, described below, are based on the 2009 Urban Area Growth Policy Review process where property owners have expressed written interest in future development (The Council may select any combination).

The City Council may select (approve) ballot measures that can proceed with development proposals. Implementation of the ballot measure would be a Subsequent Project to the General Plan Master EIR (MEIR) as described in Chapter II, of the MEIR. Implementing "devices" would include: Comprehensive Planning District (CPD) (page II-7 MEIR) Specific Plans (page II-8 MEIR) and Annexations (page II-6 MEIR). The MEIR requires a Focused EIR to be prepared for any CPD proposed for development.

The proposed ballot measure would include the following planning areas located in the Planned Urbanizing Area of the City's General Plan:

1. The Kiernan Avenue Corridor consists of three different CPDs along the north and south sides of Kiernan Avenue between Stoddard Road and McHenry Avenue totaling approximately 1,150 acres. The first area is the portion of the Kiernan / Carver CPD that does not yet have a completed Measure M advisory vote, including approximately 500 acres designated by the Modesto Urban Area General Plan as Village Residential. The second area is the entire Kiernan / Carver North CPD, consisting of approximately 460 acres designated as Village Residential and 30 acres designated as Regional Commercial. The third area is approximately 160 acres of the Salida CPD designated for Business Park development (see attached Exhibit A).

2. The Tivoli North area includes approximately 480 acres designated Village Residential located within the Roselle-Claribel CPD, east of Oakdale Road, and north of the Tivoli Specific Plan area (see attached Exhibit B).

3. The College West CPD is located along the west side of State Highway 99, generally between the Standiford Avenue and Briggsmore Avenue interchanges, and consists of approximately 230 acres designated Business Park (see attached Exhibit C).

4. The North McHenry Regional Commercial area includes properties that front along McHenry Avenue between Claribel Road on the north and Claratina Avenue is the south. This westernmost portion of the Hetch-Hetchy CPD is designated Regional Commercial by the City's General Plan (see attached Exhibit D).

Following the vote(s) on November 3, 2009, for the ballot measures described above, further separate Council actions will be needed prior to annexation and development of these planning areas. Detailed impacts of any future development would be identified through a Focused EIR, prepared pursuant to CEQA Section 21158, upon submittal of a development application or other formal subsequent project proposal. Similarly, the environmental analyses for any future changes to the General Plan that are intended to promote economic development are not included within this document because the scope of any such changes to the General Plan are unknown at this time.

G. 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 MEIR 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 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 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 MEIR were reviewed (section 5 below) and it was determined that the MEIR 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 MEIR. 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 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. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the MEIR. 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 MEIR. 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 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. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the MEIR. New or additional mitigation measures or alternatives are required as a result.

Original signed copy on file with CEDD

_____	Principal Planner	June 16, 2009
Project Manager	Title	Date

4. Within the Scope Analysis of this Document:

The MEIR permits 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 MEIR.	☒	☐
(2)	City policies which reduce, avoid, or mitigate environmental effects will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template.	☒	☐
(3)	Federal, State, regional, and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (that is, would not offer the same level of protection assumed under the MEIR).	☒	☐
(4)	No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	☒	☐
(5)	The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.	☒	☐
(6)	Development within the project will comply with all appropriate mitigation measures contained and enumerated in the General Plan MEIR.	☒	☐

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 MEIR 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 MEIR occurred less than five years prior to the filing of the application for this subsequent project.	☒	☐
(2)	This project is described in the MEIR and its approval will not affect the adequacy of the MEIR 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 MEIR was certified.	☒	☐
(b)	No new information, which was not known and could not have been known at the time the MEIR was certified as complete, has become available.	☒	☐
(c)	Policies remain in place that requires site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development.	☒	☐

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, discloses whether the proposed project may cause any project-specific significant effect on the environment that was not examined in the Final MEIR (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 MEIR.

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 MEIR.

The environmental impact analysis in the MEIR 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 MEIR. For ease of reference, the sections shown below are numbered in the same order as those in MEIR.

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 that are pertinent to this project are found on MEIR pages V-1-15 through V-1-24. All feasible measures appropriate to the project – including any new measures - will be incorporated into or made conditions of approval of this project and will be listed in Section V, Mitigation Measures Applied to Project.

Discussion:

No new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

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

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

		YES	NO
(1)	The project exceeds the MEIR's traffic generation assumptions for this site and City Engineering and Transportation staff has determined that the project would have additional project-specific effects that are not avoided or reduced by the MEIR's program of mitigation measures.	☐	☒
(2)	Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).	☐	☒
(3)	Result in inadequate emergency access.	☐	☒
(4)	Result in inadequate parking capacity.	☐	☒

Discussion:
The proposal to place the subject planning areas on the ballot for an advisory Measure M vote would not cause any additional significant increase in traffic and circulation impacts beyond those previously identified in the MEIR. The ballot measures do not propose any changes to the circulation system of the General Plan analyzed by the MEIR and thus would not adversely affect the roadway or intersection capacity of the City's circulation system beyond what was identified in the MEIR. All potential adverse impacts related to traffic and circulation were analyzed by, and mitigation is provided in, the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Traffic and Circulation Needs (pages V-1-1 through V-1-36) are, therefore, still valid.

Based on this discussion:
(1) The project will have no effect on traffic and transportation issues.

(2) The project will have no effect on traffic hazards due to a design feature (for example, sharp curves or dangerous intersections) or incompatible uses.

(3) The project will have no effect the adequacy of emergency access.

(4) The project will have no effect on parking capacity.

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 (PM_{10}) 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, PM_{10}, and $PM_{2.5}$.

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-2-14 through V-2-13 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:
No new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-2.B of the MEIR provides analysis of Air Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) adopted CEQA Guidelines.	☐	☒
(2)	The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD.	☐	☒
(3)	The project does not comply with the air quality policies of the Modesto Urban Area General Plan.	☐	☒
(4)	The project would expose sensitive receptors to substantial pollutant concentrations.	☐	☒
(5)	The proposed project would create objectionable odors affecting a substantial number of people.	☐	☒

Discussion:
The proposal to place the subject planning areas on the ballot for an advisory Measure M vote would not cause any additional degradation of air quality beyond that previously identified in the MEIR. All potential adverse impacts related to air quality were analyzed by, and mitigation provided in, the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Degradation of Air Quality (pages V-2-1 through V-2-26) are, therefore, still valid.

Based on this discussion:
(1) The project will have no effect on emissions thresholds.

(2) The project will have no effect on PM10 reduction provisions established by the SJVUAPD.

(3) The project will have no effect on air quality practices of the General Plan Policies.

(4) The project will have no effect on air pollution levels.

(5) The project will not create objectionable odors.

3. GENERATION OF NOISE

a. Significant Effects Identified in the Master EIR

The MEIR 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-3-12 through V-3-16 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section V, Mitigation Applied to Project:

Discussion:
No new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-3.B of the MEIR provides analysis of noise impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	☐	☒
(2)	The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.	☐	☒
(3)	The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☒
(4)	The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.	☐	☒

Discussion:
The proposal to place the subject planning areas on the ballot for a Measure M advisory vote would not cause additional generation of noise beyond that previously identified in the MEIR. All potential adverse impacts related to noise were analyzed by, and mitigation provided in, the MEIR. Therefore, the project will not create additional significant effects and Mitigation Measures listed in the MEIR for Generation of Noise (pages V-3-1 through V-3-22) are still valid.

Based on this discussion:
(1) The project will have no effect on noise levels.

(2) The project will have no effect on the noise policies of the General Plan.

(3) The project will not result in permanent increase in noise levels.

(4) The project will not result in temporary or periodic increase in 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 measure(s) pertinent to the project being analyzed in this Initial Study are found on page V-4-8 of the MEIR. All feasible measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:
No new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-4.B of the MEIR provides analysis of Agricultural Lands impact of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project will directly result in the development of land outside the March 2003 planning area boundaries.	☐	☒
(3)	The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract.	☐	☒
(4)	The project will Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use.	☐	☒

Discussion:
The proposal to place the subject planning areas on the ballot for a Measure M advisory vote would not cause additional loss of productive agricultural land beyond that previously identified in the MEIR. All potential adverse impacts related to the loss of productive agricultural land were analyzed by, and mitigation provided in, the MEIR. Therefore, the Existing Conditions, Impacts Analysis, and Mitigation Measures listed in the MEIR for Loss of Productive Agricultural Land (pages V-4-1 through V-4-13) are still valid.

Based on this discussion:
(1) The project will have no effect on the General Plan land use policies as it relates to agricultural lands.

(2) The project will have no effect on the development of land outside the March 2003 planning area boundaries.

(3) The project will have no effect on land zoned for agriculture or land under Williamson Act contract.

(4) The project will have no effect on the conversion of farmland to non-agricultural 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 measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-5-8 through V-5-10 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:
No new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-5.B of the MEIR provides analysis of Water Supply impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed.	☐	☒

Discussion:
The proposal to place the subject planning areas on the ballot for a Measure M advisory vote would not cause additional increased demand for water supplies, beyond those previously identified in the MEIR. All potential adverse impacts related to increased demand for water supplies were analyzed by, and mitigation provided in, the MEIR. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Increased Demand for Water Supplies (pages V-5-1 through V-5-16) are still valid.

Based on this discussion:
(1) The project will have no effect on the Modesto Urban Area General Plan water supply policies.

(2) The project will have no effect on the water 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 measure(s) pertinent to the project being analyzed in this Initial Study, are found on pages V-6-4 through V-6-7 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:
No new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-6.B of the MEIR provides analysis of Sanitary Sewer Service impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	☐	☒

Discussion:
The proposal to place the subject planning areas on the ballot for a Measure M advisory vote would not cause additional increased demand for sanitary services beyond that previously identified in the MEIR. All potential adverse impacts related to increased demand for sanitary sewer services were analyzed by, and mitigation has been provided in, the MEIR. Therefore, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Increased Demand for Sanitary Sewer Services (pages V-6-1 through V-6-12) are still valid.

Based on this discussion:

(1) The project will have no effect on the Modesto Urban Area General Plan sanitary sewer services policies.

(2) The project will have no effect on sanitary sewer 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 measure pertinent to the project being analyzed in this Initial Study are found on pages V-7-21 through V-7-24. 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 new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-7.B of the MEIR provides analysis of Wildlife and Plant Habitat impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species.	☐	☒
(3)	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	☐	☒

Discussion:

The proposal to place the subject planning areas on the ballot for a Measure M advisory vote would not cause additional disturbance of wildlife and plant habitat areas beyond that previously identified in the MEIR. All potential adverse impacts related to loss of sensitive wildlife and plant habitat were analyzed by, and mitigation has been provided in, the MEIR. Therefore, the Existing Conditions, Impact Analysis, and Mitigation Measures listed in the MEIR for Sensitive Wildlife and Plant Habitat, (pages V-7-1 through V-7-31) are, therefore, still valid.

Based on the discussion above:

(1) The project will have no effect on the Modesto Urban Area General Plan wildlife and plant habitat policies.

(2) The project will have no effect on special status species.

(3) The project will have no effect on 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 and V-8-19 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:
No new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-8.B of the MEIR provides analysis of Archaeological/Historical impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site.	☐	☒

Discussion:

The proposal to place the subject planning areas on the ballot for a Measure M advisory vote would not cause additional disturbance of archaeological and historic sites beyond that previously identified in the MEIR. The ballot measures do not propose any changes to the General Plan boundary or area analyzed by the MEIR. All potential adverse impacts related to disturbance of archaeological and historic sites were analyzed by, and mitigation has been provided in, the MEIR. Therefore, the Existing conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Disturbance of Archaeological or Historical Sites (pages V-8-1 through V-8-25) are still valid.

Based on the discussion above:

(1) The project will have no effect on the Modesto Urban Area General Plan archaeological and historical sites policies.

(2) The project will have no effect on a cultural resource listed under the California Register of Historical Resources, or listed by the City of Modesto as a Designated Landmark Preservation Site.

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 measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-9. 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 new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-9.B of the MEIR provides analysis of Storm Drainage impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite.	☐	☒
(3)	Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	☒

Discussion:
The proposal to place the subject planning areas on the ballot for a Measure M advisory vote would not generate any additional demand for storm drainage facilities beyond that previously identified in the MEIR. All potential adverse impacts related to increased demand for storm drainage facilities were analyzed by, and mitigation provided in, the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Increased Demand for Storm Drainage (pages V-9-1 through V-9-13) are, therefore, still valid.

Based on the discussion above:

(1) The project will have no effect on the Modesto Urban Area General Plan storm drainage facilities policies.

(2) The project will have no effect on the amount of surface runoff.

(3) The project will have no effect on the amount of water 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 measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-10-7 through V-10-9 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:
No new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

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

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	☐	☒
(3)	The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures.	☐	☒
(4)	The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	☒

Discussion:
The proposal to place the subject planning areas on the ballot for a Measure M advisory vote would not change the size or configuration of drainage, flood control or water quality facilities, not already identified in the MEIR. Therefore, the project will not create any new significant drainage, flooding or water quality impacts that were not previously identified in the MEIR. All potential adverse impacts related to drainage, flooding and water quality were analyzed by, and mitigation provided in, the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Drainage, Flooding, and Water Quality (pages V-10-1 through V-10-15) are, therefore, still valid.

Based on the discussion above:

(1) The project will have no effect on the Modesto Urban Area General Plan flooding and water quality policies.

(2) The project will have no effect on the Federal Clean Water Act and the Porter Cologne Act requirements.

(3) The project will have no effect on the Guidance Manual for New Development Storm Water Quality Control Measures.

(4) The project will have no effect on storm water drainage systems or 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 Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-11-3 through V-11-8 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 Applied to Project:

Discussion:
No new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-11.B of the MEIR provides analysis of Parks and Recreation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒

Discussion:
The proposal to place the subject planning areas on the ballot for a Measure M advisory vote would not generate any additional population beyond that identified in the MEIR that would use parks or open space facilities. All potential adverse impacts related to increased demand for

Parks and Open Space were analyzed by, and mitigation is provided in, the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Increased Demand for Parks and Open Space (pages V-11-1 through V-11-13) are, therefore, still valid.

Based on the discussion above:

(1) The project will have no effect on with the Modesto Urban Area General Plan parks and recreation facilities and services policies.

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

The MEIR 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-12-5 through V-12-7 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project:

Discussion:
No new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-12.B of the MEIR provides analysis of Schools impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which provide that compliance results in less-than-significant impacts on schools.	☐	☒

Discussion:

The proposal to place the subject planning areas on the ballot for a Measure M advisory vote would not generate any additional population, which would increase the demand for school facilities, beyond that previously identified in the MEIR. All potential adverse impacts related to increased demand for schools were analyzed by, and mitigation is provided in, the MEIR. Thus, the Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Increased Demand for Schools (pages V-12-1 through V-12-11) are still valid.

Based on the discussion above:

(1) The project will have no effect on the City of Modesto Urban Area General Plan school policies.

(2) The project will have no effect on school 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 measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-13-3 and V-13-5 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 new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-13.B of the MEIR provides analysis of police services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	☒

Discussion:

The proposal to place the subject planning areas on the ballot for a Measure M advisory vote would not generate any additional population beyond that previously identified in the MEIR. Similarly, the ballot measures do not propose any changes to the gross acreage or General Plan area analyzed by the MEIR. All potential adverse impacts related to increased demand for police services were analyzed by, and mitigation is provided in, the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Increased Demand for Police Services (pages V-13-1 through V-13-8) are, therefore, still valid.

Based on the discussion above:

(1) The project will have no effect on the Modesto Urban Area General Plan policies related to police services.

(2) The project will not result in the need for construction of new or significantly altered facilities in order to maintain acceptable service ratios, response times or other performance objectives.

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

The MEIR 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-14-4 through V-14-6 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 Measures Applied to Project:

Discussion:
No new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-14.B of the MEIR provides analysis of fire services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	☒

Discussion:

The proposal to place the subject planning areas on the ballot for a Measure M advisory vote would not generate any additional population beyond that previously identified in the MEIR. Similarly, the ballot measures do not propose any changes to the gross acreage or General Plan area analyzed by the MEIR. All potential adverse impacts related to increased demand for Fire services were analyzed by, and mitigation is provided in, the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Increased Demand for Fire Services (pages V-14-1 through IV-14-11) are, therefore, still valid.

Based on the discussion above:

(1) The project will have no effect on the Modesto Urban Area General Plan fire services policies.

(2) The project will not result in the need for construction of new or significantly altered facilities in order to maintain acceptable service ratios, response times or other performance objectives.

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 Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-15-4 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 new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-15.B of the MEIR provides analysis of solid waste impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity.	☐	☒

Discussion:
The proposal to place the subject planning areas on the ballot for a Measure M advisory vote would not generate any additional population beyond that identified in the MEIR. Similarly, the ballot measures do not propose any changes to the gross acreage or General Plan area analyzed by the MEIR. All potential adverse impacts related to generation of solid waste and related services were analyzed by, and mitigation is provided in, the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for the Generation of Solid Waste (pages V-15-1 through V-15-10) are, therefore, still valid.

Based on the discussion above:
(1) The project will have no effect on the Modesto Urban Area General Plan solid waste policies.

(2) The project will have no effect on the solid waste disposal capacity.

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

The MEIR 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 new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-16.B of the MEIR provides analysis of hazardous materials impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The 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.	☐	☒
(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.	☐	☒
(4)	The proposed project would be constructed on a contaminated site not known to the State of California as of March 2008.	☐	☒

Discussion:
The proposal to place the subject planning areas on the ballot for a Measure M advisory vote would not generate any additional population or development beyond that identified in the MEIR that would result in increased generation of hazardous materials. All potential adverse impacts related to generation of hazardous materials were analyzed by, and mitigation is provided in, the MEIR. The Existing Conditions, Impacts analysis and Mitigation Measures listed in the MEIR for the Generation of Hazardous Materials (pages V-16-1 through V-16-16) are, therefore, still valid.

Based on the discussion above:

(1) The will have no effect on the Modesto Urban Area General Plan hazardous materials policies.

(2) The project will have no effect on hazardous emissions or hazardous materials issues.

(3) The project will have no effect on sites included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.

(4) The project will have no effect on the issue of a development located on a contaminated site.

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

The MEIR 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-17-9 and V-17-10 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:
No new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-17.B of the MEIR provides analysis of landslides and seismic impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.	☐	☒

Discussion:
The proposal to place the subject planning areas on the ballot for a Measure M advisory vote would not generate any additional population or development beyond that identified in the MEIR that would result in increased exposure to landslides and seismic activity. All potential adverse impacts related to exposure to landslides and seismic activity were analyzed by, and mitigation is provided in, the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Landslide and Seismic Activity (pages V-17-1 through V-17-16) are, therefore, still valid.

Based on the discussion above:
(1) The project will have no effect on the Modesto Urban Area General Plan geology, soils, and mineral resources polices.

(2) The project will have no effect on the issue of development 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 measure(s) are pertinent to the project being analyzed in this Initial Study. See pages V-18-3 to V-18-7 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project:

Discussion:
No new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-18.B of the MEIR provides analysis of energy impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒

Discussion:
The proposal to place the subject planning areas on the ballot for a Measure M advisory vote would not generate any additional population or development beyond that previously identified in the MEIR that would result in increased demand for energy. All potential adverse impacts related to increased demand for energy were analyzed by, and mitigation is provided in, the MEIR. The Existing Conditions, Impacts Analysis and the Mitigation Measures listed in the MEIR for Energy (pages V-18-1 through V-18-12) are, therefore, still valid. Mitigation Measures applicable to traffic and air quality would also help to mitigate energy impacts. The project will have no effect on the Modesto Urban Area General Plan energy policies.

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 MEIR. 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 new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-19.B of the MEIR discloses impacts of implementing the Urban Area General Plan on visual resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the MEIR.

Significance Criteria: 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 proposed project is inconsistent with policies relating to visual resources in the Urban Area General Plan.	☐	☒
(2)	The proposed project would degrade views from riverside areas and parks to a greater degree than assumed in the Urban Area General Plan.	☐	☒
(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.	☐	☒

Discussion:
The proposal to place the subject planning areas on the ballot for a Measure M advisory vote would not generate any impacts related to visual resources beyond those previously identified in the MEIR. All potential adverse impacts related to visual resources were analyzed by, and mitigation is provided in, the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Visual Resources (pages V-19-1 through V-19-9) are, therefore, still valid.

Based on the discussion above:

(1) The project will have no effect on policies relating to visual resources in the Urban Area General Plan.

(2) The project will have no effect on the views from riverside areas or parks. The proposed ordinance allows telecom facilities on parks but encourages the facilities to be camouflage or located on existing structures with an easier review process to minimize the visual impacts.

(3) The project will have no effect on the view of any riverside areas or parks from public roadways or nearby properties. See item 2 above.

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-20-9 through V-20-15 in the MEIR. 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 new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-20.B of the MEIR 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 MEIR.

Significance Criteria: 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 proposed project is inconsistent with land use and planning policies in the Urban Area General Plan.	☐	☒
(2)	The proposed project would physically divide an established community in a way not assumed in the Urban Area General Plan.	☐	☒
(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.	☐	☒
(4)	The proposed project conflicts with an applicable habitat conservation plan or natural community conservation plan.	☐	☒

Discussion:
The proposal to place the subject planning areas on the ballot would not generate any additional population or development beyond that previously identified in the MEIR that would result in increased land use and planning impacts. Similarly, the ballot measures do not propose any changes to the gross acreage or General Plan area analyzed by the MEIR. All potential adverse impacts related to increased land use and planning impacts were analyzed by, and mitigation is provided in, the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Land Use and Planning (pages V-20-1 through V-20-22) are, therefore, still valid.

Based on the discussion above:

(1) The project will have no effect on the Modesto Urban Area General Plan land use policies.

(2) The project will not divide an established community.

(3) The project will have no effect on 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 project will have no effect on 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 MEIR. 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 new or additional mitigation measures or alternatives are required.

c. Project-Specific Effects

Section V-21.B of the MEIR 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 MEIR.

Significance Criteria: 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 proposed project is inconsistent with policies relating to climate change in the Urban Area General Plan.	☐	☒
(2)	The proposed project would result in average automobile trip lengths or CO_2 emissions higher than those assumed in the MEIR.	☐	☒
(3)	The proposed project would conflict with the Sustainable Communities Strategy that the Air Resources Board has agreed will achieve the goals of AB 32.	☐	☒

Discussion:

The proposal to place the subject planning areas on the ballot for a Measure M advisory vote would not generate any additional population or development beyond that identified in the MEIR that would result in increased climate change impacts. Similarly, the ballot measures do not propose any changes to the gross acreage or General Plan area analyzed by the MEIR. All potential adverse impacts related to increased climate change impacts were analyzed by, and mitigation is provided in, the MEIR. The Existing Conditions, Impacts Analysis and Mitigation Measures listed in the MEIR for Land Use and Planning (pages V-21-1 through V-21-11) are, therefore, still valid.

Based on the discussion above:

(1) The project will have no effect on the policies relating to climate change in the Urban Area General Plan.

(2) The project will have no effect in the average automobile trip lengths or CO_2 emissions.

(3) The project will have no effect on the Sustainable Communities Strategy that the Air Resources Board has agreed will achieve the goals of AB 32.

V. MITIGATION MEASURES APPLIED TO THE PROJECT

If the Initial Study results in a determination that a Finding of Conformance can be adopted for the proposed project, Section A below applies. If the Initial Study results in a determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration or EIR must be prepared for the project, 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 MEIR appropriate to the project shall be incorporated into the project. The following adopted General Plan Policies and MEIR Mitigation Measures shall be made part of the project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan:

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

Traffic and Circulation: 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

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 MEIR for all applicable categories in this Initial Study. The following additional project-specific mitigation measures are necessary to reduce the identified new significant effect:

None

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-315

A RESOLUTION DIRECTING THE CITY CLERK TO SUBMIT TO THE VOTERS AT THE NEXT REGULAR MUNICIPAL ELECTION AN ADVISORY MEASURE RELATING TO THE EXTENSION OF SEWER SERVICE TO THE UNINCORPORATED AREA REFERRED TO AS THE "830-ACRE VILLAGE RESIDENTIAL PORTION OF THE HETCH HETCHY COMPREHENSIVE PLANNING DISTRICT" AS DESCRIBED IN THE MODESTO URBAN AREA GENERAL PLAN, PROVIDED THE AREA IS FIRST ANNEXED TO THE CITY. THE AREA IS GENERALLY BORDERED ON THE NORTH BY THE CENTERLINE OF CLARIBEL ROAD, ON THE EAST BY THE CENTERLINE OF OAKDALE ROAD, ON THE SOUTH BY THE CENTERLINE OF CLARATINA AVENUE, AND ON THE WEST BY AN IMAGINARY LINE 0.25 MILES (APPROXIMATELY 1,250 FEET) EAST OF THE CENTERLINE OF MCHENRY AVENUE

WHEREAS, on March 6, 1979, the voters enacted the Modesto Citizens' Advisory Growth Management Act (Measure A) which provides that the City Council of the City of Modesto shall not approve, authorize, or appropriate funds for the extension of any sewer trench without first holding an advisory election, and

WHEREAS, on November 4, 1997, the voters enacted the Modesto Citizens' Advisory Growth Management Act of 1995 (Measure M), which provides that the City Council of the City of Modesto shall not approve, authorize, or appropriate funds for sewer improvements without first holding an advisory election, and

WHEREAS, in order to satisfy the requirements of Measure A and Measure M the City Council of the City of Modesto desires to submit to the qualified electors of the City of Modesto, at the regular municipal election to be held on November, 3, 2009, an advisory measure relating to the provisions of sewer service to a certain area of the City,

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

SECTION 1. BALLOT MEASURE.

That pursuant to California Elections Code Section 9603, the Council of the City of Modesto proposes to, and hereby does, on its own motion, submit to the qualified electors of the City of Modesto at a regular election to be held on November 3, 2009, an advisory measure relating to the provision of sewer service to certain areas of the city as set forth below, and hereby designates the form of the ballot measure for use at said special election as follows:

MEASURE E

Shall the City provide sewer service to the following area of the Modesto General Plan, provided the area is first annexed to the City?

The unincorporated area designated **"830-acre Village Residential Portion of Hetch-Hetchy Comprehensive Planning District"** in the Modesto Urban Area General Plan. Generally bordered north by Claribel Road centerline; east by Oakdale Road centerline; south by Claratina Avenue centerline; west by imaginary line 0.25 miles east of McHenry centerline.

SECTION 2. FORM OF BALLOT.

On the ballots to be used at said election, in addition to any other matter required by law to be printed thereon, shall be printed the following question relating to the proposal to extend sanitary sewer service:

MEASURE E City of Modesto Sewer Service Extension Advisory Measure.

Shall the City provide sewer service to the following area of the Modesto General Plan provided the area is first annexed to the City?	Yes	☐
	No	☐

The unincorporated area designated **"830-acre Village Residential Portion of Hetch-Hetchy Comprehensive Planning District"** in the Modesto Urban Area General Plan. Generally bordered north by Claribel Road centerline; east by Oakdale Road centerline; south by Claratina Avenue centerline; west by imaginary line 0.25 miles east of McHenry centerline.

SECTION 3. CONDUCT OF ELECTION.

The advisory election hereby called shall be held and conducted, and the votes thereat canvassed and the returns thereof made, and the results thereof ascertained and determined as herein provided, and in all particulars not prescribed in this resolution, the advisory election shall be held as provided for in the City Charter, and in all particulars not provided for therein, the advisory election shall be held as provided by law for the holding of advisory elections and regular municipal elections in the city of Modesto and otherwise in accordance with the Elections Code of the State of California.

SECTION 4. CITY CLERK CERTIFICATION.

That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the Elections Department of the County of Stanislaus, and the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-316

A RESOLUTION DIRECTING THE CITY CLERK TO TRANSMIT A COPY OF THE ADVISORY MEASURE CONSIDERING THE EXTENSION OF SEWER SERVICE TO A CERTAIN AREA OF THE MODESTO URBAN AREA GENERAL PLAN, COMMONLY REFERRED TO AS THE "830-ACRE VILLAGE RESIDENTIAL PORTION OF THE HETCH HETCHY COMPREHENSIVE PLANNING DISTRICT" AS DESCRIBED IN THE MODESTO URBAN AREA GENERAL PLAN AND GENERALLY LOCATED, THE UNINCORPORATED AREA IS, BORDERED ON THE NORTH BY THE CENTERLINE OF CLARIBEL ROAD, ON THE EAST BY THE CENTERLINE OF OAKDALE ROAD, ON THE SOUTH BY THE CENTERLINE OF CLARATINA AVENUE, AND ON THE WEST BY AN IMAGINARY LINE 0.25 MILES (APPROXIMATELY 1,250 FEET) EAST OF THE CENTERLINE OF MCHENRY AVENUE TO THE CITY ATTORNEY FOR THE PURPOSE OF PREPARING AN IMPARTIAL ANALYSIS OF SAID MEASURE

WHEREAS, the City Council has directed the City Clerk to submit to the voters at the next regular municipal election to be held on November 3, 2009, an advisory measure concerning the unincorporated area designated as the "830-acre Village Residential Portion of the Hetch-Hetchy Comprehensive Planning District" in the Modesto Urban Area General Plan to the City Attorney for the purpose of preparing an impartial analysis of said measure,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Clerk is hereby directed pursuant to California Elections Code Section 9280 to transmit a copy of said measure to the City Attorney, who is hereby directed to prepare an Impartial Analysis of the measure showing the effect of the measure on existing law on the operation of the measure.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: Keating, Lopez

ABSENT: Councilmembers: O'Bryant

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-317

A RESOLUTION AUTHORIZING THE MEMBERS OF THE CITY COUNCIL, OR ANY OF THEM, TO FILE WRITTEN ARGUMENTS IN FAVOR OF OR IN OPPOSITION TO THE ADVISORY MEASURE RELATING TO THE EXTENSION OF SEWER SERVICE TO A CERTAIN AREA OF THE MODESTO URBAN AREA GENERAL PLAN, COMMONLY REFERRED TO AS THE "830-ACRE VILLAGE RESIDENTIAL PORTION OF THE HETCH-HETCHY COMPREHENSIVE PLANNING DISTRICT"

WHEREAS, the City Council has directed the City Clerk to submit to the voters at the next regular municipal election to be held on November 3, 2009, an advisory measure concerning the unincorporated area designated as the "830-acre Village Residential Portion of the Hetch-Hetchy Comprehensive Planning District," and generally located, the unincorporated area is, bordered on the north by the centerline of Claribel Road, on the east by the centerline of Oakdale Road, on the south by the centerline of Claratina Avenue, and on the west by an imaginary line 0.25 miles (approximately 1,250 feet) east of the centerline of McHenry Avenue.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that pursuant to California Elections Code Section 9282 the members of the City Council, or any of them, are hereby authorized to file written arguments in favor of or in opposition to said measure and to change such arguments until and including the date and time after which no argument may be filed with the City Clerk.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Marsh, Olsen, Mayor Ridenour
NOES:	Councilmembers:	Keating, Lopez
ABSENT:	Councilmembers:	O'Bryant

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-318

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO SOLICT BIDS AND ISSUE PURCHASE AGREEMENTS FOR MAINTENANCE CONTRACTS/SUPPORT AGREEMENTS THROUGHOUT FISCAL YEAR 2009-2010 THROUGH "SOLE SOURCE" PURCHASES AND INFORMAL BID PROCESSES

WHEREAS, the City has an ongoing need to issue purchase maintenance contracts/support agreements for hardware and software assets utilized by the City of Modesto and managed by the Information Technology Department, and

WHEREAS, the expenditures for maintenance contracts/support agreements have been approved by Council through the budget process, and

WHEREAS, staff requests the Purchasing Manager be authorized to solicit bids through "sole-source" purchases and informal bid processes for Fiscal Year 2009–2010 for an estimated budgeted amount of $1,124,503,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to solicit bids through "sole-source" purchases and informal bid processes for the purchase of maintenance contracts/support agreements throughout the Fiscal Year 2009–2010.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of July, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-319

RESOLUTION APPROVING AN EXTENSION TO AN AGREEMENT BETWEEN THE CITY OF MODESTO AND BANK OF THE WEST FOR BANKING SERVICS INCLUDING PAYABLES, PAYROLL, CASHIERING, AND INVESTMENTS; AND AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO EXECUTE THE EXTENSION TO SAID AGREEMENT

WHEREAS, by Resolution No. 94-734, the City of Modesto and Bank of the West entered into an agreement for banking services, and

WHEREAS, by Resolution No. 2007-604, the City Council approved an extension to that agreement with Bank of the West which expires on August 1, 2009, and

WHEREAS, City's purchasing policy and standard business practices call for the City to maintain an in-force agreement for banking services, and

WHEREAS, additional time is needed for the City of Modesto to evaluate banking service proposals through a formal bid process,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an extension to an agreement between the City of Modesto and Bank of the West for banking services.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of July, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-320

A RESOLUTION ACCEPTING THE FINAL MAP OF THE HOPE VILLAGE SUBDIVISION LOCATED AT THE EASTERN END OF HOUSER LANE, AUTHORIZING THE CITY MANAGER TO EXECUTE THE SUBDIVISION AGREEMENT, AND AUTHORIZING THE CITY MANAGER AND THE CITY CLERK TO SIGN THE FINAL MAP AND RECORD IT WITH STANISLAUS COUNTY RECORDER'S OFFICE

WHEREAS, Habitat for Humanity Stanislaus, a California nonprofit benefit corporation, is possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 1.85 acres, known as the HOPE VILLAGE ("SUBDIVISION"), as amended in P-D(581), and

WHEREAS, a tentative map of said tract was approved by the Planning Commission of the City of Modesto on the 17th day of December 2007, and

WHEREAS, the Secretary of the Planning Commission of the City of Modesto and the City Engineer have certified that the final map of said tract substantially conforms to the approved tentative map, and

WHEREAS, the City Engineer of the City of Modesto has certified that the final map of said SUBDIVISION meets all of the provisions of the California Subdivision Map Act and the provisions of the Modesto Municipal Code relating to subdivisions, and that the map is technically correct,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that said final map be approved; that the dedications for Public Utility Easements as shown thereon within the boundaries of said tract be accepted on behalf of the public for public use; and that the City Manager be authorized to sign the map on behalf of the City of Modesto as the Beneficiary as noted in the title report, and that the City Clerk be

authorized to certify the map of said tract on behalf of the City of Modesto after the fees and deposits required by the Modesto Municipal Code in amounts determined by the City Engineer have been paid; and after subdivider has furnished securities, as set forth in Section 4-4.605 of the Modesto Municipal Code, which shall secure the obligations set forth in Section 66499.3 of the Government Code of the State of California. Said securities shall be in forms acceptable to the City Attorney and in the amounts required by the City Engineer.

BE IT FURTHER RESOLVED that the City Manager and the City Clerk be authorized to execute and attest, respectively, an agreement with subdivider as required by Section 4-4.604(c) of the Modesto Municipal Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of July, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-321

RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE FURNISHING OF AN ELEVATOR UPGRADE FOR THE ELEVENTH STREET PARKING GARAGE, FOR THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT, PARKING SERVICES DIVISION, TO ELEVATOR TECHNOLOGY, INC., EL DORADO HILLS, CA, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO ISSUE AN AGREEMENT FOR A TOTAL COST OF $108,068.50

WHEREAS, on September 2, 2008, the City Council, by Resolution No. 2008-490, authorized the Purchasing Manager to issue formal Request for Bids for modernization of the elevator at the Eleventh Street parking garage, for the Parks, Recreation and Neighborhoods Department, Parking Services Division, and

WHEREAS, on March 20, 2009, the Purchasing Division issued Request for Bid (RFB) No. 0809-16 Elevator Upgrade Eleventh Street parking garage to eleven (11) companies, none of which were local companies, posted the bid on the City's website and formally advertised as required by law, and

WHEREAS, on April 28, 2009, RFB's were formally opened in the City Clerk's office. Of the eleven (11) prospective bidders, four (4) companies chose to respond, of which, 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 furnishing of elevator upgrade for the Eleventh Street Parking Garage, for the Parks, Recreation and Neighborhoods Department, Parking Services Division, to Elevator Technology, Inc., El Dorado Hills, CA, for a total cost of $108,068.50, 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. The award of bid and contract for the furnishing of an elevator upgrade for the Eleventh Street parking garage, for the Parks, Recreation and Neighborhoods Department, Parking Services Division, to Elevator Technology, Inc., El Dorado Hills, CA, conforms to the Modesto Municipal Code, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2008-09 in appropriation Unit: 6000-350-P597-6040.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the furnishing of an elevator upgrade for the Eleventh Street parking garage, for the Parks, Recreation and Neighborhoods Department, Parking Services Division, to Elevator Technology, Inc., El Dorado Hills, CA,

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to issue an agreement for a total cost of $108,068.50.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of July, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-322

RESOLUTION APPROVING AN EMERGENCY HOME REPAIR PROGRAM/ DISABLED ACCESS ASSISTANCE PROGRAM (EHRP/DAAP) LOAN IN THE AMOUNT OF $67,296 FOR SHIRLEY L. ORDAHL OF 1417 DEL MONTE AVENUE, MODESTO; AND AUTHORIZING THE CITY MANAGER,OR HIS DESIGNEE, TO EXECUTE ALL DOCUMENTS

WHEREAS, the home located at 1417 Del Monte Avenue, Modesto, is owned by Shirley L. Ordahl, and

WHEREAS, the home is 1,132 square feet with three bedrooms and one bathroom, and

WHEREAS, the home was built in 1947, and is in need of repairs and handicap modifications, and

WHEREAS, repair work will be completed to ensure the home meets Housing Quality Standards as specified by the Department of Housing and Urban Development, and

WHEREAS, Shirley Ordahl is a senior citizen and her income is less than 50% of the Area Median Income; therefore she is eligible for a deferred payment loan under the EHRP/DAAP Program guidelines, and

WHEREAS, the Housing Rehabilitation Loan Committee (HRLC) met on June 18, 2009, and supported the recommendation to approve an EHRP/DAAP loan for Shirley Ordahl, and

WHEREAS, the HRLC must approve all EHRP/DAAP requests to be submitted to the City Manager's Office for signature and all loans over $60,000 must go to City Council for approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Emergency Home Repair Program/Disabled Access Assistance Program loan in the amount of $67,296 for Shirley L. Ordahl of 1417 Del Monte Avenue, Modesto.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of July, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-323

A RESOLUTION GRANTING HEALTH CONTRIBUTION CHANGES TO UNREPRESENTED MANAGEMENT AND CONFIDENTIAL EMPLOYEES, INCLUDING CHARTER OFFICERS AND EXECUTIVES, EFFECTIVE JULY 21, 2009, AND AMENDING SECTION 1 OF RESOLUTION NO. 2008-506

WHEREAS, by Section 1 of Resolution No. 2008-506, which became effective on September 2, 2008, the City Council designated the City's contribution to health, dental and vision benefits for Unrepresented Management and Confidential employees for Fiscal Year 08-09, and WHEREAS, the Council of the City of Modesto desires to approve increases in the City's contribution to health, dental and vision benefits for Unrepresented employees for Fiscal Year 09-10, to be effective July 21, 2009,

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, is hereby designated to be the following:

City Contribution - Sworn and Non-Sworn
Total Contributions (monthly)

	7/22/08	7/21/09
Family	$957	$1050
Employee Only	$570	$596
Opt Out	$425	$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 21, 2009, 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.

Effective July 26, 2005, the City's contribution toward Unrepresented employees with Family coverage shall not exceed the actual premium amount for the lowest cost health (HMO Plan), dental and vision plans offered by the City, regardless of the health plan selected by the employee or the contribution amounts listed above.

Effective July 26, 2005, the City's contribution toward Unrepresented employees with Employee Only coverage shall not be less than the actual premium amount for the lowest cost health, (HMO Plan), dental and vision plans offered by the City, regardless of the health plan selected by the employee or the contribution amounts listed above.

BE IT FURTHER RESOLVED that Section 1 of Resolution No. 2008-506 is hereby amended effective July 21, 2009.

BE IT FURTHER RESOLVED that all other sections and provisions of Resolution No. 2007-386 shall remain in full force and effect.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of July, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-324

A RESOLUTION AMENDING THE FISCAL YEAR 09-10 OPERATING BUDGET TO TRANSFER $27,715 FROM 0100-800-8000-8003, GENERAL FUND RESERVE, AND $4,014 FROM OTHER FUNDS RESERVES, TO VARIOUS SALARY AND BENEFIT ACCOUNTS TO PROVIDE FUNDING FOR HEALTH BENEFIT CHANGES FOR UNREPRESENTED MANAGEMENT AND CONFIDENTIAL EMPLOYEES, INCLUDING CHARTER OFFICERS AND EXECUTIVES

WHEREAS, the City Council desires to make changes in the City's contribution to health benefits for Unrepresented Management and Confidential employees, including Charter Officers and Executives, and

WHEREAS, the Fiscal Year 09-10 costs associated with these changes are estimated at $31,729 for active, and

WHEREAS, the cost of these increased expenditures have not yet been budgeted,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 09-10 Operating Budget is hereby amended to transfer $27,715 from 0100-800-8000-8003, General Fund Reserve, and $4,014 from other Funds reserves to various salary and benefit accounts, to fund said changes for Unrepresented Management and Confidential employees, including Charter officers and Executives.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of July, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-325

RESOLUTION AUTHORIZING SUBMISSION OF THE CITY'S TRANSPORTATION DEVELOPMENT ACT (TDA)/LOCAL TRANSPORTATION FUND (LTF) TRANSIT CLAIM FOR FISCAL YEAR 2009-2010 IN THE AMOUNT OF $7,309,755 TO THE STANISLAUS COUNCIL OF GOVERNMENTS (STANCOG)

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

WHEREAS, 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 2009-2010 pursuant to Articles 4 and 8 of Chapter 4 of the California PUC, and

WHEREAS, the City's Transit TDA Claim for Fiscal Year 2009-2010 is $7,309,755, and

WHEREAS, the total Transit Operating Budget for Fiscal Year 2009-2010 is $14,867,906, and

WHEREAS, Council action authorizing submission of the Claim is required by StanCOG pursuant to Section 99261 of the California PUC before any TDA funding can be released to the City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the TDA transit claim for Fiscal Year 2009-2010 in the amount of $7,309,755.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of July, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-326

A RESOLUTION ACCEPTING THE WORK BY GEORGE REED, INC. FOR THE PROJECT TITLED "VIRGINIA CORRIDOR PHASE III WITH DOWNSTREAM WATER SYSTEM IMPROVEMENTS" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $3,379,784.23

WHEREAS, a report has been filed by the Director of Public Works that the project titled "Virginia Corridor Phase III with Downstream Water System Improvements" has been completed by George Reed, Inc. in accordance with the contract agreement dated June 12, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Virginia Corridor Phase III with Downstream Water System Improvements" is hereby accepted as complete from said contractor George Reed, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $3,379,784.23 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 July, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-327

A RESOLUTION APPROVING A COST SHARING AGREEMENT FOR ASSOCIATED TASK ITEMS OF WORK TO SHARE CERTAIN PROJECT COSTS BETWEEN THE CITIES OF CERES, HUGHSON, MODESTO, AND TURLOCK IN THE DEVELOPMENT OF THE REGIONAL SURFACE WATER SUPPLY PROJECT; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Turlock Irrigation District (TID) and the cities of Ceres, Hughson, Modesto, and Turlock have been working together for several years on a joint project to supply each agency with treated TID supplied surface water, and

WHEREAS, for the City of Modesto, this would be an augmentation to the existing groundwater and Modesto Irrigation District supplied surface water the City currently receives, and

WHEREAS, in December 2008, TID gave formal notice that they would no longer plan, finance, own, and operate the treatment plant, including related transmission facilities, and then sell treated surface water to the four cities, and

WHEREAS, on May 26, 2009, by Resolution 2009-225, Council directed staff to continue working with TID and the three other cities in the development of a Joint Powers Authority (JPA) responsible for decisions pertaining to the future Regional Surface Water Supply Project (RSWSP), and

WHEREAS, representatives of the four cities have been meeting bi-weekly to determine the best plan of action, and

WHEREAS, the four participating cities have recommended that prior to formal adoption of a JPA, certain peer review tasks need to be completed to ensure a clear

understanding of the status of each element of work and the associated documentation previously performed under TID's direction, and

WHEREAS, it is suggested that the cities each finance their own portion respectively, and

WHEREAS, City of Turlock staff will execute and manage the agreement for Task 1, which will provide peer review services by Carollo Engineers (Carollo) of the engineering work products completed to date, and

WHEREAS, City of Modesto staff will execute and manage the agreement for Task 2, which will provide peer review services by Horizon Water and Environment, LLC, of the California Environmental Quality Act work products completed to date,

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 project costs between the cities of Ceres, Hughson, Modesto, and Turlock in the development of the Regional Surface Water Supply 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 14th day of July, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-328

A RESOLUTION APPROVING AN AGREEMENT WITH HORIZON WATER AND ENVIRONMENT, LLC FOR PEER REVIEW SERVICES OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT WORK PRODUCTS COMPLETED TO DATE FOR THE REGIONAL SURFACE WATER SUPPLY PROJECT, IN AN AMOUNT NOT TO EXCEED $10,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Turlock Irrigation District (TID) and the cities of Ceres, Hughson, Modesto, and Turlock have been working together for several years on a joint project to supply each agency with treated TID supplied surface water, and

WHEREAS, for the City of Modesto, this would be an augmentation to the existing groundwater and Modesto Irrigation District supplied surface water the City currently receives, and

WHEREAS, in December 2008, TID gave formal notice that they would no longer plan, finance, own, and operate the treatment plant, including related transmission facilities, and then sell treated surface water to the four cities, and

WHEREAS, on May 26, 2009, by Resolution 2009-225, Council directed staff to continue working with TID and the three other cities in the development of a Joint Powers Authority (JPA) responsible for decisions pertaining to the future Regional Surface Water Supply Project (RSWSP), and

WHEREAS, representatives of the four cities have been meeting bi-weekly to determine the best plan of action, and

WHEREAS, the four participating cities have recommended that prior to formal adoption of a JPA, certain peer review tasks need to be completed to ensure a clear

understanding of the status of each element of work and the associated documentation previously performed under TID's direction, and

WHEREAS, it is suggested that the cities each finance their own portion respectively, and

WHEREAS, City of Turlock staff will execute and manage the agreement for Task 1, which will provide peer review services by Carollo Engineers (Carollo) of the engineering work products completed to date, and

WHEREAS, City staff recommends approving an agreement with Horizon Water and Environment, LLC, in an amount not to exceed $10,000, for Task 2, which will provide peer review services of the California Environmental Quality Act (CEQA) work products completed to date for the RSWSP, and

WHEREAS, on July 1, 2008, by Resolution 2008-385, Council approved the selection of environmental service providers to prepare environmental impact reports and perform other related environmental services for a period of fours years, and Horizon Water and Environment, LLC was one of the approved firms,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with Horizon Water and Environment, LLC for peer review services of the California Environmental Quality Act work products completed to date for the Regional Surface Water Supply Project, in an amount not to exceed $10,000.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of July, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-329

A RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ANY FUTURE AMENDMENTS TO THE COST SHARING AGREEMENT OR TASKS RELATED TO THE PROJECT FOR AMOUNTS NOT TO EXCEED $50,000 FOR EACH FIRM

WHEREAS, the Turlock Irrigation District (TID) and the cities of Ceres, Hughson, Modesto, and Turlock have been working together for several years on a joint project to supply each agency with treated TID supplied surface water, and

WHEREAS, for the City of Modesto, this would be an augmentation to the existing groundwater and Modesto Irrigation District supplied surface water the City currently receives, and

WHEREAS, in December 2008, TID gave formal notice that they would no longer plan, finance, own, and operate the treatment plant, including related transmission facilities, and then sell treated surface water to the four cities, and

WHEREAS, on May 26, 2009 by Resolution 2009-225, Council directed staff to continue working with TID and the three other cities in the development of a Joint Powers Authority (JPA) responsible for decisions pertaining to the future Regional Surface Water Supply Project (RSWSP), and

WHEREAS, representatives of the four cities have been meeting bi-weekly to determine the best plan of action, and

WHEREAS, the four participating cities have recommended that prior to formal adoption of a JPA, certain peer review tasks need to be completed to ensure a clear understanding of the status of each element of work and the associated documentation previously performed under TID's direction, and

WHEREAS, it is suggested that the cities each finance their own portion respectively, and

WHEREAS, City of Turlock staff will execute and manage the agreement for Task 1, which will provide peer review services by Carollo Engineers (Carollo) of the engineering work products completed to date, and

WHEREAS, City of Modesto staff will execute and manage the agreement for Task 2, which will provide peer review services by Horizon Water and Environment, LLC, of the California Environmental Quality Act work products completed to date,

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 any future amendments to the cost sharing agreement or tasks related to the project for amounts not to exceed $50,000 for each firm.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of July, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-330

A RESOLUTION APPROVING A SECOND AMENDMENT TO AGREEMENT FOR CONSTRUCTION MANAGEMENT SERVICES WITH TRS CONSULTANTS, INC. FOR THE PROJECT TITLED, "STATE ROUTE 219 WIDENING FROM WEST OF DALE ROAD TO MORROW ROAD," TO COMPLY WITH FEDERAL GRANT FUNDING REQUIREMENTS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE SECOND AMENDMENT TO AGREEMENT

WHEREAS, Caltrans, the City of Modesto, and Stanislaus County have been planning for the widening of Kiernan Avenue (SR219), and

WHEREAS, the SR219 project is needed to provide a means of keeping pace with the City's and regional projected growth, and

WHEREAS, the project consists of roadway improvements at the Dale Road/Kiernan Avenue intersection, as well as the addition of two through lanes along Kiernan Avenue, and

WHEREAS, the project is being constructed simultaneously with the Caltrans widening of SR 219, and

WHEREAS, on April 22, 2008, by Resolution No. 2008-242, Council approved an agreement with TRS Consultants, Inc. (TRS) to provide construction management services for the State Route 219 Widening from West of Dale Road to Morrow Road project, and

WHEREAS, after the agreement was executed, it was determined that portions of the original agreement needed to be modified to comply with federal grant funding requirements, and

WHEREAS, on April 7, 2009, by Resolution No. 2009-148, a "no cost" Amendment to Agreement added and modified the following areas of the original

agreement: 1) Audit requirements and record retention, 2) Cost Principles discussing grant eligibility of costs, 3) Disadvantaged Business Enterprise requirements, and 4) Prevailing wages and associated reports,

WHEREAS, after the amendment was executed, it was discovered that the City of Modesto's material testing laboratory was not certified and could not perform the required testing, and

WHEREAS, this "no cost" Second Amendment to Agreement allows TRS Consultants, Inc. to retain the services of a certified laboratory, and

WHEREAS, TRS has reviewed their budget and believes that they can provide a testing lab at no additional cost to the City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Second Amendment to Agreement for Construction Management Services with TRS Consultants, Inc. for the project titled, "State Route 219 Widening from West of Dale Road to Morrow Road," to comply with federal grant funding requirements.

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 July, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-331

RESOLUTION APPROVING AN AIRPORT LEASE AGREEMENT WITH MODESTO AVIATION, INC., TO PROVIDE FLIGHT SCHOOL TRAINING OPERATIONS AND RELATED SERVICES AS A FIXED BASE OPERATOR (FBO) AT MODESTO CITY-COUNTY AIRPORT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City Council, on March 10, 2009, by Resolution No. 2009-108, authorized staff to solicit proposals to determine the best qualified proponent or proponents to fill the Fixed base Operator's (FBO) needs of the airport and aviation community, and

WHEREAS, a review panel consisting of the Airport Manager and two members of the Airport Advisory Committee (AAC) accepted Modesto Aviation, Inc.'s proposal to provide flight school training operations and related services as a FBO at Modesto City-County Airport, and

WHEREAS, at its June 17, 2009 meeting, the AAC unanimously endorsed moving Modesto Aviation Inc's proposal to the Modesto City Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an airport lease agreement with Modesto Aviation, Inc. to provide flight school training operations and related services as a Fixed Base Operator at Modesto City-County Airport.

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 July, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmember:	None
ABSENT:	Councilmember:	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-332

A RESOLUTION AUTHORIZING PAYMENT OF A 1% SALES TAX RATE INCREASE IN THE AMOUNT OF $45,324.84 FOR THE PURCHASE OF THE MEMBRANE BIOREACTOR EQUIPMENT FOR THE PHASE 1A TERTIARY WASTEWATER TREATMENT FACILITY PROJECT

WHEREAS, the City of Modesto operates and maintains a secondary treatment system and wastewater reclamation facility at 7007 Jennings Road, and

WHEREAS, based on the analysis prepared for the Wastewater Master Plan, the City expects that tertiary treatment will be required to meet anticipated regulatory requirements, and

WHEREAS, the City Council, on February 26, 2008, by Resolution No. 2008-140, approved an Agreement with Zenon Environmental Corporation for the purchase of Membrane Bioreactor Equipment for the Phase 1A Tertiary Wastewater Treatment Facility project, and

WHEREAS, the City Council, on September 23, 2008, by Resolution No. 2008-565, budgeted funds for the sales tax and other project costs but did not authorize the actual payment of the sales tax, and

WHEREAS, the City Council, on March 10, 2009, by Resolution No. 2009-112 authorized payment of sales tax, at a rate of 7.375%, in the amount of $334,271 for the purchase of the Membrane Bioreactor Equipment, and

WHEREAS, the State of California issued a 1% sales and use tax rate increase effective April 1, 2009, and

WHEREAS, the City is required to pay sales tax at the increased rate for the purchase of the Membrane Bioreactor Equipment,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes payment of a 1% sales tax rate increase in the amount of $45,324.84 for the purchase of the Membrane Bioreactor Equipment for the Phase 1A Tertiary Wastewater Treatment Facility Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of July, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-333

A RESOLUTION AUTHORIZING PAYMENT OF A 1% SALES TAX RATE INCREASE IN THE AMOUNT OF $3,235.33 FOR THE PURCHASE OF THE OXIDATION AERATION AND MIXING EQUIPMENT FOR THE PHASE 1A TERTIARY WASTEWATER TREATMENT FACILITY PROJECT

WHEREAS, the City of Modesto operates and maintains a secondary treatment system and wastewater reclamation facility at 7007 Jennings Road, and

WHEREAS, based on the analysis prepared for the Wastewater Master Plan, the City expects that tertiary treatment will be required to meet anticipated regulatory requirements, and

WHEREAS, the City Council, on June 10, 2008, by Resolution No. 2008-343, approved an Agreement with WesTech Engineering, Inc. for the purchase of Oxidation Ditch Aeration and Mixing Equipment for the Phase 1A Tertiary Wastewater Treatment Facility project, and

WHEREAS, the City Council, on September 23, 2008, by Resolution No. 2008-565, budgeted funds for the sales tax and other project costs, but did not authorize the actual payment of the sales tax, and

WHEREAS, the City Council, on March 10, 2009, by Resolution No. 2009-113, authorized payment of sales tax, at a rate of 7.375%, in the amount of $23,861 for the purchase of the Oxidation Aeration and Mixing Equipment, and

WHEREAS, the State of California issued a 1% sales and use tax rate increase effective April 1, 2009, and

WHEREAS, the City is required to pay sales tax at the increased rate for the purchase of the Oxidation Aeration and Mixing Equipment,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes payment of a 1% sales tax rate increase in the amount of $3,235.33 for the purchase of the Oxidation Aeration and Mixing Equipment for the Phase 1A Tertiary Wastewater Treatment Facility Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of July, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-334

A RESOLUTION APPROVING ADDITIONAL SCOPE TO THE PHASE 1A TERTIARY WASTEWATER TREATMENT FACILITY PROJECT FOR THE EMERGENCY REPAIR OF THE EXISTING 36-INCH OUTFALL PIPELINE TO BE ASSIGNED TO PACIFIC MECHANICAL CORPORATION BY CONTRACT CHANGE ORDER

WHEREAS, the City of Modesto operates and maintains a secondary treatment system and wastewater reclamation facility at 7007 Jennings Road, and

WHEREAS, based on the analysis prepared for the Wastewater Master Plan, the City expects that tertiary treatment will be required to meet anticipated regulatory requirements, and

WHEREAS, the City Council, on September 23, 2008, by Resolution 2008-563, approved the plans and specifications for the Phase 1A Tertiary Wastewater Treatment Facility project and accepted the bid and approved a $19,148,562.50 contract with Pacific Mechanical Corporation, and

WHEREAS, a key component of the Phase 1A Project is the tie-in of the tertiary effluent pipeline to the existing 36-inch outfall pipeline, and

WHEREAS, the 36-inch outfall pipeline experienced failure in February 2009 and was temporarily patched, and

WHEREAS, at the City's request, Carollo Engineers assessed the outfall pipeline in March 2009, providing key findings that the unlined steel pipe is severely corroded beyond repair and at the end of its useful life, and

WHEREAS, in order for the tertiary effluent pipeline to make a successful connection and ensure that the plant remains operational, the 36-inch outfall pipeline must be replaced at this time,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves additional scope to the Phase 1A Tertiary Wastewater Treatment Facility project for the emergency repair of the existing 36-inch outfall pipeline to be assigned to Pacific Mechanical Corporation by Contract Change Order.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of July, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-335

A RESOLUTION APPROVING AN INCREASE OF THE DIRECTOR OF PUBLIC WORKS' AUTHORITY TO ISSUE CHANGE ORDERS ON THE PHASE 1A TERTIARY WASTEWATER TREATMENT FACILITY PROJECT FROM SIX PERCENT ($1,148,914) TO EIGHT PERCENT ($1,448,914) OF THE ORIGINAL CONTRACT PRICE WITH PACIFIC MECHANICAL CORPORATION

WHEREAS, the City of Modesto operates and maintains a secondary treatment system and wastewater reclamation facility at 7007 Jennings Road, and

WHEREAS, based on the analysis prepared for the Wastewater Master Plan, the City expects that tertiary treatment will be required to meet anticipated regulatory requirements, and

WHEREAS, the City Council, on September 23, 2008, by Resolution 2008-563, approved the plans and specifications for the Phase 1A Tertiary Wastewater Treatment Facility project and accepted the bid and approved a $19,148,562.50 contract with Pacific Mechanical Corporation, and

WHEREAS, a key component of the Phase 1A Project is the tie-in of the tertiary effluent pipeline to the existing 36-inch outfall pipeline, and

WHEREAS, the 36-inch outfall pipeline experienced failure in February 2009 and was temporarily patched, and

WHEREAS, at the City's request, Carollo Engineers assessed the outfall pipeline in March 2009, providing key findings that the unlined steel pipe is severely corroded beyond repair and at the end of its useful life, and

WHEREAS, in order for the tertiary effluent pipeline to make a successful connection and ensure that the plant remains operational, the 36-inch outfall pipeline must be replaced at this time, and

WHEREAS, the replacement of the 36-inch outfall pipeline will by assigned to Pacific Mechanical Corporation by contract change order, and

WHEREAS, assigning the work to Pacific Mechanical Corporation will save the City funds by not having to bid and remobilize with a new contractor at a later date, and

WHEREAS, funds for the replacement of the 36-inch outfall pipeline will be transferred from the Wastewater Reserve Fund to the Phase 1A Project account, and

WHEREAS, staff is requesting an increase of Change Order Authority in the same amount as the cost of the added scope in order to allow the Phase 1A Project Change Order Authority to remain uncompromised, and

WHEREAS, the Director of Public Works currently has authority to approve change orders up to a cumulative amount of $1,145,011,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby increases the Director of Public Works' Authority to issue change orders on the Phase 1A Tertiary Wastewater Treatment Facility project from six percent ($1,148,914) to eight percent ($1,448,914) of the original contract price with Pacific Mechanical Corporation.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of July, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-336

A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT WITH CONSOLIDATED CM FOR CONSTRUCTION MANAGEMENT SERVICES OF THE PHASE 1A TERTIARY WASTEWATER TREATMENT FACILITY IN THE NOT-TO-EXCEED AMOUNT OF $176,059, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO THE AGREEMENT

WHEREAS, the City of Modesto operates and maintains a secondary treatment system and wastewater reclamation facility at 7007 Jennings Road, and

WHEREAS, based on the analysis prepared for the Wastewater Master Plan, the City expects that tertiary treatment will be required to meet anticipated regulatory requirements, and

WHEREAS, the City Council, on May 6, 2008, by Resolution 2008-262, approved an Agreement with Consolidated CM, Inc. for Construction Management Services for the Phase 1A Tertiary Wastewater Treatment Facility project, and

WHEREAS, the City has identified additional scope and services necessary to complete the Phase 1A Tertiary Wastewater Treatment Facility project, and

WHEREAS, Consolidated CM has submitted a revised scope of services and fee proposal to complete the Phase 1A Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to the Agreement with Consolidated CM for Construction Management Services of the Phase 1A Tertiary Wastewater Treatment Facility in the not-to-exceed amount of $176,059.

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 July, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-337

A RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO INCREASE DIRECTOR AUTHORITY FOR THE CONSTRUCTION CONTRACT WITH PACIFIC MECHANICAL CORPORATION AND TO FULLY FUND THE AMENDMENT TO AGREEMENT WITH CONSOLIDATED CM, INC. FOR CONSTRUCTION MANAGEMENT SERVICES FOR PHASE 1A TERTIARY WASTEWATER TREATMENT FACILITY PROJECT

WHEREAS, a budget adjustment in the amount of $576,059 is necessary to increase the Director's authority for the construction contract with Pacific Mechanical Corporation in the amount of $400,000 and to fully fund the Amendment to Agreement with Consolidated CM, Inc. for Construction Management Services in the amount of $176,059 for Phase 1A Tertiary Wastewater Treatment Facility, and

WHEREAS, the Fiscal Year 2009-2010 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 2009-2010 Capital Improvement Program budget as shown in **Exhibit A**.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of July, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit A

FUND:

Wastewater Fund

EXPENDITURES:		Increase/(Decrease)
Renewal/Replacement Jennings TP-Primary	6210-480-B577-6052	($400,000)
WW Treatment Phase 1A Tertiary	6210-480-B805-6010	($176,059)
WW Treatment Phase 1A Tertiary	6210-480-B805-6050	$400,000
WW Treatment Phase 1A Tertiary	6210-480-B805-6060	$176,059

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-338

A RESOLUTION APPROVING AN AGREEMENT WITH BLACKBURN CONSULTING FOR CONSTRUCTION MANAGEMENT SERVICES OF THE PRIMARY OUTFALL REHABILITATION PROJECT PHASE 1 IN AN AMOUNT NOT TO EXCEED $668,321.83, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Primary Outfall Pipeline transports primary effluent wastewater from the City's Sutter Avenue Primary Water Quality Control Plant to the Jennings Road Secondary Plant and consists of approximately 6.5 miles of 60-inch pipeline, and

WHEREAS, the City is now undergoing this project to rehabilitate the Primary Outfall Pipeline to protect it from further corrosion damage and extend its service life, and

WHEREAS, due to the complexity and amount of staff hours to support construction of the Primary Outfall Rehabilitation Project Phase 1, a construction management firm is required for management and inspection of this project, and

WHEREAS, City staff utilized Administrative Directive 3.1, Selection Procedures for Professional Consultants, and

WHEREAS, City staff recommends an agreement with Blackburn Consulting, a local Modesto firm, as the City does not have the staffing level or subject matter expertise to perform construction management and inspection services for the following: constructability review, valued engineering, bid evaluation, 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 Primary Outfall Rehabilitation Project

Phase 1, 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 Blackburn Consulting for construction management services of the Primary Outfall Rehabilitation Project Phase 1 in an amount not to exceed $668,321.83.

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 July, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-339

A RESOLUTION APPROVING AN AGREEMENT WITH BROWN AND CALDWELL FOR DESIGN SUPPORT DURING CONSTRUCTION SERVICES FOR EMERALD TRUNK REHABILITATION IN AN AMOUNT NOT TO EXCEED $376,089 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $37,609 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $413,698, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto's Emerald Trunk Line conveys raw wastewater in the City's Service Area 2 along the Emerald Avenue corridor and consists of approximately 17,000 feet of reinforced concrete pipe (RCP), vitrified clay pipe (VCP) and corrugated metal pipe (CMP), ranging in diameter from 24 to 36 inches, and

WHEREAS, the project is located in a busy corridor with numerous roadway, railroad, utility, and channel crossings, as well as a variety of residential, commercial, and school properties, and

WHEREAS, to limit project impacts, rehabilitation methods will utilize trenchless technologies such as slip lining or cured-in-place pipe (CIPP), and

WHEREAS, improvements will be sized to optimize the remaining capacity of the line, and

WHEREAS, the existing 24 to 36-inch RCP sewer line has experienced loss of concrete and corrosion of reinforcing steel, and

WHEREAS, the Emerald Trunk has experienced three recent collapses that required expedited and costly pipe replacement projects, and

WHEREAS, the City is now undergoing this project to rehabilitate the Emerald Trunk Line to protect it from further corrosion damage and extend its service life, and

WHEREAS, on March 11, 2008, by Resolution No. 2008-164, the City Council accepted the Preliminary Design Report for Emerald Trunk Line Rehabilitation project, dated March 2008, as complete, and

WHEREAS, on April 1, 2008, by Resolution No. 2008-190, the City Council approved an agreement with Brown and Caldwell to prepare a final project design for the Emerald Trunk Line Rehabilitation project, and

WHEREAS, the final project design was completed and bids were solicited in May 2009, and

WHEREAS, the City opened bids for the construction of Emerald Trunk Line Rehabilitation project on June 2, 2009, and

WHEREAS, due to the complexity of the project, design support services are required during the construction of the project to provide technical support to the construction manager, and

WHEREAS, Brown and Caldwell completed the preliminary design and final design of the project satisfactorily, and

WHEREAS, therefore, City staff recommends approving an agreement with Brown and Caldwell as this will allow for the design support during the construction period for the project, and

WHEREAS, City staff recommends approving an Agreement with Brown and Caldwell as the City does not have the staffing level or subject matter expertise to provide design support during construction for the Emerald Trunk Rehabilitation 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 Brown and Caldwell for design support during construction for Emerald Trunk Rehabilitation project in an amount not to exceed $376,089 for the identified scope of services, plus $37,609 for additional services (if needed), for a maximum total amount of $413,698.

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 July, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-340

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE EMERALD TRUNK LINE REHABILITATION PROJECT, ACCEPTING THE BID AND APPROVING A CONTRACT WITH K.J. WOODS CONSTRUCTION, INC. IN THE AMOUNT OF $5,694,000.00, FOR THE EMERALD TRUNK LINE REHABILITATION PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Emerald Trunk Line Rehabilitation project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Emerald Trunk Line Rehabilitation project were opened at 11:00 a.m. on June 2, 2009, and later tabulated by the Director of Public Works for the consideration of the Council, and

WHEREAS, the Director of Public Works has recommended that the bid of $5,694,000.00 received from K.J. Woods Construction, Inc. be accepted as the lowest responsible bid and the contract be awarded to K.J. Woods 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 Emerald Trunk Line Rehabilitation project, accepts the bid of K.J. Woods Construction, Inc. in the amount of $5,694,000.00, and awards K.J. Woods Construction, Inc. the contract for the Emerald Trunk Line 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 14th day of July, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-341

A RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FULLY FUND THE AGREEMENT FOR EMERALD TRUNK REHABILITATION PROJECT

WHEREAS, a budget adjustment in the amount of $584,518 is necessary to fully fund the Agreement with Brown and Caldwell for design support during construction along with Engineering/Design/Administration support by City staff for Emerald Trunk Rehabilitation project, and

WHEREAS, the Fiscal Year 2009-2010 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 2009-2010 Capital Improvement Program budget as shown in **Exhibit A**.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of July, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit A

FUND:

Wastewater Fund

EXPENDITURES:		Increase/(Decrease)
Emerald Trunk Rehabilitation	6210-480-B808-6040	($584,518)
Emerald Trunk Rehabilitation	6210-480-B808-6010	$584,518

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-342

A RESOLUTION AUTHORIZING STAFF TO SUMBIT AN APPLICATION TO THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) FOR $25.0 MILLION IN FUNDING THROUGH THE NEIGHBORHOOD STABILIZATION PROGRAM 2 UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT, 2009 (PUBLIC LAW 111-005) (RECOVERY ACT), AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL RELATED DOCUMENTS

WHEREAS, on May 4, 2009, the Federal Government released a Notice of Funding Availability announcing the Neighborhood Stabilization Program 2 (NSP2) under the American Recovery and Reinvestment Act, 2009 for additional activities under Title III of Division B of the Housing and Economic Recovery Act, 2008 (HERA). Emergency Assistance for the Redevelopment of Abandoned and Foreclosed Homes, named Neighborhood Stabilization Program 2 (NSP2) is a competitive grant process, and

WHEREAS, NSP funding is considered a special allocation of CDBG funds, funding must be targeted to areas with greatest need. HUD requires that 25% of this funding amount must be spent to serve households that are at or below 50% of the Median Area Income, 10% of the funding can be spent on administrative activities, and all requests for funding must be submitted by July 17, 2009, and

WHEREAS, NSP funds may only be used to establish financing mechanisms for the purchase and redevelopment of foreclosed upon homes and residential properties; purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop homes and properties; establish land banks for homes that have been foreclosed upon; demolish blighted structures and redevelop demolished or vacant properties, and

WHEREAS, staff is recommending that the NSP application be for $25,000,000 and partner with Center for Human Services and the Housing Authority for $6,000,000 to purchase and rehabilitate properties for transitional foster and homeless youth that are between the ages of 18-26; and also partner with Stanislaus Community Assistance Project (SCAP) for $6,000,000 to acquire and rehabilitate homes to help service those with mental health or substance abuse issues; and provide $5,500,000 for Down Payment Assistance and issue an RFQ for $5,000,000 in funding to be used to purchase and rehabilitate foreclosures, and allocate $2,500,000 for administration and planning of the program, including property inspections, abatement issues, and review and monitoring of grants and loans issued under the program, and

WHEREAS, the Citizen's Housing and Community Development Committee met on July 7, 2009, and supported the Neighborhood Stabilization Program 2 application, and

WHEREAS, a report dated July 13, 2009 from the Parks, Recreation & 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 July 14, 2009, 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 which time evidence, both oral and documentary was received and considered,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes staff to submit an Application to the United States Department of

Housing and Urban Development for $25 million in funding through the Neighborhood Stabilization Program 2 under the American Recovery and Reinvestment Act of 2009 (Public Law 111-05) (Recovery Act), a copy of which is on file in the Office of the City Clerk.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all 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 July, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-343

A RESOLUTION APPROVING A FEE OF $30.00 PER HOUR FOR BALL FIELD LIGHTING AT DAVIS, DOWNEY, MELLIS, BEARD BROOK, THURMAN AND BEYER PARKS

WHEREAS, the City of Modesto has six (6) parks with ball field lighting: Davis, Downey, Mellis, Beard Brook, Thurman and Beyer, and

WHEREAS, the City currently does not charge for use of the ball field lights by participants, and

WHEREAS, the cost of electricity in 2008 to run the ball field lights was $48,616.26 annually, $29.95 per hour, and

WHEREAS, in order to recoup the cost of the electricity for the ball field lights staff is requesting that a $30.00 per hour charge be applied to the ball field lighting at the six (6) parks, and

WHEREAS, at their May 2009 budget hearings the Finance Committee unanimously endorsed the plan to charge for ball field lighting in order to recoup the electrical expenses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a ball field lighting fee of $30.00 per hour at Davis, Downey, Mellis, Beard Brook, Thurman and Beyer Parks.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of July, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-344

RESOLUTION APPROVING SUBMITTAL OF A GRANT APPLICATION TO THE FEDERAL TRANSIT ADMINISTRATION (FTA) REQUESTING $1,205,346 IN CONGESTION MITIGATION AND AIR QUALITY (CMAQ) FUNDS FOR THE NEW BUS MAINTENANCE FACILITY PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL GRANT APPLICATION AND GRANT AGREEMENT DOCUMENTS

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

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

WHEREAS, the City of Modesto has received authority from the Designated Recipient, StanCOG, to apply for CMAQ funds in the amount of $1,205,346 for the New Bus Maintenance Facility project, and

WHEREAS, the Bus Maintenance Facility project is included in the Federal Transportation Improvement Program (FTIP) adopted by StanCOG, and

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

WHEREAS, a public hearing was held on July 14, 2009, at 5:30 p.m., in the Tenth Street Place Chambers located, at 1010 Tenth Street, Modesto, California, in accordance with FTA regulations.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the submittal of an application on behalf of the City of Modesto with the Federal Transit Administration (FTA) for CMAQ funds in the amount of

$1,205,346 authorized by 49 U.S.C. Chapter 53, Title 23, United States Code, or other Federal statutes authorizing a project administered by the Federal Transit Administration.

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

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

The foregoing resolution was introduced at a meeting of the Council of the City of Modesto held on the 14th day of July, 2009, by Councilmember O'Bryant, 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:	Hawn, Keating, Lopez, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-345

A RESOLUTION APPROVING AN AGREEMENT WITH HDR ENGINEERING, INC. FOR DESIGN SUPPORT DURING CONSTRUCTION FOR EL RIO SEWER REPLACEMENT IN AN AMOUNT NOT TO EXCEED $51,027, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the existing El Rio sewer line currently runs along the east bank of Dry Creek behind the houses on El Rio Avenue, and

WHEREAS, this 6-inch line is more than 50 years old and is subject to constant erosion due to the frequent flooding, and

WHEREAS, there is the high potential of pipe failure due to the creek erosion that could result in uncontrolled discharges, subsequent fines, and clean-up costs, and

WHEREAS, the alignment is through a riparian corridor with limited or no access for maintenance, making it difficult to perform routine monitoring of the pipe and bank condition, and

WHEREAS, on December 7, 2004, by Resolution No. 2004-644, the City Council approved a Second Amendment to the La Loma Lift Station Project with HDR Engineering to complete the design for the replacement of the El Rio sewer line, and

WHEREAS, on September 26, 2006, by Resolution No. 2006-624, the City Council adopted a resolution changing the procedures that Public Works uses for projects with a total CIP budget of more than $1 million, and

WHEREAS, because the anticipated budget of the El Rio Sewer Replacement Project exceeded $1 million, HDR Engineering was directed to change the scope of work to develop a 35% design effort and a Preliminary Design Report (PDR) for the project, and

WHEREAS, the PDR served as the basis of design for the El Rio Sewer Replacement project and the final PDR was accepted by Council on July 24, 2007, and

WHEREAS, on August 6, 2008, by Resolution No. 2008-444, the City Council approved an Agreement with HDR Engineering, Inc. to prepare a final project design for the El Rio Sewer Replacement project, and

WHEREAS, the final project design was completed and bids were solicited in June 2009, and

WHEREAS, the City opened bids for the construction of El Rio Sewer Replacement project on June 16, 2009, and

WHEREAS, design support services are required during the construction of the project to provide technical support to the construction manager, and

WHEREAS, HDR completed the preliminary design and final design of the project satisfactorily, and

WHEREAS, City staff recommends approving an agreement with HDR Engineering for design support during construction as this agreement will allow for the design support during the construction period for the project, and

WHEREAS, City staff recommends approving an Agreement with HDR Engineering as the City does not have the staffing level or subject matter expertise to provide design support during construction for the El Rio Sewer Replacement 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 HDR Engineering for design support during construction for El Rio Sewer Replacement project in an amount not to exceed $51,027.

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 July, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-346

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE EL RIO SEWER REPLACEMENT PROJECT, ACCEPTING THE BID AND APPROVING A CONTRACT WITH D.A. WOOD CONSTRUCTION, INC. IN THE AMOUNT OF $963,739.88, FOR THE EL RIO SEWER REPLACEMENT PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the El Rio Sewer Replacement project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the El Rio Sewer Replacement project were opened at 11:00 a.m. on June 16, 2009, and later tabulated by the Director of Public Works for the consideration of the Council, and

WHEREAS, the Director of Public Works has recommended that the bid of $963,739.88 received from D.A. Wood Construction, Inc. be accepted as the lowest responsible bid and the contract be awarded to D.A. Wood Construction, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the El Rio Sewer Replacement project, accepts the bid of D.A. Wood Construction, Inc. in the amount of $963,739.88, and awards D.A. Wood Construction, Inc. the contract for the El Rio Sewer Replacement project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract with D.A. Wood Construction, Inc. in the amount of $963,739.88, for the El Rio Sewer Replacement project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of July, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-347

A RESOLUTION APPROVING A LETTER OF AGREEMENT BETWEEN THE CITY OF MODESTO AND THE MODESTO POLICE MANAGEMENT ASSOCIATION FOR A TERM OF JUNE 23, 2009 THROUGH JUNE 30, 2010

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 have met and conferred in good faith concerning wages, hours, terms and conditions of employment for employees in said bargaining unit, and

WHEREAS, pursuant to an Agenda Report dated July 13, 2009, a copy of which report is on file in the office of the City Clerk, the CITY and MPMA have reached agreement on a letter of agreement which, upon execution, shall be **attached** hereto and made a part hereof, and

WHEREAS, the letter of agreement provides as follows:

SECTION 1. The letter of agreement (Agreement) shall be effective from date of adoption by the City Council on its regular agenda until June 30, 2010, and only covers the subject matters in the Agreement. The parties will continue to meet and confer over negotiations for a successor MOU to the one that expired on June 22, 2009.

SECTION 2. MANDATORY FURLOUGHS. For fiscal year 2009-2010, each bargaining unit member shall take forty-seven (47) hours of mandatory furloughs. For the pay period beginning July 7, 2009, each unit member shall have one (1) furlough hour deducted from his/her pay check received on July 23, 2009. Two (2) unpaid furlough hours shall be deducted for the following twenty-three (23) pay periods, for a total of

forty-seven (47) hours during fiscal year 2009-2010. Effective July 7, 2009 the City shall create for each member a furlough bank of forty-seven (47) hours. Between July 7, 2009 and April 7, 2011, the Police Chief shall ensure that all members exhaust all forty-seven (47) hours in the furlough bank in a manner that does not result in an increase in overtime cost due to the vacancy left by the furloughed employee. The Police Chief shall by October 31, 2009 work with employees to generate a schedule for the use of furlough hours in order to ensure that each member will exhaust all forty-seven (47) hours in his or her furlough bank. Furlough hours that have been deducted and banked but have not been taken as time off by June 30, 2011, shall be forfeited by the employee and shall not be cashed out. During this designated furlough deduction period, the City will continue to report each employee's full base pay rate (without reduction for furlough deductions) to CalPERS each pay period. In addition, an employee's percentage-based special incentive pay (if any) will continue to be paid based on the employee's regular schedule and will not be impacted by the furlough deductions. Therefore, these percentage-based special pays will be fully reported to CalPERS. The exact language of this provision shall be set forth in the Agreement between the City and MPMA.

SECTION 3. HEALTH, DENTAL AND VISION BENEFITS. The CITY's contribution to employees' Health, Dental and Vision coverage shall be as follows:

Total Contributions (monthly)

	7/22/08	7/21/09
Family	$957	$1050
Employee Only	$535	$596
Opt Out	$425	$450
HDHP Incentive– Employee with Dependent Coverage		$25 (through 12/09 only)

The exact language of this provision shall be set forth in the Agreement between the City and MPMA.

SECTION 4. COST SAVINGS. For fiscal year 2009-2010, MPMA unit members agree to the following cost savings without any corresponding time off:

1. Elimination of City's contribution for deferred compensation for fiscal year 2009-2010;
2. A freeze for all step increases for fiscal year 2009-2010 and in fiscal year 2010-2011, employees will be eligible to move one step on their normal schedule for step increases;
3. Elimination of City paid annual physicals;
4. A freeze for management leave cash out for fiscal year 2009-2010;
5. Elimination of City contribution for term life insurance for fiscal year 2009-2010. This shall be accomplished by canceling all life insurance (base and optional) for FY 09-10 or by all unit members paying the full cost of the insurance. The decision shall be made by MPMA.

SECTION 5. CONTINUED NEGOTIATIONS. The parties will continue to meet and confer over negotiations for a successor MOU to the one that expired on June 22, 2009.

WHEREAS, the MPMA membership has already ratified this Agreement.

WHEREAS, the Council considered this matter at its meeting of July 14, 2009.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the Agreement between the City of Modesto and the

Modesto Police Management Association, and upon execution of same, a copy of the Agreement 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 14th day of July, 2009, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-348

A RESOLUTION APPOINTING RICHARD ANDERSON TO THE CITY OF MODESTO CITIZENS ADVISORY COMMITTEE ON RECYCLING

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

WHEREAS, the Economic Development Committee met on July 6, 2009, and recommended appointment of RICHARD ANDERSON to the Citizens Advisory Committee on Recycling.

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

SECTION 1. RICHARD ANDERSON is hereby appointed to the Citizens Advisory Committee on Recycling 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 Advisory Committee on Recycling, and the Secretary thereof.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-349

A RESOLUTION APPOINTING TONY TAM TO THE CITY OF MODESTO CITIZENS ADVISORY COMMITTEE ON RECYCLING

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

WHEREAS, the Economic Development Committee met on July 6, 2009, and recommended appointment of TONY TAM to the Citizens Advisory Committee on Recycling.

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

SECTION 1. TONY TAM is hereby appointed to the Citizens Advisory Committee on Recycling with a term expiration of January 1, 2011.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-350

A RESOLUTION APPOINTING ZACHARY SHARP TO THE CITY OF MODESTO CITIZENS ADVISORY COMMITTEE ON RECYCLING

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

WHEREAS, the Economic Development Committee met on July 6, 2009, and recommended appointment of ZACHARY SHARP to the Citizens Advisory Committee on Recycling.

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

SECTION 1. ZACHARY SHARP is hereby appointed to the Citizens Advisory Committee on Recycling 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 Advisory Committee on Recycling, and the Secretary thereof.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-351

A RESOLUTION APPOINTING KATHLEEN ENNIS TO THE CITY OF MODESTO CITIZENS ADVISORY COMMITTEE ON RECYCLING

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

WHEREAS, the Economic Development Committee met on July 6, 2009, and recommended appointment of KATHLEEN ENNIS to the Citizens Advisory Committee on Recycling.

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

SECTION 1. KATHLEEN ENNIS is hereby appointed to the Citizens Advisory Committee on Recycling 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 Advisory Committee on Recycling, and the Secretary thereof.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-352

A RESOLUTION APPOINTING ALITA ROBERTS TO THE CITY OF MODESTO CITIZENS HOUSING & COMMUNITY DEVELOPMENT COMMITTEE

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

WHEREAS, the Economic Development Committee met on July 6, 2009, and recommended appointment of ALITA ROBERTS to the Citizens Housing & Community Development Committee.

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

SECTION 1. ALITA ROBERTS is hereby appointed 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 Committee, and the Secretary thereof.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-353

A RESOLUTION APPOINTING AMANDA FISHER TO THE CITY OF MODESTO CULTURE COMMISSION

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

WHEREAS, the Economic Development Committee met on July 6, 2009, and recommended appointment of AMANDA FISHER to the Culture Commission.

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

SECTION 1. AMANDA FISHER is hereby appointed to the Culture Commission with a term expiration of January 1, 2010.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-354

A RESOLUTION APPOINTING CRAIG CHAMBERLIN TO THE CITY OF MODESTO DISABLED ACCESS APPEALS BOARD

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

WHEREAS, the Economic Development Committee met on July 6, 2009, and recommended appointment of CRAIG CHAMBERLIN to the Disabled Access Appeals Board.

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

SECTION 1. CRAIG CHAMBERLIN is hereby appointed to the Disabled Access Appeals Board 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 Disabled Access Appeals Board, and the Secretary thereof.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-355

A RESOLUTION APPOINTING AMANDEEP BAHIA TO THE CITY OF MODESTO 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 July 6, 2009, and recommended appointment of AMANDEEP BAHIA to the Equal Opportunity/Disability Commission.

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

SECTION 1. AMANDEEP BAHIA is hereby appointed to the Equal Opportunity/Disability Commission 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 Equal Opportunity/Disability Commission, and the Secretary thereof.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-356

A RESOLUTION APPOINTING NICHOLAS SOTTERO TO THE CITY OF MODESTO 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 July 6, 2009, and recommended appointment of NICHOLAS SOTTERO to the Equal Opportunity/Disability Commission.

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

SECTION 1. NICHOLAS SOTTERO is hereby appointed to the Equal Opportunity/Disability Commission with a term expiration of January 1, 2012.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-357

A RESOLUTION APPOINTING BOB ARIVETT TO THE CITY OF MODESTO GOLF COURSES ADVISORY COMMITTEE

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

WHEREAS, the Economic Development Committee met on July 6, 2009, and recommended appointment of BOB ARIVETT to the Golf Courses Advisory Committee.

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

SECTION 1. BOB ARIVETT is hereby appointed to the Golf Courses Advisory 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 Golf Courses Advisory Committee, and the Secretary thereof.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-358

A RESOLUTION APPOINTING RICHARD HORNING TO THE CITY OF MODESTO GOLF COURSES ADVISORY COMMITTEE

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

WHEREAS, the Economic Development Committee met on July 6, 2009, and recommended appointment of RICHARD HORNING to the Golf Courses Advisory Committee.

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

SECTION 1. RICHARD HORNING is hereby appointed to the Golf Courses Advisory Committee with a term expiration of January 1, 2012.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-359

A RESOLUTION APPOINTING KIT JORY TO THE CITY OF MODESTO GOLF COURSES ADVISORY COMMITTEE

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

WHEREAS, the Economic Development Committee met on July 6, 2009, and recommended appointment of KIT JORY to the Golf Courses Advisory Committee.

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

SECTION 1. KIT JORY is hereby appointed to the Golf Courses Advisory Committee with a term expiration of January 1, 2011.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-360

A RESOLUTION APPOINTING JOEL MENSONIDES TO THE CITY OF MODESTO GOLF COURSES ADVISORY COMMITTEE

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

WHEREAS, the Economic Development Committee met on July 6, 2009, and recommended appointment of JOEL MENSONIDES to the Golf Courses Advisory Committee.

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

SECTION 1. JOEL MENSONIDES is hereby appointed to the Golf Courses Advisory Committee with a term expiration of January 1, 2010.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-361

A RESOLUTION APPOINTING CHRIS HARRIGFELD TO THE CITY OF MODESTO HOUSING REHABILITATION LOAN COMMITTEE

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

WHEREAS, the Economic Development Committee met on July 6, 2009, and recommended appointment of CHRIS HARRIGFELD to the Housing Rehabilitation Loan Committee.

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

SECTION 1. CHRIS HARRIGFELD is hereby appointed to the Housing Rehabilitation Loan 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 Housing Rehabilitation Loan Committee, and the Secretary thereof.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-362

A RESOLUTION APPOINTING DENZIL WALKER TO THE CITY OF MODESTO LANDMARK PRESERVATION COMMISSION

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

WHEREAS, the Economic Development Committee met on July 6, 2009, and recommended appointment of DENZIL WALKER to the Landmark Preservation Commission.

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

SECTION 1. DENZIL WALKER is hereby appointed to the Landmark Preservation Commission 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 Landmark Preservation Commission, and the Secretary thereof.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-363

A RESOLUTION APPOINTING JACK DOOLEY TO THE CITY OF MODESTO LANDMARK PRESERVATION COMMISSION

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

WHEREAS, the Economic Development Committee met on July 6, 2009, and recommended appointment of JACK DOOLEY to the Landmark Preservation Commission.

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

SECTION 1. JACK DOOLEY is hereby appointed to the Landmark Preservation Commission 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 Landmark Preservation Commission, and the Secretary thereof.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-364

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF DANIEL PARK FROM THE ENTERTAINMENT COMMISSION

WHEREAS, Daniel Park was appointed a member of the Entertainment Commission on March 10, 2009, and

WHEREAS, Daniel Park has tendered his resignation from the Entertainment Commission, and

NOW, THERFORE, BE IT RESOLVED that the resignation of Daniel Park from the Entertainment Commission be, and hereby is accepted with regret.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-365

A RESOLUTION APPROVING A SECOND ADDENDUM TO THE AGREEMENT WITH RENNE SLOAN HOLZMAN SAKAI, LLP; AND AUTHORIZING THE CITY MANAGER AND CITY ATTORNEY TO EXECUTE THE SECOND ADDENDUM TO AGREEMENT

WHEREAS, the City of Modesto entered into an Agreement for outside Legal Services with the Law Firm of Renne Sloan Holzman Sakai, LLP on January 1, 2009, for specialized legal and consultant services in the area of labor, employment and personnel matters, and

WHEREAS, as a result of the City of Modesto's Voluntary Separation Incentive Program of 2009 the Human Resources Director participated in the program and retired on June 1, 2009, and

WHEREAS, in response to the City Council's direction to review all positions and departments in the City and made recommendations regarding efficiencies in operation, the City Manager sought the opportunity to conduct such a review by engaging a Human Resources consultant to oversee the daily operations of the Human Resources Department for a limited term. As Interim Human Resources Director, the consultant will make recommendations to the City Manager regarding operations and other process efficiencies, and

WHEREAS, Renne Sloan Holtzman Sakai, LLP also associates in a number of non-attorney professionals who are highly experienced former public agency directors and managers to provide technical assistance to their clients as needed, and

WHEREAS, the original Agreement with Renne Sloan Holtzman Sakai, LLP for outside legal services was executed pursuant to the authority granted to the City Attorney

under Modesto City Charter Section 902 for engagement of legal services and so the City Attorney recommended, out of an abundance of form, that the Council approve the expanded scope of that Agreement to include the technical services to be provided by the consultant, and

Whereas, the City Council, on May 26, 2009, by Resolution No. 2009-215, authorized the City Attorney and City Manager to execute an Addendum to the Renne Sloan Holtzman Sakai, LLP Agreement to engage the services of Mark Gregersen, a consultant associated with their firm who has over 25 years of City and County experience in Human Resources and Finance to assist the City Manager in this regard. Mr. Gregersen has been performing these duties since May 27, 2009, and in addition to handling the day to day work of the Human Resources Department, also continues to work on the recommendations to the City Manager. The City requires him to continue this work for a longer period, as well as assist in the executive recruitments of several key vacancies, and

WHEREAS, the Addendum provided for an amount not to exceed $40,000, which shall be allocated in amounts no greater than $4,000 per week, and that amount will soon be expended. It is therefore necessary to revise the Addendum to include this additional work at a not-to-exceed total amount of $80,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Second Addendum to the Agreement for Legal Services with the Law Firm of Renne Sloan Holtzman Sakai, LLP to expand the scope as provided herein.

BE IT FURTHER RESOLVED that the City Manager and the City Attorney are hereby authorized to execute the Second Addendum to Agreement.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-366

A RESOLUTION ACCEPTING THE PUBLIC IMPROVEMENTS FOR THE BANK OF STOCKTON, LOCATED IN THE KIERNAN BUSINESS PARK SOUTH AREA, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS

WHEREAS, Miner Joaquin Building Corporation ("DEVELOPER"), is the developer of Bank of Stockton project ("DEVELOPMENT"), and

WHEREAS, all required improvements (PUBLIC IMPROVEMENTS) by the DEVELOPMENT have been completed to the satisfaction of the Public Works Department, and

WHEREAS, the Construction Administration Office of the Public Works Department has verified that all required PUBLIC IMPROVEMENTS for this DEVELOPEMENT have been satisfactorily completed, and all inspection fees have been paid, and

WHEREAS, upon acceptance of the PUBLIC IMPROVEMENTS, the Public Works Department will assume maintenance responsibilities, and

WHEREAS, DEVELOPER has filed three instruments of credit to secure faithful performance for a total of $1,005,473.53 for said PUBLIC IMPROVEMENTS, and

WHEREAS, DEVELOPER has filed three instruments of credit to secure payment for labor and materials for a total of $1,005,473.53 for said PUBLIC IMPROVEMENTS, and

WHEREAS, this project encompassed infrastructure that is programmed in the Capital Facilities Fee program and in the future Community Facilities District for the Kiernan Business Park South area, and

WHEREAS, staff found that there was some overlap in the three separate performance and payment securities provided for the project, and

WHEREAS, to account for this overlap and make adjustments with respect to the issuance of the warranty securities, a comprehensive **exhibit**, **attached** hereto as **Exhibit "A"**, was prepared, and

WHEREAS, this comprehensive **exhibit** identifies the infrastructure for which a security must be provided and under which agreement the security should be issued, and

WHEREAS, DEVELOPER has filed three irrevocable letters of credit for a total of $52,239.00 to guarantee the PUBLIC IMPROVEMENTS in the DEVELOPMENT,

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

1. The City Clerk is hereby authorized to file a Notice of Completion for the PUBLIC IMPROVEMENTS.

2. The City Clerk is hereby authorized to release the following securities for faithful performance after recordation of the Notice of Completion, provided no claim is made thereon:

    i. The Instrument of Credit in the amount of $455,160.43.

    ii. The Instrument of Credit for Miner Joaquin Building Corporation, a California Corporation, in the amount of $6,470.10 and dated March 5, 2008.

    iii. The Instrument of Credit for Miner Joaquin Building Corporation, a California Corporation, in the amount of $543,843 and dated January 3, 2008.

3. The City Clerk is hereby authorized to release the following securities for labor and materials sixty (60) days after recordation of the Notice of Completion, provided no claim is made thereon:

    i. The Instrument of Credit in the amount of $455,160.43.

ii. The Instrument of Credit for Miner Joaquin Building Corporation, a California Corporation, in the amount of $6,470.10 and dated March 5, 2008.

iii. The Instrument of Credit for Miner Joaquin Building Corporation, a California Corporation, in the amount of $543,843 and dated January 3, 2008.

4. The City Clerk is hereby authorized to release the following warranty securities to guarantee PUBLIC IMPROVEMENTS one year and one day after the effective date of this resolution, provided no claim is made thereon:

i. The Irrevocable Letter of Credit issued by the Bank of Stockton in the amount of $21,592.

ii. The Irrevocable Letter of Credit issued by the Bank of Stockton in the amount of $647.01.

iii. The Irrevocable Letter of Credit issued by the Bank of Stockton in the amount of $30,000.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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"

MODESTO COMMERCE BANK: OFF-SITE IMPROVEMENTS
OPINION OF PROBABLE COST

Comprehensive Exhibit "A"
To Be Used For Determination Of Warranty Securities

LINE	DESCRIPTION	QTY	UNIT	UNIT PRICE	LINE TOTAL	CFD A&S Agreement	CFF Reimb. Agreement	LDE O.S. Improv.
	GENERAL							
1	Construction Staking	1	LS	$ 5,000.00	$ 5,000			$ 5,000
2	~~Clear, Grub, and Mobilization~~	~~1~~	~~LS~~	~~$ 28,700.00~~	~~$ 28,700~~			
	Clearing & Grubbing	1	LS	$ 15,346.00	$ 15,346	$ 15,346		
	DEMOLITION							
3	Remove Concrete Sidewalk and Driveway	3605	SF	$ 2.25	$ 8,111			$ 8,111
4	Remove Concrete Curb	692	LF	$ 6.00	$ 4,152			$ 4,152
5	Remove Concrete Curb and Gutter	262	LF	$ 7.00	$ 1,834			$ 1,834
6	Remove AC Berm	20	LF	$ 10.00	$ 200			$ 200
7	Remove Post	4	EA	$ 200.00	$ 800			$ 800
8	Remove Median Island	195	SF	$ 2.25	$ 439			$ 439
9	Remove Trees	1	EA	$ 400.00	$ 400			$ 400
10	~~Remove Existing AC/AB~~	~~5095~~	~~SF~~	~~$ 0.85~~	~~$ 4,331~~			
	Remove Pavement	5115	SF	$ 0.90	$ 4,604	$ 4,604		
11	Remove and Store Signs	3	EA	$ 200.00	$ 600			$ 600
12	Remove Rockwell	4	EA	$ 500.00	$ 2,000			$ 2,000
13	Remove SDCB	3	EA	$ 500.00	$ 1,500			$ 1,500
14	Remove Traffic Signal Pole	1	EA	$ 2,000.00	$ 2,000			$ 2,000
15	Remove Traffic Signal Box	3	EA	$ 200.00	$ 600			$ 600
16	Relocate Electrical Structure	1	EA	$ 500.00	$ 500			$ 500
17	Relocate Fire Hydrant	1	EA	$ 1,000.00	$ 1,000			$ 1,000
18	Replace Structure with H-20 Traffic Rated Be	4	EA	$ 500.00	$ 2,000			$ 2,000
19	Remove Land Lines	789	LF	$ 1.00	$ 789			$ 789
	ROAD CONSTRUCTION							
20	~~Asphalt Concrete Pavement~~	~~457~~	~~TON~~	~~$ 50.00~~	~~$ 22,850~~			
	Asphalt Concrete Pavement	457	TON	$ 70.00	$ 31,990	$ 31,990		
21	~~Aggregate Base~~	~~1801~~	~~SF~~	~~$ 40.00~~	~~$ 72,040~~			
	Aggregate Base	1801	TON	$ 45.00	$ 81,045	$ 81,045		
22	PCC Median and Islands	682	CY	$ 7.50	$ 5,115			$ 5,115
	Median Island Curb	273	LF	$ 19.39	$ 5,293		$ 5,293	
	Median Island Flatwork	273	SF	$ 4.31	$ 1,177		$ 1,177	
23	~~Earthwork (CY Fill)~~	~~637~~	~~CY~~	~~$ 8.00~~	~~$ 5,096~~			
	Roadway Excavation	637	CY	$ 25.00	$ 15,925	$ 15,925		
24	Export of Soil	637	LF	$ 12.00	$ 7,644			$ 7,644
25	~~PCC Curb and Gutter~~	~~591~~	~~LF~~	~~$ 16.00~~	~~$ 9,456~~			
	Curb and Gutter	591	LF	$ 20.00	$ 11,820	$ 11,820		
26	Valley Gutter	114	SF	$ 25.00	$ 2,850			$ 2,850
27	~~PCC Sidewalk~~	~~3660~~	~~SF~~	~~$ 3.50~~	~~$ 12,810~~			
	Sidewalk	3660	SF	$ 6.20	$ 22,692	$ 22,692		
28	Drop Approach Driveway Concrete	1869	SF	$ 12.00	$ 22,428			$ 22,428
29	Curb Ramp	5	EA	$ 550.00	$ 2,750			$ 2,750
	SIGNAGE & STRIPING							
30	Traffic Signs	7	EA	$ 170.00	$ 1,190			$ 1,190
31	Lane Lines (Detail 10, 21, 37A, 30, 38, 40 wh	2434	LF	$ 1.50	$ 3,651			$ 3,651
	Signing and Striping	945	LF	$ 1.50	$ 1,418	$ 1,418		
32	Blue Retroreflective Marker	2	EA	$ 12.00	$ 24			$ 24
33	Object Marker	3	EA	$ 170.00	$ 510			$ 510
34	"STOP" Legend	44	SF	$ 5.00	$ 220			$ 220
	UTILITY							
35	8" Sanitary Sewer Vitrified Clay Pipe	643	LF	$ 80.00	$ 51,440			$ 51,440
36	4" Sanitary Sewer Ductile Iron Pipe	138	LF	$ 40.00	$ 5,520			$ 5,520
37	Sanitary Sewer Manhole	3	EA	$ 2,000.00	$ 6,000			$ 6,000
38	6" Fire Water Ductile Iron Pipe	71	LF	$ 17.00	$ 1,207			$ 1,207
39	Fire Hydrant	1	EA	$ 3,000.00	$ 3,000			$ 3,000
40	~~Storm Drain Catch Basin~~	~~6~~	~~EA~~	~~$ 1,400.00~~	~~$ 8,400~~			
	Catch Basins	6	EA	$ 4,000.00	$ 24,000	$ 24,000		
41	Storm Drain Rockwell	9	EA	$ 3,500.00	$ 31,500			$ 31,500
42	~~12" Storm Drain Reinforced Concrete Pipe~~	~~742~~	~~LF~~	~~$ 20.00~~	~~$ 14,840~~			
	12" RCP Storm Drain Pipe	742	LF	$ 80.00	$ 59,360	$ 59,360		
43	~~Storm Drain Manhole~~	~~7~~	~~EA~~	~~$ 2,400.00~~	~~$ 16,800~~			
	Manhole	7	EA	$ 2,400.00	$ 16,800	$ 16,800		
	TRAFFIC SIGNAL							
44	Traffic Signal Pole Relocation	1	LF	$ 25,000.00	$ 25,000			$ 25,000
	ELECTRICAL							
45	Conduit and Cable	610	LF	$ 20.00	$ 12,200			$ 12,200
46	~~Electrolier (200W)~~	~~3~~	~~EA~~	~~$ 2,550.00~~	~~$ 7,650~~			
	Electroliers	3	EA	$ 5,000.00	$ 15,000	$ 15,000		
47	Pull Box	5	EA	$ 350.00	$ 1,750			$ 1,750
	OTHER							
	~~ROW~~	~~9676~~	~~SF~~	~~$ 19.00~~	~~$ 183,844~~			
	~~LDE 10% Contingency~~	~~10%~~	~~EA~~					
	~~CFD 10% Design~~	~~10%~~	~~EA~~		~~$ -~~			
	~~CFD 10% Construciton Management~~	~~10%~~	~~EA~~		~~$ -~~			
		PROJECT SUBTOTAL			$ 725,366	$ 299,999	$ 6,470	$ 215,924
	10% Warranty Security Amount					$30,000 CFD A&S Agreement	$647 CFF Reimb. Agreement	$21,592 LDE O.S. Improv.

Note: Items with ~~strikethourgh~~ are included in CFD security.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-367

A RESOLUTION ACCEPTING THE PUBLIC IMPROVEMENTS FOR THE CARMAX PROJECT LOCATED ON THE NORTHEAST CORNER OF MCHENRY AND CLARATINA AVENUES, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS

WHEREAS, CARMAX AUTO SUPERSTORES CALIFORNIA, LLC, a California limited liability company (CARMAX), is the owner of the CARMAX Project ("DEVELOPMENT"), and

WHEREAS, all required improvements (PUBLIC IMPROVEMENTS) by the DEVELOPMENT have been completed to the satisfaction of the Public Works Department, and

WHEREAS, the Construction Administration Office of the Public Works Department has verified that all required PUBLIC IMPROVEMENTS for this DEVELOPEMENT have been satisfactorily completed, and all inspection fees have been paid, and

WHEREAS, upon acceptance of the PUBLIC IMPROVEMENTS, the Public Works Department will assume maintenance responsibilities, and

WHEREAS, DEVELOPER has filed a security to secure faithful performance in the amount of $374,343 for said PUBLIC IMPROVEMENTS, and

WHEREAS, DEVELOPER has filed a security to secure payment for labor and materials in the amount of $187,172 for said PUBLIC IMPROVEMENTS, and

WHEREAS, DEVELOPER has filed a security in the amount of $37,434 to guarantee the PUBLIC IMPROVEMENTS in the DEVELOPMENT,

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

1. The City Clerk is hereby authorized to file a Notice of Completion for the PUBLIC IMPROVEMENTS.

2. The City Clerk is hereby authorized to release the security for faithful performance in the amount of $374,343 immediately after recordation of the Notice of Completion, provided no claim is made thereon.

3. The City Clerk is hereby authorized to release the security for labor and materials in the amount of $187,172 sixty (60) days after recordation of the Notice of Completion, provided no claim is made thereon.

4. The City Clerk is hereby authorized to release the warranty security to guarantee PUBLIC IMPROVEMENTS in the amount of $37,434 one year and one day after the effective date of this resolution, provided no claim is made thereon.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of August 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-368

RESOLUTION APPROVING CHANGES TO THE FISCAL YEAR (FY) 2009-10 CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET TO INCLUDE CHANGES TO PROJECTS MADE DURING THE LAST SIX MONTHS OF FY 2008-09 WHICH DID NOT APPEAR IN THE ADOPTED CAPITAL IMPROVEMENT PROGRAM BUDGET AS PER ATTACHED EXHIBIT

WHEREAS, Council adopted the FY 2009-10 Capital Improvement Program (CIP) budget on June 2, 2009, and

WHEREAS, this approval did not include Council approved changes made to existing CIP projects between January 2009 and June 2009, and

WHEREAS, CIP projects are multi-year projects that need to be adopted every year during the budget process including any changes to previously approved projects,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the changes to the Fiscal Year 2009-10 Capital Improvement Program budget to include changes to projects made during the last six months of FY 2008-09 which did not appear in the Adopted CIP budget as per the **attached exhibit**.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

	CIP NAME	FUND	AGENCY	ORG	OBJECT	APPR UNIT	ORIGINAL AMOUNT	INCREASE OR DECREASE	REVISED AMOUNT
1	OTS Ligthed Crosswalks Various	2300	160	A221	3189		$0	$60,000	$60,000
2	Sec 130 Grade Cross Imprv	2300	160	E001	3178		$0	$12,000	$12,000
1	Property Acquisition 9th/D Street	0700	160	E002	8101		$0	$34,900	$34,900
2	Property Acquisition 9th/D Street	0700	160	E002	8101		$0	$34,900	$34,900
3	PROP 1B PHASE 1 SECONDARY	0700	160	E004	6010	E003	$0	$10,000	$10,000
4	Oakdale/Briggsmore	1410	160	E996	6010	E097	$0	$18,000	$18,000
5	Oakdale/Briggsmore	1410	160	E996	6040	E097	$0	$6,000	$6,000
6	Oakdale/Briggsmore	1410	160	E996	6041	E097	$0	$6,000	$6,000
7	Corporation Yard Land ACQTN	1300	430	K859	6030	K859	$0	$17,137	$17,137
8	Virginia Corridor Phase VI	2300	310	P366	3133		$0	$200,000	$200,000
9	Clarantina-Coffee to Oak - 2 Ln	1410	430	Q210	6010	Q210	$83,135	($4)	$83,131
10	Clarantina-Coffee to Oak - 2 Ln	1410	430	Q210	6030	Q210	$502,650	($473,772)	$28,878
11	Clarantina-Coffee to Oak - 2 Ln	1410	430	Q210	6040	Q210	$1,700,345	($579,214)	$1,121,131
12	Clarantina-Coffee to Oak - 2 Ln	1410	430	Q210	6050	Q210	$150,000	($1,946)	$148,054
13	Village One - West Basin Control	2691	020	Q302	6010	Q302C	$0	$50,000	$50,000
14	DOWNSTREAM IMPROVEMENTS WEST TANK/PIPELINES	6180	430	W133	6010	W425	$1,896,400	$648	$1,897,048
15	DOWNSTREAM IMPROVEMENTS WEST TANK/PIPELINES	6180	430	W133	8122		$0	$648	$648
16	Mod Res H20 Meters (sec) W416	6180	480	W381	6070	W416C	$3,701,105	$632,176	$4,333,281
17	Water Meters Primary	6180	480	W416	6052	W16C	$200,000	$2,827,894	$3,027,894
18	Strength/Replace H20 System - Primary	6180	480	W428	6052	W428	$411,231	$2,013,188	$2,424,419
19	Wellhead Treatment - Primary	6180	430	W430	6052	W430	$2,958,000	$1,100,000	$4,058,000
20	Tank Improvements - Primary	6180	480	W438	6041	W438	$200,000	($200,000)	$0
21	Tank Improvements - Primary	6180	480	W438	6052	W438	$0	$275,000	$275,000
22	Utility Cuts Streets (W569)	6180	480	W445	6041	W445	$1,969,702	$1,264,000	$3,233,702
23	Utility Cuts Streets (W569)	6180	430	W445	6041	W430	$677,000	($700,000)	($23,000)
24	H20 Sec Sys Design All Sites - S	6180	480	W607	6041	W435	$52,377	$51,639	$104,016
25	Modesto Syst Improv-Secondary	6180	480	W615	6010	W428	$119,042	$122,826	$241,868
26	Modesto Syst Improv-Secondary	6180	480	W615	6041	W428	$1,273,351	($80,000)	$1,193,351
27	Modesto Syst Improv-Secondary	6180	480	W615	8122		$0	$42,826	$42,826
28	Whitmore/W55 Blending Line	6180	430	W705	6041	W430	$700,000	($400,000)	$300,000
29	Calif W283 Blendg Line-Secondary	6180	430	W730	6010	W430	$36,000	$20,000	$56,000
30	Calif W283 Blendg Line-Secondary	6180	430	W730	6041	W430	$845,000	($420,000)	$425,000
31	Secondary-Well 236 Blend Line	6180	430	W742	6010	W430	$32,000	$30,000	$62,000
32	Oakdale & La Force Intersection	2691	020	X527	6010	X527C	$0	$23,000	$23,000
33	Oakdale & La Force Intersection	2691	020	X527	6030	X527C	$0	$50,470	$50,470
34	Oakdale & La Force Intersection	2691	020	X527	6040	X527C	$0	$214,841	$214,841
35	Oakdale & La Force Intersection	2691	020	X527	6060	X527C	$0	$21,554	$21,554
36		2691	020	X527	8301		$0	$790,270	$790,270

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-369

RESOLUTION APPROVING A REQUEST FROM THE ASSOCIATION OF UNITED PAGANS FOR AMPLIFIED MUSIC AT MANCINI BOWL, GRACEADA PARK, FOR THEIR ANNUAL STANISLAUS PAGAN UNITY FESTIVAL, TO BE HELD ON OCTOBER 3, 2009

WHEREAS, on July 7, 2009, the Parks, Recreation and Neighborhoods Department received a request from The Association of United Pagans for amplified music at Mancini Bowl, Graceada Park, for their annual Stanislaus Pagan Unity Festival, to be held on October 3, 2009, from 9:00 am to 7:00 pm (amplified music from 10:00 am to 4:00 pm only), and

WHEREAS, the use of amplified music requires approval from the City Council, and

WHEREAS, The Association of United Pagans will be responsible for all fees related to the event,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a request from The Association of United Pagans for amplified music at Mancini Bowl, Graceada Park, for their annual Stanislaus Pagan Unity Festival, to be held on October 3, 2009, from 9:00 am to 7:00 pm (amplified music from 10:00 am to 4:00 pm only).

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-370

RESOLUTION APPROVING A REQUEST FROM STANISLAUS PRIDE CENTER FOR AMPLIFIED MUSIC AT MANCINI BOWL, GRACEADA PARK, FOR THEIR ANNUAL STANISLAUS PRIDE DAY, TO BE HELD ON SEPTEMBER 19, 2009

WHEREAS, on January 16, 2009, the Parks, Recreation and Neighborhoods Department received a request from Stanislaus Pride Center for amplified music at Mancini Bowl, Graceada Park, for their annual Stanislaus Pride Day, to be held on September 19, 2009, from 11:00 am to 7:00 pm, and

WHEREAS, the use of amplified music requires approval from the City Council, and

WHEREAS, Stanislaus Pride Center will be responsible for all fees related to the event,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a request from Stanislaus Pride Center for amplified music at Mancini Bowl, Graceada Park, for their annual Stanislaus Pride Day, to be held on September 19, 2009.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-371

A RESOLUTION AMENDING THE FISCAL YEAR 2009/2010 OPERATING BUDGET REALIZING GENERAL FUND REVENUE OF $65,500 FROM THE SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT REMOVE II PROGRAM

WHEREAS, on April 28, 2009, by Resolution No. 2009-169, the Council authorized staff to apply for a San Joaquin Valley Air Pollution Control District grant for the Virginia Corridor Trailway Phase V project, and

WHEREAS, the San Joaquin Valley Air Pollution Control District has awarded the City of Modesto a REMOVE II Program Grant in the amount of $65,500 for Phase V of the Virginia Corridor Trailway, and

WHEREAS, the City of Modesto will see General Fund Revenue of $65,500 into revenue account 2300-310-A087-3196,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2009/2010 Operating Budget realizing General Fund revenue of $65,500 from the San Joaquin Valley Air Pollution Control District Remove II Program.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-372

A RESOLUTION AMENDING THE POSITION CLASSIFICATION PLAN FOR THE CITY OF MODESTO TO AMEND THE CLASSIFICATION OF RATE AND FEE ANALYST

WHEREAS, a Position Classification Plan for the City of Modesto was adopted by Modesto City Council Resolution No. 2008-681 pursuant to Rule 2 of the Personnel Rules and Regulations of the City of Modesto, and

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

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

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

SECTION I. CLASSIFICATION AMENDED. The Position Classification Plan of the City of Modesto is hereby amended to amend the job specification of Rate and Fee Analyst to more accurately reflect the needs of the position. The job specification for Rate and Fee Analyst, as shown on the **attached Exhibit "A,"** which is hereby made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION II. EFFECTIVE DATE. This resolution shall become effective on and after August 5, 2009.

The foregoing resolution was introduced in a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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
No. 3520

RATE AND FEE ANALYST

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

DEFINITION

To research and make recommendations on rate and fee structures, services, policies and economic issues related to City services and to provide administrative staff assistance and perform special assignments as assigned.

SUPERVISION RECEIVED AND EXERCISED

Receives general supervision from the department director or higher level 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:

Collect and research data and prepare reports related to various city services and utility rates.

Review financial data to identify potential errors and omissions, which could affect the revenue generation of a utility operation or other program.

Analyze financial data to identify trends in revenue and expenditures related to utility programs and/or fee based programs.

Answer questions and provide information to the public, outside agencies and city staff related to the analyses performed on financial data of fee-based programs and/or utilities.

Evaluate operations and activities of assigned responsibilities; recommend improvements and modifications; prepare various reports on operations and activities.

Monitor departmental compliance with laws, rules, policies and procedures.

Prepare less complex rate studies for various fee-based programs.

Work with consultants to assist in the preparation of fee studies and may monitor consultant performance.

Essential Functions: (Continued)

Prepare special studies or reports as requested.

Prepare written and oral presentations, including statistical information in a clear, concise manner; identify and defend recommendations.

Develop information, including various statistics, to support the issuance of debt supported by various revenue sources.

May attend City Council, Commission, task force and other governmental meetings.

Draft various documents such as agenda items and resolutions for City Council action.

May serve on various committees and task forces, as necessary.

Build and maintain positive working relationships with co-workers, other City employees and the public using principles of good customer service.

Marginal Functions:

Perform other duties as assigned.

MINIMUM QUALIFICATIONS

Knowledge of:

Statistical analysis methods and modes of graphic presentation.

Modern office procedures, methods and computer equipment.

Basic principles of governmental financial reporting.

Generally accepted writing practices in a professional and technical environment.

Generally accepted principles and practices for setting fees related to fee-based programs.

Ability to:

Analyze financial data, develop conclusions based on the analysis and recommend one or more needed actions to prevent or solve problems.

Ability to: (Continued)

Establish effective financial monitoring practices and tools to track financial trends in fee-based programs.

Identify cost/benefit relationships; establish nexus between functions.

Work with and control sensitive and confidential information.

Accurately estimate and project revenues and expenditures.

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

Modern office procedures, methods and computer equipment.

Communicate clearly, concisely and confidently, both orally and in writing.

Promote positive and effective working relationships with those contacted in the course of work, including the public and governing body members.

Experience and Training Guidelines

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

Experience:

One year of analytical experience involving the review and analyses of financial data, rates and fees, financial auditing or a closely related function is desirable.

Training:

Equivalent to a Bachelor's degree from an accredited college or university with major coursework in public administration, business administration, accounting, finance, economics, statistics or a closely related field.

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 occasional overtime or weekend work and the ability to travel.

Class Spec History	
Adopted	11/07
Revised	8/09
BU	Mgt/Conf NS

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-373

A RESOLUTION AMENDING THE CLASS RANGE TABLE FOR REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES TO CHANGE THE SALARY RANGE FOR RATE AND FEE ANALYST FROM SALARY RANGE 435 TO SALARY RANGE 427

WHEREAS, the on December 9, 2008 the City amended Exhibit "A" of Resolution No. 2008-504, which approved the Class Range Table for Represented Management and Confidential Non-Sworn Classes, and

WHEREAS, the salary range for Rate and Fee Analyst is being changed from salary range 435 to salary range 427;

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

SECTION I. AMENDMENT TO RESOLUTION NO. 2008-504 Exhibit "A" entitled, "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective January 6, 2009," attached to Resolution No. 2008-504, 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 August 5, 2009," which is **attached** hereto and made a part hereof as though set forth in full herein.

SECTION II. EFFECTIVE DATE. This resolution shall become effective on and after August 5, 2009.

The foregoing resolution was introduced in a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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
CLASS RANGE TABLE
REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES
Effective **August 5, 2009**

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 Senior Systems Technician
427	Administrative Analyst I

RANGE	TITLE
	Animal Control Supervisor
	Human Resources Analyst I
	Police Civilian Supervisor
	Rate and Fee Analyst
	Technology Solutions Analyst I
	Workers' Compensation Claims Examiner II
428	Accountant II
	Assistant City Clerk
430	Associate Planner
	Budget Analyst I
	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 Accountant
	Senior Crime and Intelligence Analyst
	Wastewater Collection Systems Supervisor
	Water Quality Control Plant Maintenance Supervisor
433	Water Resources Analyst
434	Budget Analyst II

RANGE	TITLE
	Customer Services Supervisor
	Recycling Program Coordinator
	Senior Community Development Program Specialist
	Software Analyst II
	Supervising Accountant
	Systems Engineer II
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
	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 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
	Fleet Manager
	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	Construction Inspection Supervisor
	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
	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
450	Business Development Manager
	Chief Building Official
	Planning Manager
	Senior Civil Engineer
452	City Engineer
	Traffic Engineer

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-374

RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING (MOU) AND LEASE AGREEMENT WITH MODESTO IRRIGATION DISTRICT (MID) FOR A RENEWABLE RESOURCE FUEL CELL CO-GENERATION FACILITY AT THE SUTTER TREATMENT PLANT; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE MOU AND LEASE AGREEMENT

WHEREAS, on September 26, 2006, the City Council, by Resolution No. 2006-622, approved an agreement with the California Energy Commission (CEC) to perform energy audits of the Sutter and Jennings Treatment Plant Facilities, and

WHEREAS, on September 26, 2006, the City Council, by Resolution 2006-623, approved an agreement with Carollo Engineers for consultant services assistance in the preparation of a Preliminary Design Report and development of a Request for Proposals for a Digester Gas Fired Co-Generation System (System) that would produce renewable energy at the Sutter Treatment Plant (STP), and

WHEREAS, staff was also in discussions with MID regarding its purchase of excess power produced by the proposed System, and

WHEREAS, in July 2008, MID approached City staff about MID building a Renewable Resource Fuel Cell Co-Generation Facility (Facility) at the STP that would produce electrical energy using methane gas as the fuel source, and

WHEREAS, staff from Public Works and the City Attorney's Office, in conjunction with MID representatives, developed a Memorandum of Understanding (MOU) and Lease Agreement for the Facility, and

WHEREAS, under the MOU, the City will work with MID to utilize the Self-Generation Incentive Program through PG&E to fund approximately 50% of the Facility, and

WHEREAS, MID will lease property at the STP to build the Facility utilizing methane gas that is produced by digesters, and

WHEREAS, MID will pay the full cost of construction, operation, and maintenance for the 900 KW Facility, and

WHEREAS, the Facility will eliminate most of the current waste gas burner flaring of digester gas to the atmosphere, and

WHEREAS, MID will also compensate the City for the use of water, and for energy produced by digester gas supplied by the STP, and

WHEREAS, an added benefit to this project is that it will allow the City to promote its regional partnership with MID; thereby potentially bringing additional grant funds for other projects into the City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Memorandum of Understanding and Lease Agreement with Modesto Irrigation District for a Renewable Resource Fuel Cell Co-Generation Facility at the Sutter Treatment Plant.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute the Memorandum of Understanding and Lease Agreement.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-375

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE ELLISON DRIVE SANITARY PIPELINE REPLACEMENT PROJECT, ACCEPTING THE BID, AND APPROVING A CONTRACT WITH PRESTON PIPELINES, INC. IN THE AMOUNT OF $541,718 FOR THE ELLISON DRIVE SANITARY PIPELINE REPLACEMENT PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Ellison Drive Sanitary Pipeline Replacement project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Ellison Drive Sanitary Pipeline Replacement project were opened at 11:00 a.m. on June 9, 2009, and later tabulated by the Director of Public Works for the consideration of the Council, and

WHEREAS, the Director of Public Works has recommended that the bid of $541,718 received from Preston Pipelines, Inc. be accepted as the lowest responsible bid and the contract be awarded to Preston Pipelines, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Ellison Drive Sanitary Pipeline Replacement project, accepts the bid of Preston Pipelines, Inc. in the amount of $541,718, and awards Preston Pipelines, Inc. the contract for the Ellison Drive Sanitary Pipeline Replacement project.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-376

A RESOLUTION ACCEPTING THE WORK BY MCFADDEN CONSTRUCTION, INC. FOR THE PROJECT TITLED "NEIGHBORHOOD CENTER AT MARSHALL PARK" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $4,786,874.29

WHEREAS, a report has been filed by the Director of Public Works that the project titled "Neighborhood Center at Marshall Park" has been completed by McFadden Construction, Inc. in accordance with the contract agreement dated April 4, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Neighborhood Center at Marshall Park" is hereby accepted as complete from said contractor McFadden Construction, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $4,786,874.29 is authorized as provided in the contract.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Stephanie Lopez
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

AMENDED FOR CLERICAL ERROR

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-377

A RESOLUTION APPROVING A LICENSE AGREEMENT BETWEEN THE CITY OF MODESTO AND MODESTO IRRIGATION DISTRICT (MID) FOR THE PURPOSE OF OBTAINING PERMISSION TO MAKE IMPROVEMENTS WITHIN MID LATERAL 3 FOR THE VIRGINIA CORRIDOR PROJECT AND THE CITY'S WATER DISTRIBUTION SYSTEM TO USE CERTAIN REAL PROPERTY AS DESCRIBED IN EXHIBITS A, B, AND C OF THE LICENSE AGREEMENT

WHEREAS, the City of Modesto (Licensee) desires to construct improvements for the Virginia Corridor project and the City's water distribution system, and

WHEREAS, MID ("District") has an interest in certain real property within the City of Modesto consisting of a sixty (60) foot portion of real property referred to as Lateral No 3, and

WHEREAS, District will grant to Licensee, at Licensee's expense, permission to make improvements within 4,800 square feet of Lateral 3, as described in **Exhibits A, B, and C** of the License Agreement, as part of Modesto's Virginia Corridor project consisting of landscaping, a pedestrian bike path, a City water line, and a City sewer pipeline, hereinafter referred to as the "Improvements," and

WHEREAS, the District requires a License Agreement prior to allowing construction within its right-of-way, and

WHEREAS, this will allow Licensee to use the District right-of-way for the Improvements at no cost,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a License Agreement between the City of Modesto and Modesto Irrigation District for the purpose of obtaining permission to make improvements within MID Lateral 3 for the Virginia Corridor project and the City's water distribution system

to use certain real property as described in **Exhibits A, B, and C** of the License Agreement.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

RECORDED AT THE REQUEST OF:

MODESTO IRRIGATION DISTRICT

AFTER RECORDING RETURN TO:

Modesto Irrigation District
1231 Eleventh Street
P. O. Box 4060
Modesto, CA 95352

LICENSE AGREEMENT

This Agreement is made and entered into this ___ day of _____, 20___, by and between Modesto Irrigation District, a California irrigation district (hereinafter, the "District"), and City of Modesto, a municipal corporation (hereinafter, the "Licensee"), and is made with regard to the following facts and circumstances, among others:

A. District has an interest in certain real property within the City of Modesto consisting of a strip of land with certain improvements thereon, which real property is commonly known as and referred to as District's Lateral No. 3, hereinafter referred to as "Lateral 3".

B. Licensee desires, at Licensee's expense, permission to install a pedestrian bridge and to make certain improvements as part of the City of Modesto's Virginia Corridor Project consisting of landscaping, a pedestrian bike path, a City water line and a City sewer pipeline, hereinafter referred to as the "Improvements".

C. The District, as an accommodation to Licensee, is willing to grant such permission on the terms and conditions set forth herein.

NOW THEREFORE, the parties hereto mutually agree as follows:

1. The District hereby grants to Licensee permission for Licensee to use a sixty (60) foot portion of its' rights-of-way as described in Exhibit A and shown on Exhibit B (the "License Area"), solely for the purpose of installing, operating and maintaining the above referenced City "Improvements" across the District's "Lateral 3". The Improvements to be installed and maintained by Licensee shall conform to the construction specifications as noted on the final and approved Virginia Corridor Phase V construction plans to be attached as Exhibit "C" incorporated herein by this reference.

2. The District requires that any trenching maintain a 1:1 horizontal distance from any existing pole determined by the depth of the trench. If trenching encroaches on this requirement, Licensee must identify potentially affected poles and arrange any required pole bracing with the District. The cost for any required pole bracing will be assumed by the Licensee.

3. Except as specifically provided for in this Agreement, no alteration, improvement, installation, construction or use shall be made or permitted by Licensee in, on, under, along, across or in respect to the License Area.

4. This Agreement grants or creates a bare license only, and not a license coupled with an interest. This Agreement does not grant or create an easement, nor does it convey or transfer to Licensee any right, title or interest in or to any property of District. The license granted herein is nonexclusive. All rights granted hereunder are subject and subordinate to all uses and purposes District may now or in the future make of the License Area. Licensee shall have no license, right or privilege with respect to the License Area other than the permission and privileges specifically and expressly granted by this Agreement.

5. Licensee shall not impair the access by District to any of its property or facilities by persons or machines for the purposes of construction, maintenance or operation of its properties or facilities.

6. Licensee shall not use or cause the License Area to be used in any manner that will interfere with, be inconsistent with, or jeopardize the safety of, any use or purpose of District.

7. In the event District shall at any time so require for District's use or protection of its properties or facilities, Licensee, at Licensee's expense, shall alter, relocate or cease use of the Improvements.

8. All use by Licensee of the License Area, including the construction, placement, inspection, maintenance, replacement and use of the Improvements, shall comply with all applicable federal, state and local laws, regulations, statutes, ordinances and codes, [including without limitation occupational safety and health acts,] and all orders and decrees of bodies or tribunals having any jurisdiction or authority over the work to be performed under this Agreement (collectively, "laws").

9. Licensee shall obtain District's approval of any and all grading and improvement plans and schedules prior to the commencement of any work within the License Area; provided, however, such approval shall not unreasonably be withheld. District may at its discretion, but is not required to, inspect any and all work performed by Licensee, or Licensee's employees, agents or contractors, within the License Area. District's rights hereunder to approve and inspect shall not impose any duties or obligations on District, nor shall such rights relieve Licensee of the sole responsibility for the plans, schedules and work, or relieve Licensee of its contractual responsibilities hereunder.

10. In constructing, placing, inspecting, maintaining, and replacing the Improvements, Licensee shall, in addition to all other requirements and limitations set forth herein, comply with each of the following:

A. Licensee shall be solely responsible for the construction, placement, inspection, maintenance, replacement and use of the License Area and the Improvements permitted therein by this Agreement.

B. Licensee shall bear all costs and expenses for placement, maintenance, inspection, replacement, use and removal of the Improvements. The District shall incur no cost or expense in connection with the Improvements.

11. Prior to any excavation by Licensee within the License Area, whether at the time of the installation of Licensee's Improvements or during subsequent periods or instances of maintenance, Licensee or its Contractor shall contact District and the Underground Service Alert (U.S.A. – 1-800-642-2444) for the purpose of determining the location of underground facilities, equipment and other improvements. Locating all underground improvements shall be Licensee's sole responsibility.

12. Except as otherwise set forth herein, as between Licensee and District the Improvements shall be the property of the Licensee and the Licensee shall have the sole responsibility and liability for said Improvements. Licensee shall at all times maintain, at its own cost and expense, the Improvements. Licensee agrees to assume the sole and exclusive risk for damage to property or injury or death to any persons, arising from, or in anyway related to, the Licensee's maintenance of or failure to maintain the Improvements. The District shall have no duty or obligation to maintain the Improvements.

13. Licensee shall not use, generate, manufacture, store or dispose of on, under or about the License Area, or transport to, from, along or across the License Area, any flammable, explosive or radioactive material, toxic substance, hazardous waste, hazardous material, hazardous substance, or the equivalent, as those terms may now or in the future be defined by common practice or by any federal, state or local statute, ordinance or regulation or any governmental body or agency (hereinafter "Hazardous Substance").

A. Without limiting any remedies District may have, in the event any disposal, release, discharge or spill of a Hazardous Substance or other contamination occurs within the License Area at any time during, or as a result of, Licensee's use of the License Area, except such spills or contamination to the extent directly caused by the sole negligence or willful misconduct of District, Licensee shall immediately notify District and take all action to mitigate the effects of such disposal, release, discharge, spill or contamination. Licensee shall at Licensees' own expense, unless otherwise directed by District, remediate such disposal, release, discharge of spill or contamination to District's satisfaction and in compliance with all applicable laws, rules and regulations. District shall have the option to perform the remediation itself or through any contractor and Licensee shall cooperate with District to complete the remediation and shall reimburse District for all costs and expenses incurred in connection with the remediation.

B. In the event Licensee observes any material Licensee believes or has reason to believe may be a Hazardous Substance or encounters any unknown physical condition of any unusual nature within the License Area, other than disposals, releases, discharges, spills or contamination covered in (A), Licensee shall, without disturbing the condition, immediately cease all use of the License Area and notify District. District shall investigate the condition and take any clean-up or other remedial action District deems necessary in its sole discretion.

C. In the event District or its contractor elects to perform remediation work, Licensee shall upon notice from District, cease use of the License Area as directed in the

notice. District will notify Licensee when the condition has been resolved, at which time, but not before, Licensee may resume its use of the License Area.

D. Licensee agrees to assume liability for and to defend and hold harmless District from and against all injuries or death to any person and damage to any property, and all related expense, including without limitation attorneys' fees, investigators' fees, administrative charges, litigation expenses and any judgements, fines, penalties or other charges assessed against District, resulting from Licensee's failure to comply with this Paragraph and any laws, rules or regulations concerning the subject matter hereof. The provisions of this Paragraph shall survive the expiration and termination of this Agreement.

14. Licensee shall not perform any work within the License Area during any irrigation season which would interfere with the delivery of irrigation water. The parties hereto are mindful of the fact that District's irrigation season ordinarily, but not necessarily, ends late-October and begins mid-March the following year.

15. The District reserves unto itself the right to travel on, over and across the License Area for all District purposes. District will coordinate with License to the extent practicable when District intends to avail itself of such rights in a manner that will cause damage to the License Area.

16. District shall not be liable to Licensee for and Licensee hereby waives and releases District from any and all claims it may now or at any time in the future have against District for any injury or death of any person or damage to any property, whatsoever, including without limitation damage to the Improvements that may result to any person or property arising from or in any way connected with the exercise of rights granted by this Agreement. Licensee's waiver does not extend to intentional or gross negligent acts by the District or its agents.

17. If Licensee's exercise of rights under this Agreement, including the placement, use or maintenance of the Improvements, or any portion thereof, causes damage, injury, impairment or degradation to the License Area, the Improvement, or any property or facilities of District, Licensee shall, at its sole cost and expense, repair said damage, injury or degradation upon notice from the District. Any such repair shall be performed in a timely manner and shall be in strict accordance with plans as acceptable to the District.

18. Licensee shall defend, indemnify and hold District, its directors, officers, agents and employees, and each of them, harmless from and against any and all damages, losses, claims and liabilities arising from any act, omission or negligence of Licensee or Licensee's agents, contractors or employees, or any of them, or arising from any accident, injury or damage whatsoever caused to any person or property, occurring in the exercise of, or in any manner connected directly or indirectly with, the license granted by this Agreement, and from and against all costs, expenses, liabilities and attorneys' fees incurred in, or in connection with, any such claim or proceeding brought thereon.

19. Licensee shall promptly pay District, on demand, full money compensation for any damage to any of the District's property or facilities, or damage to the land, crops, or trees of any irrigator caused by, or in any manner connected directly or indirectly with, the exercise of the license or any rights granted by this Agreement.

20. District acknowledges that Licensee has self-insured its financial obligations imposed by this Agreement; provided, however, that in the event Licensee at any time reduces its General Liability self-insured retention amount below one million dollars, Licensee, at its sole cost and expense, and without limiting any of its other obligations or liabilities, shall obtain and maintain in effect at all times during the performance of the work under this Agreement, coverages and limits of liability insurance reasonable satisfactory to the District, each of which shall be maintained with insurers and under forms of policies reasonably satisfactory to the District and shall include the District as an additional insured.

21. District makes no representation as to, and does not warrant, the condition of the License Area, either at the inception of this Agreement or as to any future point in time. Nothing in this Agreement shall be construed as creating or imposing upon District any duty or obligation to maintain or repair the License Area or the Improvements.

22. This Agreement is made solely for the benefit of Licensee, and it is not made for the benefit of any person, firm, association, corporation or public entity not a party hereto, and no person, firm, association, corporation or public entity other than Licensee shall have any right to enforce this Agreement.

23. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of both parties; provided, however that neither party shall assign its rights or obligations hereunder without the prior written consent of the other party. Any assignment, whether voluntary or involuntary, in violation of this Paragraph shall be void.

24. It is expressly understood and agreed that this Agreement shall operate to give Licensee the rights herein provided for only insofar as District may do so under and by virtue of the rights that District has in that portion of the License Area to which this Agreement applies, and District makes no warranty or representation as to its ownership or land rights in or adjacent to District rights-of-way or the License Area.

25. This Agreement contains all the agreements of the parties hereto and cannot be amended or modified except by a written agreement signed by the parties.

26. All exhibits referred to in this Agreement are attached hereto and incorporated herein by reference.

27. In addition to any right under law or at equity, either party may terminate this Agreement for any reason at any time by giving the other party at least twelve (12) months prior written notice.

28. Any waiver at any time by the District of any of its rights with respect to a breach under this License shall not be deemed a waiver with respect to any subsequent breach or other matter. Any delay in exercising any right hereunder, short of any statutory period of limitation in asserting or enforcing any right, shall not be deemed a waiver of such a right.

29. In the event that the license granted herein is no longer used by Licensee for permitted purposes, the Improvements are no longer used by Licensee for Licensee's purposes, or this license is in any way terminated, all rights granted to Licensee hereunder shall terminate and Licensee, at its expense, shall remove Licensee's Improvements, or take other closure action acceptable to District, and restore the License Area to its original condition or to a condition

acceptable to the District. If Licensee fails to comply with the requirements of this Paragraph, District may undertake and complete such removal and restoration at the sole cost and expense of Licensee. Upon the occurrence of any of the above listed events, all rights granted to Licensee hereunder shall terminate.

30. If any of Licensee's privileges or duties hereunder are to be exercised or performed by any independent contractor or contractors, Licensee shall, effectively and appropriately, bind such contractor or contractors contractually to the duties and obligations of Licensee hereunder. In that connection, Licensee shall, among other requirements, require said contractor or contractors to indemnify and hold District harmless from and against any and all claims, damages, loss, liability and expenses, including court costs and attorney's fees, arising out of or on account of, any injury to or death of any person or persons, or damage to property of any kind whatsoever and to whomsoever belonging, arising out of, or in any manner directly or indirectly connected with, said contractor or contractors acts, omissions or negligence in exercising Licensee's privileges or performing Licensee's duties created by this Agreement. Licensee shall also require said contractor or contractors to maintain sufficient insurance coverages, including general liability insurance covering the indemnity required hereunder.

31. This License shall be governed by the laws of the State of California, excluding any choice of law rules that direct the application of the laws of another jurisdiction.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year first above written.

IN WITNESS WHEREOF, the City of Modesto, a municipal corporation, has authorized the execution of this Agreement in duplicate by its City Manager and attestation by its City Clerk under authority of Resolution No. 2009-_____, adopted by the Council of the City of Modesto on the _____ day of _____, 2009, and MODESTO IRRIGATION DISTRICT, an irrigation district, has caused this agreement to be duly executed in duplicate as of the Effective Date.

CITY OF MODESTO,
a municipal corporation

By _____
GREG NYHOFF, City Manager

MODESTO IRRIGATION DISTRICT
an irrigation district

By _____
ALLEN SHORT, General Manager

ATTEST:

By _____
STEPHANIE LOPEZ, City Clerk

By _____
Secretary

By _____
Assistant General Counsel

APPROVED AS TO FORM:
SUSANA ALCALA WOOD, City Attorney

By _____
ROLAND R. STEVENS, Assistant City Attorney

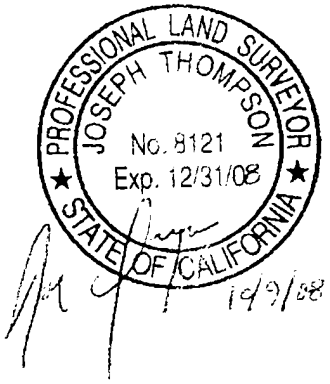
EXHIBIT A

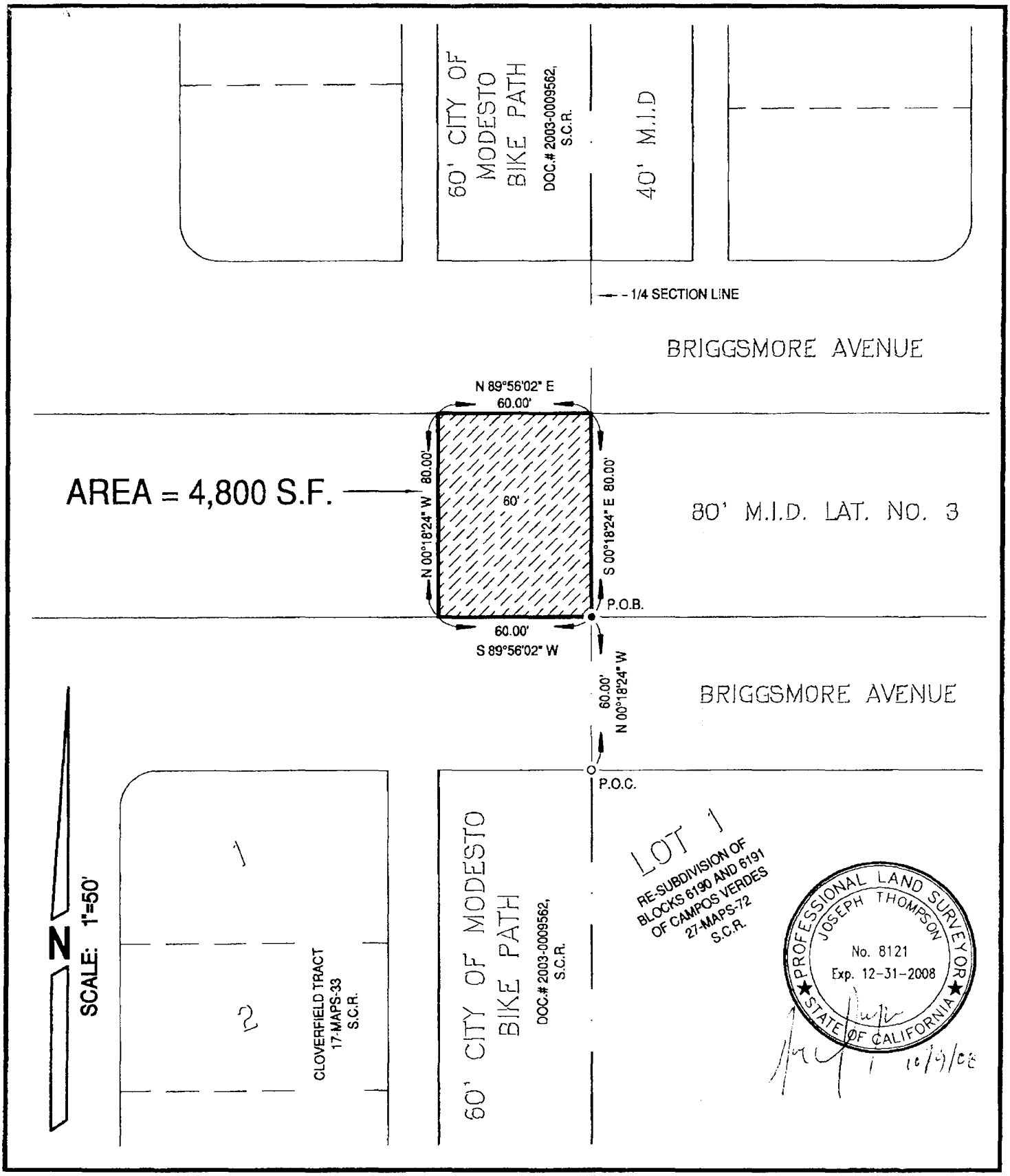
Legal Description

A strip of land 60.00 feet in width, being a portion of the south half of Section 17, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, being more particularly described as follows:

Commencing at the northwest corner of Lot 1 as shown on that map filed for record in Volume 27 of Maps at Page 72, Stanislaus County Records, said point being on the north-south quarter section line of said Section 17; thence along said quarter section line North 00°18'24" West 60.00 feet to the **Point of Beginning,** said point being on the south line of the 80.00 foot wide M.I.D. Lat. No. 3 as shown on said map; thence along said south line South 89°56'02" West 60.00 feet; thence parallel with and 60.00 feet westerly of said quarter section line North 00°18'24" West 80.00 feet to the north line of said 80.00 foot wide M.I.D. Lat. No. 3; thence along said north line North 89°56'02" East 60.00 feet to said quarter section line; thence along said quarter section line South 00°18'24" East 80.00 feet to the Point of Beginning all as shown on the attached "EXHIBIT B" made a part hereof and containing 4,800 square feet, more or less.

END DESCRIPTION.





SCALE: 1"=50'	DRAWN BY: JT
PLOTTED: 10.9.2008 3:38 PM	
FILE: 10850leg_60' ease 80' MID lat 3.dwg	
DATE: 2/28/08	

O'DELL ENGINEERING
1165 Scenic Drive, Suite A Modesto, CA 95350
Ph 209.571.1765 Fax 209.571.2468

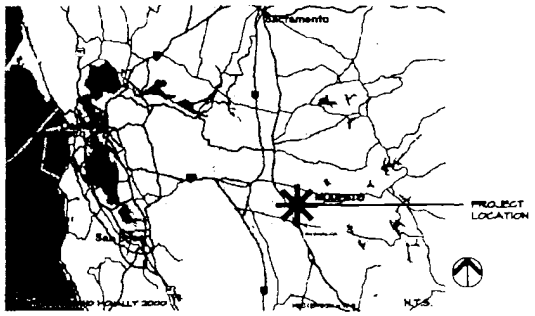
EXHIBIT B

CITY OF MODESTO

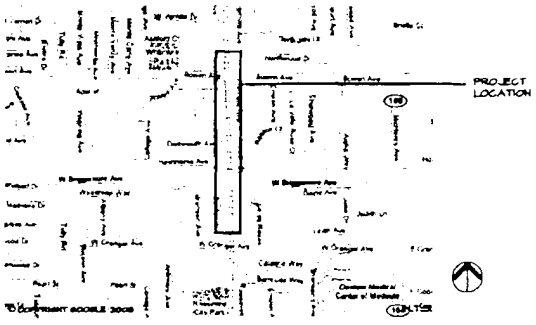
VIRGINIA CORRIDOR PHASE V

April 15, 2008

VICINITY MAP



PROJECT LOCATION MAP



GENERAL NOTES

1. DESIGN INTENT: THESE DRAWINGS REPRESENT THE GENERAL DESIGN INTENT TO BE IMPLEMENTED ON THE SITE. CONTRACTOR SHALL BE RESPONSIBLE FOR CONTACTING ENGINEER AND LANDSCAPE ARCHITECT FOR ANY ADDITIONAL CLARIFICATION OR DETAILS NECESSARY TO ACCOMMODATE SITE CONDITIONS.

2. CONTRACTORS' JOB SITE CONDITIONS: CONTRACTOR AGREES TO ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR SITE CONDITIONS DURING CONSTRUCTION, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY; THAT THIS REQUIREMENT SHALL APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS; AND THAT THE CONTRACTOR SHALL DEFEND, INDEMNIFY, AND HOLD THE OWNER HARMLESS FROM ANY AND ALL LIABILITY, REAL OR ALLEGED, IN CONNECTION WITH THE PERFORMANCE OF WORK ON THIS PROJECT, EXCEPTING FOR LIABILITY ARISING FROM THE SOLE NEGLIGENCE OF THE OWNER.

3. UTILITIES: PRIOR TO CONSTRUCTION, THE CONTRACTOR IS RESPONSIBLE FOR CONTACTING THE UTILITY COMPANIES INVOLVED AND REQUESTING A VISUAL VERIFICATION OF THE LOCATIONS OF THEIR UNDERGROUND FACILITIES. MOST UTILITY COMPANIES ARE MEMBERS OF THE UNDERGROUND SERVICE ALERT (U.S.A.) ONE-CALL PROGRAM. THE CONTRACTOR OR ANY SUBCONTRACTOR FOR THIS CONTRACT SHALL NOTIFY MEMBERS OF THE U.S.A. 48 HOURS IN ADVANCE OF PERFORMING EXCAVATION WORK BY CALLING THE TOLL-FREE NUMBER (800) 642-2444. EXCAVATION IS DEFINED AS BEING 18 OR MORE INCHES IN DEPTH BELOW THE EXISTING SURFACE.

A REASONABLE EFFORT HAS BEEN MADE TO LOCATE AND DELINEATE ALL KNOWN UNDERGROUND UTILITIES. THE CONTRACTOR IS CAUTIONED THAT ONLY EXCAVATION WILL REVEAL THE TYPES, EXTENT, SIZES, LOCATION, AND DEPTHS OF SUCH UNDERGROUND UTILITIES. HOWEVER, THE CONSULTANT CAN ASSUME NO RESPONSIBILITY FOR THE COMPLETENESS OR ACCURACY OF ITS DELINEATION OF SUCH UNDERGROUND UTILITIES, NOR FOR THE EXISTENCE OF OTHER BURIED OBJECTS OR UTILITIES WHICH ARE NOT SHOWN ON THESE DRAWINGS.

MID GENERAL NOTES

1. CANAL WORK: THE CONTRACTOR SHALL PERFORM ALL WORK WITHIN THE CANAL OUTSIDE OF THE IRRIGATION SEASON. IRRIGATION SEASON BEGINS MARCH 1ST, WITH MID OPENING THE HEADGATES TO FILL THE CANALES/PIPELINES APPROXIMATELY 5 DAYS PRIOR, APPROXIMATELY FEB 24TH AND IS ANTICIPATED TO END NOVEMBER 1ST TAKING APPROXIMATELY 1-2 WEEKS TO DRAIN.

2. WORK NEAR OVERHEAD LINES: CONTRACTORS OPERATING EQUIPMENT SHALL MAINTAIN THE FOLLOWING CLEARANCES FROM THE DISTRICT'S EXISTING ENERGIZED OVERHEAD POWER LINES. 5' CLEARANCE FROM SECONDARY LINES, SERVICE LINES & SERVICE DROPS, 10' CLEARANCE FROM THE 12KV LINES, 11' CLEARANCE FROM THE 64KV LINES AND 15' CLEARANCE FROM THE 115KV LINES.

3. WORK NEAR UNDER GROUND LINES: AT LOCATIONS WHERE EXISTING TREES NEAR EXISTING PIPELINES ARE TO BE REMOVED, THE CONTRACTOR SHALL CUT DOWN TREES AND GRIND DOWN THE STUMPS RATHER THAN EXCAVATE THEM TO PREVENT DAMAGE TO THE EXISTING PIPELINE.

ALL REQUIRED TRENCHING WILL MAINTAIN A MINIMUM DISTANCE, BASED ON THE DEPTH OF THE TRENCH, OF 11 FROM ALL EXISTING POLES. IF TRENCHING ENCROACHES ON THIS REQUIREMENT THE CONTRACTOR SHALL CONTACT THE MID ELECTRIC ENGINEERING DEPARTMENT FOR POLE BRACING. CONTRACTOR SHALL BE HELD RESPONSIBLE FOR ALL POLE BRACING COSTS.

SPRINKLER PIPE SHALL BE LOCATED IN SUCH A WAY TO MINIMIZE CONFLICT WITH EXISTING DRAIN LINES. ALL PROPOSED TREES SHALL BE PLANTED A MINIMUM OF 10' FROM ALL DRAIN PIPELINES.

4. WORK NEAR MID RIGHT-OF-WAY: PROPOSED VALVES AND ELECTRICAL WIRING SHALL BE PLACED IN SUCH A WAY AS TO NOT IMPEDE ONTO MID RIGHT-OF-WAY.

BENCH MARK AND DATUM

Monument	Coordinates North	Coordinates East	Elev (NAVD 88)	Description/location
58 B	2064265.60	6416744.61	89.50	SE corner Enslen Avenue and Baldwin Street, SQ on curb.
121 B	2066956.18	6416036.55	93.94	Along Briggamore Avenue, County brass cap (BM 359-17-4-C) NE corner RR Bridge and MID lateral #3.
161 B	2065267.92	6415689.30	88.07	SW corner Pearl Avenue and Baldwin Street, SQ on curb.
262 B	2062239.02	6415855.05	87.02	Intersection of Columbia Way and Melinda Lane, SQ con curb, NW corner.

SHEET SCHEDULE

SHEET #	SHEET TITLE
T1	TITLE SHEET
D1-D4	DEMOLITION PLANS
G1-G7	GRADING AND DRAINAGE PLANS
C6-C9	DRAINAGE DETAILS
L1-L5	SITE CONSTRUCTION PLANS
L6-L9	SIGN & TRAIL MARKING PLANS
L10-L14	IRRIGATION PLANS
L15-L18	PLANTING PLANS
L19-L24	CONSTRUCTION DETAILS
E10-E25	ELECTRICAL PLANS AND DETAILS
TH1-TH2	TRAFFIC HANDLING PLAN
S0-S16	BRIDGEMORE OVERCROSSING PLANS
RW1-RW5	RETAINING WALL PLANS
PC1-PC4	PIPE CULVERT PLANS

APPROVED BY:

DIRECTOR PARKS, RECREATION & NEIGHBORHOODS DEPARTMENT — DATE

APPROVED BY:

MODESTO IRRIGATION DISTRICT IRRIGATION WATER DIVISION — DATE

APPROVED BY:

MODESTO IRRIGATION DISTRICT ELECTRICAL DIVISION — DATE

90% SUBMITTAL/NOT FOR CONSTRUCTION (6/24/09)

CALL BEFORE YOU DIG 800-642-2444

VIRGINIA CORRIDOR PHASE V
BRIGGSMORE OVERCROSSING
TITLE SHEET

CITY of MODESTO
DEPARTMENT OF ENGINEERING AND TRANSPORTATION
1010 10th STREET P.O. BOX 642 MODESTO, CA 95353 PHONE (209) 577-5283

BIGGS CARDOSA ASSOCIATES INC
STRUCTURAL ENGINEERS

BBA

T1

2007727-0

EXHIBIT C

AMENDED FOR CLERICAL ERROR

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-378

A RESOLUTION APPROVING A LICENSE AGREEMENT BETWEEN THE CITY OF MODESTO AND MODESTO IRRIGATION DISTRICT (MID) FOR THE PURPOSE OF OBTAINING PERMISSION TO MAKE IMPROVEMENTS WITHIN MID LATERAL 6 (MCHENRY AVENUE) FOR THE CITY'S WATER DISTRIBUTION SYSTEM TO USE CERTAIN REAL PROPERTY AS DESCRIBED IN EXHIBITS A AND B OF THE LICENSE AGREEMENT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto (Licensee) desires to construct improvements for the City's water distribution system, and

WHEREAS, MID ("District") has an interest in certain real property within the City of Modesto consisting of a thirty (30) foot portion of real property referred to as Lateral No. 6 (McHenry Avenue), and

WHEREAS, District will grant to Licensee, at Licensee's expense, permission to make improvements within 3,602 square feet of Lateral 6, as described in Exhibits A and B of the License Agreement, as part of the City's water distribution system, hereinafter referred to the "Improvements," and

WHEREAS, the District requires a License Agreement prior to allowing construction within its right-of-way, and

WHEREAS, this will allow Licensee to use the District right-of-way for the Improvements at no cost,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a License Agreement between the City of Modesto and Modesto Irrigation District for the purpose of obtaining permission to make improvements within

MID Lateral 6 (McHenry Avenue) for the City's water distribution system to use certain real property as described in **Exhibits A and B** of the License Agreement.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

RECORDED AT THE REQUEST OF:

MODESTO IRRIGATION DISTRICT

AFTER RECORDING RETURN TO:

Modesto Irrigation District
1231 Eleventh Street
P. O. Box 4060
Modesto, CA 95352

LICENSE AGREEMENT

This Agreement is made and entered into this ___ day of _____, 20___, by and between Modesto Irrigation District, a California irrigation district (hereinafter, the "District"), and City of Modesto, a municipal corporation (hereinafter, the "Licensee"), and is made with regard to the following facts and circumstances, among others:

A. District is the owner in possession of certain real property within the City of Modesto consisting of a strip of land with certain improvements thereon, which real property is commonly known as and referred to as District's Lateral No. 6, hereinafter referred to as "Lateral 6".

B. Licensee desires permission to use portions of District's property for the purpose of making certain improvements to its' domestic water facilities.

C. The District, as an accommodation to Licensee, is willing to grant such permission on the terms and conditions set forth herein.

NOW THEREFORE, the parties hereto mutually agree as follows:

1. The District hereby grants to Licensee permission for Licensee to use a thirty (30) foot portion of its' rights-of-way as described in Exhibit A and shown on Exhibit B (the "License Area"), solely for the purpose of installing and maintaining certain underground pipeline improvements to its' domestic water facilities (the "Improvements") near the District's Lateral 6.

2. Prior to any construction, Licensee shall submit construction plans for review and approval by the Irrigation and Electrical Divisions.

3. The District requires that any trenching maintain a 1:1 horizontal distance from any existing pole determined by the depth of the trench. If trenching encroaches on this requirement, Licensee must identify potentially affected poles and arrange any required pole bracing with the District. The cost for any required pole bracing will be assumed by the Licensee.

4. Except as specifically provided for in this Agreement, no alteration, improvement, installation, construction or use shall be made or permitted by Licensee in, on, under, along, across or in respect to the License Area.

5. This Agreement grants or creates a bare license only, and not a license coupled with an interest. This Agreement does not grant or create an easement, nor does it convey or transfer to Licensee any right, title or interest in or to any property of District. The license granted herein is nonexclusive. All rights granted hereunder are subject and subordinate to all uses and purposes District may now or in the future make of the License Area. Licensee shall have no license, right or privilege with respect to the License Area other than the permission and privileges specifically and expressly granted by this Agreement.

6. Licensee shall not impair the access by District to any of its property or facilities by persons or machines for the purposes of construction, maintenance or operation of its properties or facilities.

7. Licensee shall not use or cause the License Area to be used in any manner that will interfere with, be inconsistent with, or jeopardize the safety of, any use or purpose of District.

8. In the event District shall at any time so require for District's use or protection of its properties or facilities, Licensee, at Licensee's expense, shall alter, relocate or cease use of the Improvements.

9. All use by Licensee of the License Area, including the construction, placement, inspection, maintenance, replacement and use of the Improvements, shall comply with all applicable federal, state and local laws, regulations, statutes, ordinances and codes, [including without limitation occupational safety and health acts,] and all orders and decrees of bodies or tribunals having any jurisdiction or authority over the work to be performed under this Agreement (collectively, "laws").

10. Licensee shall obtain District's approval of any and all grading and improvement plans and schedules prior to the commencement of any work within the License Area; provided, however, such approval shall not unreasonably be withheld. District may at its discretion, but is not required to, inspect any and all work performed by Licensee, or Licensee's employees, agents or contractors, within the License Area. District's rights hereunder to approve and inspect shall not impose any duties or obligations on District, nor shall such rights relieve Licensee of the sole responsibility for the plans, schedules and work, or relieve Licensee of its contractual responsibilities hereunder.

11. In constructing, placing, inspecting, maintaining, and replacing the Improvements, Licensee shall, in addition to all other requirements and limitations set forth herein, comply with each of the following:

A. Licensee shall be solely responsible for the construction, placement, inspection, maintenance, replacement and use of the License Area and the Improvements permitted therein by this Agreement.

B. Licensee shall bear all costs and expenses for placement, maintenance, inspection, replacement, use and removal of the Improvements. The District shall incur no cost or expense in connection with the Improvements.

12. Prior to any excavation by Licensee within the License Area, whether at the time of the installation of Licensee's Improvements or during subsequent periods or instances of maintenance, Licensee or its Contractor shall contact District and the Underground Service Alert (U.S.A. – 1-800-642-2444) for the purpose of determining the location of underground facilities, equipment and other improvements. Locating all underground improvements shall be Licensee's sole responsibility.

13. Except as otherwise set forth herein, as between Licensee and District the Improvements shall be the property of the Licensee and the Licensee shall have the sole responsibility and liability for said Improvements. Licensee shall at all times maintain, at its own cost and expense, the Improvements. Licensee agrees to assume the sole and exclusive risk for damage to property or injury or death to any persons, arising from, or in anyway related to, the Licensee's maintenance of or failure to maintain the Improvements. The District shall have no duty or obligation to maintain the Improvements.

14. Licensee shall not use, generate, manufacture, store or dispose of on, under or about the License Area, or transport to, from, along or across the License Area, any flammable, explosive or radioactive material, toxic substance, hazardous waste, hazardous material, hazardous substance, or the equivalent, as those terms may now or in the future be defined by common practice or by any federal, state or local statute, ordinance or regulation or any governmental body or agency (hereinafter "Hazardous Substance").

A. Without limiting any remedies District may have, in the event any disposal, release, discharge or spill of a Hazardous Substance or other contamination occurs within the License Area at any time during, or as a result of, Licensee's use of the License Area, except such spills or contamination to the extent directly caused by the sole negligence or willful misconduct of District, Licensee shall immediately notify District and take all action to mitigate the effects of such disposal, release, discharge, spill or contamination. Licensee shall at Licensees' own expense, unless otherwise directed by District, remediate such disposal, release, discharge of spill or contamination to District's satisfaction and in compliance with all applicable laws, rules and regulations. District shall have the option to perform the remediation itself or through any contractor and Licensee shall cooperate with District to complete the remediation and shall reimburse District for all costs and expenses incurred in connection with the remediation.

B. In the event Licensee observes any material Licensee believes or has reason to believe may be a Hazardous Substance or encounters any unknown physical condition of any unusual nature within the License Area, other than disposals, releases, discharges, spills or contamination covered in (A), Licensee shall, without disturbing the condition, immediately cease all use of the License Area and notify District. District shall investigate the condition and take any clean-up or other remedial action District deems necessary in its sole discretion.

C. In the event District or its contractor elects to perform remediation work, Licensee shall upon notice from District, cease use of the License Area as directed in the

notice. District will notify Licensee when the condition has been resolved, at which time, but not before, Licensee may resume its use of the License Area.

D. Licensee agrees to assume liability for and to defend and hold harmless District from and against all injuries or death to any person and damage to any property, and all related expense, including without limitation attorneys' fees, investigators' fees, administrative charges, litigation expenses and any judgements, fines, penalties or other charges assessed against District, resulting from Licensee's failure to comply with this Paragraph and any laws, rules or regulations concerning the subject matter hereof. The provisions of this Paragraph shall survive the expiration and termination of this Agreement.

15. Licensee shall not perform any work within the License Area during any irrigation season which would interfere with the delivery of irrigation water. The parties hereto are mindful of the fact that District's irrigation season ordinarily, but not necessarily, ends late-October and begins mid-March the following year.

16. The District reserves unto itself the right to travel on, over and across the License Area for all District purposes. District will coordinate with License to the extent practicable when District intends to avail itself of such rights in a manner that will cause damage to the License Area.

17. District shall not be liable to Licensee for and Licensee hereby waives and releases District from any and all claims it may now or at any time in the future have against District for any injury or death of any person or damage to any property, whatsoever, including without limitation damage to the Improvements that may result to any person or property arising from or in any way connected with the exercise of rights granted by this Agreement. Licensee's waiver does not extend to intentional or gross negligent acts by the District or its agents.

18. If Licensee's exercise of rights under this Agreement, including the placement, use or maintenance of the Improvements, or any portion thereof, causes damage, injury, impairment or degradation to the License Area, the Improvement, or any property or facilities of District, Licensee shall, at its sole cost and expense, repair said damage, injury or degradation upon notice from the District. Any such repair shall be performed in a timely manner and shall be in strict accordance with plans as acceptable to the District.

19. Licensee shall defend, indemnify and hold District, its directors, officers, agents and employees, and each of them, harmless from and against any and all damages, losses, claims and liabilities arising from any act, omission or negligence of Licensee or Licensee's agents, contractors or employees, or any of them, or arising from any accident, injury or damage whatsoever caused to any person or property, occurring in the exercise of, or in any manner connected directly or indirectly with, the license granted by this Agreement, and from and against all costs, expenses, liabilities and attorneys' fees incurred in, or in connection with, any such claim or proceeding brought thereon.

20. Licensee shall promptly pay District, on demand, full money compensation for any damage to any of the District's property or facilities, or damage to the land, crops, or trees of any irrigator caused by, or in any manner connected directly or indirectly with, the exercise of the license or any rights granted by this Agreement.

21. District acknowledges that Licensee has self-insured its financial obligations imposed by this Agreement; provided, however, that in the event Licensee at any time reduces its General Liability self-insured retention amount below one million dollars, Licensee, at its sole cost and expense, and without limiting any of its other obligations or liabilities, shall obtain and maintain in effect at all times during the performance of the work under this Agreement, coverages and limits of liability insurance reasonable satisfactory to the District, each of which shall be maintained with insurers and under forms of policies reasonably satisfactory to the District and shall include the District as an additional insured.

22. District makes no representation as to, and does not warrant, the condition of the License Area, either at the inception of this Agreement or as to any future point in time. Nothing in this Agreement shall be construed as creating or imposing upon District any duty or obligation to maintain or repair the License Area or the Improvements.

23. This Agreement is made solely for the benefit of Licensee, and it is not made for the benefit of any person, firm, association, corporation or public entity not a party hereto, and no person, firm, association, corporation or public entity other than Licensee shall have any right to enforce this Agreement.

24. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of both parties; provided, however that neither party shall assign its rights or obligations hereunder without the prior written consent of the other party. Any assignment, whether voluntary or involuntary, in violation of this Paragraph shall be void.

25. It is expressly understood and agreed that this Agreement shall operate to give Licensee the rights herein provided for only insofar as District may do so under and by virtue of the rights that District has in that portion of the License Area to which this Agreement applies, and District makes no warranty or representation as to its ownership or land rights in or adjacent to District rights-of-way or the License Area.

26. This Agreement contains all the agreements of the parties hereto and cannot be amended or modified except by a written agreement signed by the parties.

27. All exhibits referred to in this Agreement are attached hereto and incorporated herein by reference.

28. In addition to any right under law or at equity, either party may terminate this Agreement for any reason at any time by giving the other party at least twelve (12) months prior written notice.

29. Any waiver at any time by the District of any of its rights with respect to a breach under this License shall not be deemed a waiver with respect to any subsequent breach or other matter. Any delay in exercising any right hereunder, short of any statutory period of limitation in asserting or enforcing any right, shall not be deemed a waiver of such a right.

30. In the event that the license granted herein is no longer used by Licensee for permitted purposes, the Improvements are no longer used by Licensee for Licensee's purposes, or this license is in any way terminated, all rights granted to Licensee hereunder shall terminate and Licensee, at its expense, shall remove Licensee's Improvements, or take other closure action acceptable to District, and restore the License Area to its original condition or to a condition

acceptable to the District. If Licensee fails to comply with the requirements of this Paragraph, District may undertake and complete such removal and restoration at the sole cost and expense of Licensee. Upon the occurrence of any of the above listed events, all rights granted to Licensee hereunder shall terminate.

31. If any of Licensee's privileges or duties hereunder are to be exercised or performed by any independent contractor or contractors, Licensee shall, effectively and appropriately, bind such contractor or contractors contractually to the duties and obligations of Licensee hereunder. In that connection, Licensee shall, among other requirements, require said contractor or contractors to indemnify and hold District harmless from and against any and all claims, damages, loss, liability and expenses, including court costs and attorney's fees, arising out of or on account of, any injury to or death of any person or persons, or damage to property of any kind whatsoever and to whomsoever belonging, arising out of, or in any manner directly or indirectly connected with, said contractor or contractors acts, omissions or negligence in exercising Licensee's privileges or performing Licensee's duties created by this Agreement. Licensee shall also require said contractor or contractors to maintain sufficient insurance coverages, including general liability insurance covering the indemnity required hereunder.

32. This License shall be governed by the laws of the State of California, excluding any choice of law rules that direct the application of the laws of another jurisdiction.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year first above written.

IN WITNESS WHEREOF, the City of Modesto, a municipal corporation, has authorized the execution of this Agreement in duplicate by its City Manager and attestation by its City Clerk under authority of Resolution No. 2009-_____, adopted by the Council of the City of Modesto on the _____ day of _____, 2009, and MODESTO IRRIGATION DISTRICT, an irrigation district, has caused this agreement to be duly executed in duplicate as of the Effective Date.

CITY OF MODESTO,
a municipal corporation

By _____
GREG NYHOFF, City Manager

ATTEST:

By _____
STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:
SUSANA ALCALA WOOD, City Attorney

By _____
ROLAND R. STEVENS, Assistant City Attorney

MODESTO IRRIGATION DISTRICT
an irrigation district

By _____
ALLEN SHORT, General Manager

By _____
Secretary

By _____
Assistant General Counsel

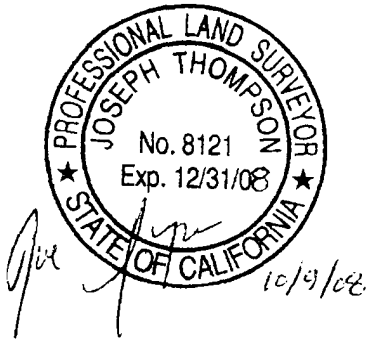
EXHIBIT A

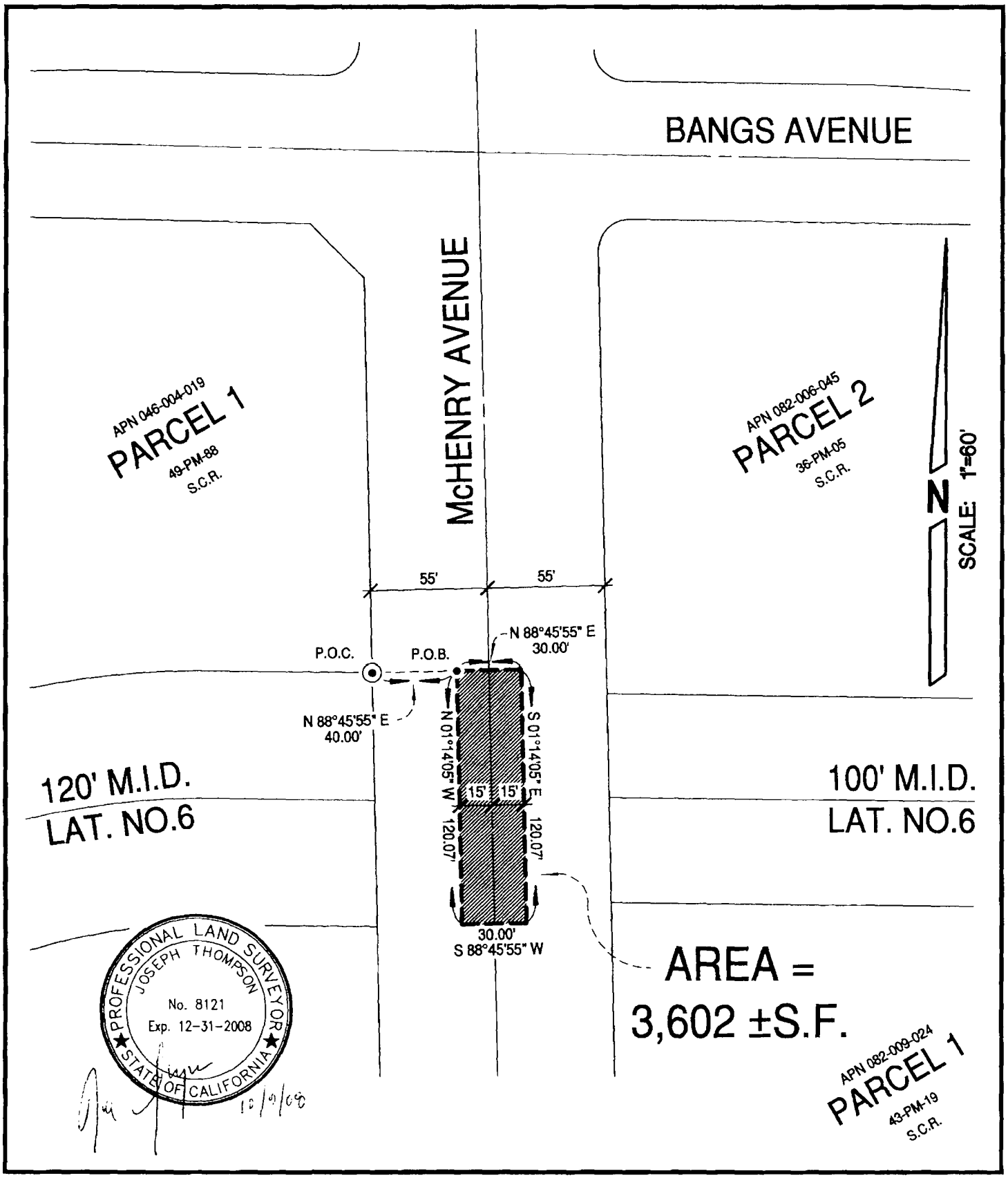
Legal Description

A strip of land 30.00 feet in width, being those portions of the south half of Sections 4 and 5, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, County of Stanislaus, State of California, being more particularly described as follows:

Commencing at the intersection of the north line of the 120.00 foot wide M.I.D. Lateral No. 6 and the west line of the 110.00 foot wide McHenry Avenue (Hwy 108), said point also being the southeast corner of Parcel 1 as shown on that Parcel Map filed for record at Book 49 of Parcel Maps at Page 88, Stanislaus County Records; thence along the easterly prolongation of said north line North 88°45'55" East 40.00 feet to the **Point of Beginning** and being 15.00 feet westerly of the centerline of said McHenry Avenue (Hwy108); thence North 88°45'55" East 30.00 feet; thence parallel with and 15.00 feet easterly of the centerline of said McHenry Avenue (Hwy 108) South 01°14'05" East 120.07 feet to the intersection of the easterly prolongation of the south line of said 120.00 foot wide M.I.D. Lateral No. 6; thence along said prolongation South 88°45'55" West 30.00 feet; thence parallel with and 15.00 feet westerly of the centerline of said McHenry Avenue (Hwy 108) North 01°14'45" West 120.07 feet to the Point of Beginning all as shown on the attached "EXHIBIT B" made a part hereof and containing 3,602 square feet, more or less.

END DESCRIPTION





SCALE: 1"=60'	DRAWN BY: JT
PLOTTED: 10.9.2008 3:36 PM	
FILE: 15120leg_30'MID_McHenry.dwg	
DATE: 10-7-08	

O'DELL
ENGINEERING
1165 Scenic Drive, Suite A Modesto, CA 95350
Ph 209.571.1765 Fax 209.571.2468

EXHIBIT B

AMENDED FOR CLERICAL ERROR

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-379

A RESOLUTION APPROVING A LICENSE AGREEMENT BETWEEN THE CITY OF MODESTO AND MODESTO IRRIGATION DISTRICT (MID) FOR THE PURPOSE OF OBTAINING PERMISSION TO MAKE IMPROVEMENTS WITHIN MID LATERAL 6 (WELLS AVENUE) FOR THE VIRGINIA CORRIDOR PROJECT AND THE CITY'S WATER DISTRIBUTION SYSTEM TO USE CERTAIN REAL PROPERTY AS DESCRIBED IN EXHIBITS A AND B OF THE LICENSE AGREEMENT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto (Licensee) desires to construct improvements for the Virginia Corridor project and the City's water distribution system, and

WHEREAS, MID ("District") has an interest in certain real property within the City of Modesto consisting of a sixty (60) foot portion of real property referred to as Lateral No. 6 (Wells Avenue), and

WHEREAS, District will grant to Licensee, at Licensee's expense, permission to make improvements within 7,680 square feet of Lateral No. 6, as described in **Exhibits A and B** of the License Agreement, as part of Modesto's Virginia Corridor Project consisting of landscaping, a pedestrian bike path, a City water line, and a City sewer pipeline, hereinafter referred to the "Improvements," and

WHEREAS, the District requires License Agreements prior to allowing construction within its right-of-way, and

WHEREAS, this will allow Licensee to use the District right-of-way for the Improvements at no cost,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a License Agreement between the City of Modesto and Modesto Irrigation District for the purpose of obtaining permission to make improvements within

MID Lateral 6 (Wells Avenue) for the Virginia Corridor project and the City's water distribution system to use certain real property as described in **Exhibits A and B** of the License Agreement.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

RECORDED AT THE REQUEST OF:

MODESTO IRRIGATION DISTRICT

AFTER RECORDING RETURN TO:

Modesto Irrigation District
1231 Eleventh Street
P. O. Box 4060
Modesto, CA 95352

LICENSE AGREEMENT

This Agreement is made and entered into this ___ day of _____, 20___, by and between Modesto Irrigation District, a California irrigation district (hereinafter, the "District"), and City of Modesto, a municipal corporation (hereinafter, the "Licensee"), and is made with regard to the following facts and circumstances, among others:

A. District has an interest in certain real property within the City of Modesto consisting of a strip of land with certain improvements thereon, which real property is commonly known as and referred to as District's Lateral No. 6, hereinafter referred to as "Lateral 6".

B. Licensee desires, at Licensee's expense, permission to make certain improvements as part of the City of Modesto's Virginia Corridor Project consisting of landscaping, a pedestrian bike path, a City water line and a City sewer pipeline, hereinafter referred to as the "Improvements".

C. The District, as an accommodation to Licensee, is willing to grant such permission on the terms and conditions set forth herein.

NOW THEREFORE, the parties hereto mutually agree as follows:

1. The District hereby grants to Licensee permission for Licensee to use a sixty (60) foot portion of its' rights-of-way as described in Exhibit A and shown on Exhibit B (the "License Area"), solely for the purpose of installing and maintaining the above referenced City "Improvements" across the District's "Lateral 6".

2. The District requires that any trenching maintain a 1:1 horizontal distance from any existing pole determined by the depth of the trench. If trenching encroaches on this requirement, Licensee must identify potentially affected poles and arrange any required pole bracing with the District. The cost for any required pole bracing will be assumed by the Licensee.

3. Except as specifically provided for in this Agreement, no alteration, improvement, installation, construction or use shall be made or permitted by Licensee in, on, under, along, across or in respect to the License Area.

4. This Agreement grants or creates a bare license only, and not a license coupled with an interest. This Agreement does not grant or create an easement, nor does it convey or transfer to Licensee any right, title or interest in or to any property of District. The license granted herein is nonexclusive. All rights granted hereunder are subject and subordinate to all uses and purposes District may now or in the future make of the License Area. Licensee shall have no license, right or privilege with respect to the License Area other than the permission and privileges specifically and expressly granted by this Agreement.

5. Licensee shall not impair the access by District to any of its property or facilities by persons or machines for the purposes of construction, maintenance or operation of its properties or facilities.

6. Licensee shall not use or cause the License Area to be used in any manner that will interfere with, be inconsistent with, or jeopardize the safety of, any use or purpose of District.

7. In the event District shall at any time so require for District's use or protection of its properties or facilities, Licensee, at Licensee's expense, shall alter, relocate or cease use of the Improvements.

8. All use by Licensee of the License Area, including the construction, placement, inspection, maintenance, replacement and use of the Improvements, shall comply with all applicable federal, state and local laws, regulations, statutes, ordinances and codes, [including without limitation occupational safety and health acts,] and all orders and decrees of bodies or tribunals having any jurisdiction or authority over the work to be performed under this Agreement (collectively, "laws").

9. Licensee shall obtain District's approval of any and all grading and improvement plans and schedules prior to the commencement of any work within the License Area; provided, however, such approval shall not unreasonably be withheld. District may at its discretion, but is not required to, inspect any and all work performed by Licensee, or Licensee's employees, agents or contractors, within the License Area. District's rights hereunder to approve and inspect shall not impose any duties or obligations on District, nor shall such rights relieve Licensee of the sole responsibility for the plans, schedules and work, or relieve Licensee of its contractual responsibilities hereunder.

10. In constructing, placing, inspecting, maintaining, and replacing the Improvements, Licensee shall, in addition to all other requirements and limitations set forth herein, comply with each of the following:

A. Licensee shall be solely responsible for the construction, placement, inspection, maintenance, replacement and use of the License Area and the Improvements permitted therein by this Agreement.

B. Licensee shall bear all costs and expenses for placement, maintenance, inspection, replacement, use and removal of the Improvements. The District shall incur no cost or expense in connection with the Improvements.

11. Prior to any excavation by Licensee within the License Area, whether at the time of the installation of Licensee's Improvements or during subsequent periods or instances of

maintenance, Licensee or its Contractor shall contact District and the Underground Service Alert (U.S.A. – 1-800-642-2444) for the purpose of determining the location of underground facilities, equipment and other improvements. Locating all underground improvements shall be Licensee's sole responsibility.

12. Except as otherwise set forth herein, as between Licensee and District the Improvements shall be the property of the Licensee and the Licensee shall have the sole responsibility and liability for said Improvements. Licensee shall at all times maintain, at its own cost and expense, the Improvements. Licensee agrees to assume the sole and exclusive risk for damage to property or injury or death to any persons, arising from, or in anyway related to, the Licensee's maintenance of or failure to maintain the Improvements. The District shall have no duty or obligation to maintain the Improvements.

13. Licensee shall not use, generate, manufacture, store or dispose of on, under or about the License Area, or transport to, from, along or across the License Area, any flammable, explosive or radioactive material, toxic substance, hazardous waste, hazardous material, hazardous substance, or the equivalent, as those terms may now or in the future be defined by common practice or by any federal, state or local statute, ordinance or regulation or any governmental body or agency (hereinafter "Hazardous Substance").

A. Without limiting any remedies District may have, in the event any disposal, release, discharge or spill of a Hazardous Substance or other contamination occurs within the License Area at any time during, or as a result of, Licensee's use of the License Area, except such spills or contamination to the extent directly caused by the sole negligence or willful misconduct of District, Licensee shall immediately notify District and take all action to mitigate the effects of such disposal, release, discharge, spill or contamination. Licensee shall at Licensees' own expense, unless otherwise directed by District, remediate such disposal, release, discharge of spill or contamination to District's satisfaction and in compliance with all applicable laws, rules and regulations. District shall have the option to perform the remediation itself or through any contractor and Licensee shall cooperate with District to complete the remediation and shall reimburse District for all costs and expenses incurred in connection with the remediation.

B. In the event Licensee observes any material Licensee believes or has reason to believe may be a Hazardous Substance or encounters any unknown physical condition of any unusual nature within the License Area, other than disposals, releases, discharges, spills or contamination covered in (A), Licensee shall, without disturbing the condition, immediately cease all use of the License Area and notify District. District shall investigate the condition and take any clean-up or other remedial action District deems necessary in its sole discretion.

C. In the event District or its contractor elects to perform remediation work, Licensee shall upon notice from District, cease use of the License Area as directed in the notice. District will notify Licensee when the condition has been resolved, at which time, but not before, Licensee may resume its use of the License Area.

D. Licensee agrees to assume liability for and to defend and hold harmless District from and against all injuries or death to any person and damage to any property, and all related expense, including without limitation attorneys' fees, investigators'

fees, administrative charges, litigation expenses and any judgements, fines, penalties or other charges assessed against District, resulting from Licensee's failure to comply with this Paragraph and any laws, rules or regulations concerning the subject matter hereof. The provisions of this Paragraph shall survive the expiration and termination of this Agreement.

15. Licensee shall not perform any work within the License Area during any irrigation season which would interfere with the delivery of irrigation water. The parties hereto are mindful of the fact that District's irrigation season ordinarily, but not necessarily, ends late-October and begins mid-March the following year.

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18. If Licensee's exercise of rights under this Agreement, including the placement, use or maintenance of the Improvements, or any portion thereof, causes damage, injury, impairment or degradation to the License Area, the Improvement, or any property or facilities of District, Licensee shall, at its sole cost and expense, repair said damage, injury or degradation upon notice from the District. Any such repair shall be performed in a timely manner and shall be in strict accordance with plans as acceptable to the District.

19. Licensee shall defend, indemnify and hold District, its directors, officers, agents and employees, and each of them, harmless from and against any and all damages, losses, claims and liabilities arising from any act, omission or negligence of Licensee or Licensee's agents, contractors or employees, or any of them, or arising from any accident, injury or damage whatsoever caused to any person or property, occurring in the exercise of, or in any manner connected directly or indirectly with, the license granted by this Agreement, and from and against all costs, expenses, liabilities and attorneys' fees incurred in, or in connection with, any such claim or proceeding brought thereon.

20. Licensee shall promptly pay District, on demand, full money compensation for any damage to any of the District's property or facilities, or damage to the land, crops, or trees of any irrigator caused by, or in any manner connected directly or indirectly with, the exercise of the license or any rights granted by this Agreement.

21. District acknowledges that Licensee has self-insured its financial obligations imposed by this Agreement; provided, however, that in the event Licensee at any time reduces its General Liability self-insured retention amount below one million dollars, Licensee, at its sole cost and expense, and without limiting any of its other obligations or liabilities, shall obtain and maintain in effect at all times during the performance of the work under this Agreement, coverages and limits of liability insurance reasonable satisfactory to the District, each of which

shall be maintained with insurers and under forms of policies reasonably satisfactory to the District and shall include the District as an additional insured.

22. District makes no representation as to, and does not warrant, the condition of the License Area, either at the inception of this Agreement or as to any future point in time. Nothing in this Agreement shall be construed as creating or imposing upon District any duty or obligation to maintain or repair the License Area or the Improvements.

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29. Any waiver at any time by the District of any of its rights with respect to a breach under this License shall not be deemed a waiver with respect to any subsequent breach or other matter. Any delay in exercising any right hereunder, short of any statutory period of limitation in asserting or enforcing any right, shall not be deemed a waiver of such a right.

30. In the event that the license granted herein is no longer used by Licensee for permitted purposes, the Improvements are no longer used by Licensee for Licensee's purposes, or this license is in any way terminated, all rights granted to Licensee hereunder shall terminate and Licensee, at its expense, shall remove Licensee's Improvements, or take other closure action acceptable to District, and restore the License Area to its original condition or to a condition acceptable to the District. If Licensee fails to comply with the requirements of this Paragraph, District may undertake and complete such removal and restoration at the sole cost and expense of Licensee. Upon the occurrence of any of the above listed events, all rights granted to Licensee hereunder shall terminate.

31. If any of Licensee's privileges or duties hereunder are to be exercised or performed by any independent contractor or contractors, Licensee shall, effectively and appropriately, bind such contractor or contractors contractually to the duties and obligations of Licensee hereunder. In that connection, Licensee shall, among other requirements, require said contractor or contractors to indemnify and hold District harmless from and against any and all claims, damages, loss, liability and expenses, including court costs and attorney's fees, arising out of or on account of, any injury to or death of any person or persons, or damage to property of any kind whatsoever and to whomsoever belonging, arising out of, or in any manner directly or indirectly connected with, said contractor or contractors acts, omissions or negligence in exercising Licensee's privileges or performing Licensee's duties created by this Agreement. Licensee shall also require said contractor or contractors to maintain sufficient insurance coverages, including general liability insurance covering the indemnity required hereunder.

32. This License shall be governed by the laws of the State of California, excluding any choice of law rules that direct the application of the laws of another jurisdiction.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year first above written.

IN WITNESS WHEREOF, the City of Modesto, a municipal corporation, has authorized the execution of this Agreement in duplicate by its City Manager and attestation by its City Clerk under authority of Resolution No. 2009-_____, adopted by the Council of the City of Modesto on the _____ day of _____, 2009, and MODESTO IRRIGATION DISTRICT, an irrigation district, has caused this agreement to be duly executed in duplicate as of the Effective Date.

CITY OF MODESTO,
a municipal corporation

By _____
GREG NYHOFF, City Manager

MODESTO IRRIGATION DISTRICT
an irrigation district

By _____
ALLEN SHORT, General Manager

ATTEST:

By _____
STEPHANIE LOPEZ, City Clerk

By _____
Secretary

By _____
Assistant General Counsel

APPROVED AS TO FORM:
SUSANA ALCALA WOOD, City Attorney

By _____
ROLAND R. STEVENS, Assistant City Attorney

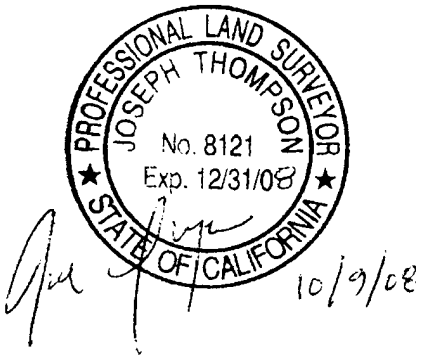
EXHIBIT A

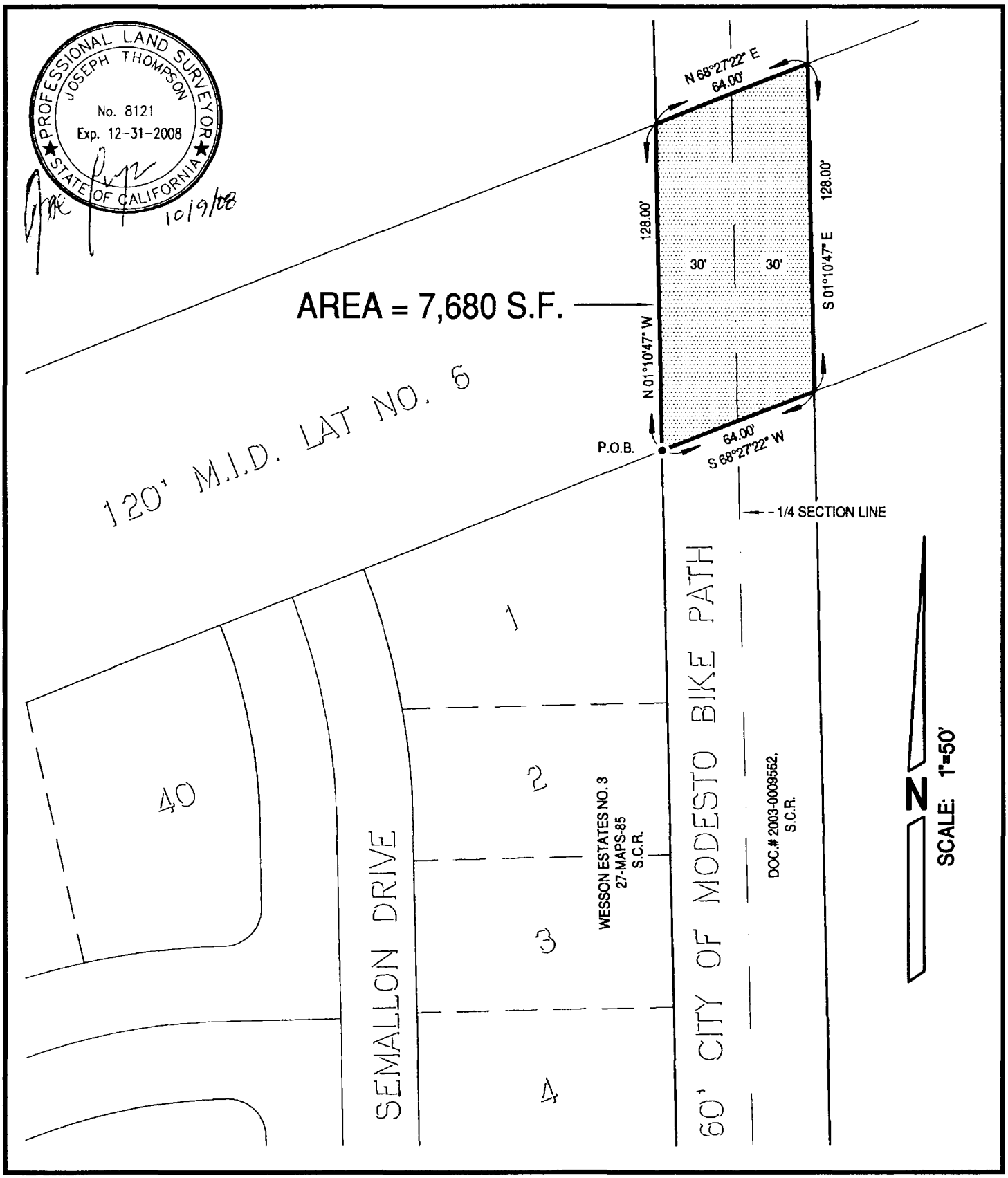
Legal Description

A strip of land 60.00 feet in width, being a portion of the south half of Section 5, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, being more particularly described as follows:

Beginning at the northeast corner of Lot 1 as shown on that map filed for record in Volume 27 of Maps at Page 85, Stanislaus County Records, said point being on the southeasterly line of the 120.00 foot wide M.I.D. Lat. No. 6 as shown on said map; thence parallel with and 30.00 feet westerly of the north-south quarter section line of said Section 5 North 01°10'47" West 128.00 feet to the northwesterly line of said 120.00 foot wide M.I.D. Lat. No. 6; thence along said northwesterly line North 68°27'20" East 64.00 feet; thence parallel with and 30.00 feet easterly of said quarter section line South 01°10'47" East 128.00 feet to the southeasterly line of said 120.00 foot wide M.I.D. Lat. No. 6; thence along said southeasterly line South 68°27'22" West 64.00 feet to the Point of Beginning all as shown on the attached "EXHIBIT B" made a part hereof and containing 7,680 square feet, more or less.

END DESCRIPTION.





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PLOTTED: 10.9.2008 3:47 PM	
FILE: 10850leg_60' ease 120' MID lat 6.dwg	
DATE: 4/15/08	

O'DELL ENGINEERING
1165 Scenic Drive, Suite A Modesto, CA 95350
Ph 209.571.1765 Fax 209.571.2468

EXHIBIT B

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-380

RESOLUTION APPROVING AN INCENTIVE BASED AGREEMENT WITH SIXEL CONSULTING GROUP TO PROVIDE AIR SERVICE DEVELOPMENT WORK WITH THE GOAL TO SECURE ADDITIONAL AIRLINE SERVICE FOR MODESTO CITY-COUNTY AIRPORT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, additional air service for Modesto City-County Airport (MOD) would benefit local travelers and our community, and

WHEREAS, Sixel Consulting Group (SCG) offers a unique program whereby they will serve as MOD's consultant, pursuing targeted airline recruitment efforts, and

WHEREAS, SCG has agreed to be paid only if they are successful in obtaining new air services, and

WHEREAS, the incentive-based Agreement proposed by SCG will have a total cost not to exceed $2.00 per each enplaned passenger on new air service operations at MOD for a two-year period, and

WHEREAS, SCG will prepare and apply for annual U.S. Department of Transportation Small Community Air Service Development Program grants at a reduced cost for the duration of the Agreement, and

WHEREAS, as part of the agreement with SCG, the City commits to an active role in airline service development with consultant,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an incentive-based agreement with Sixel Consulting Group to provide air service development work with the goal to secure additional airline service for Modesto City-County Airport, for an amount not to exceed $2.00 per each enplaned

passenger on new air service operations at Modesto City-County Airport for a two-year period.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carrier and the resolution adopted by the following vote:

AYES:	Councilmember:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmember:	None
ABSENT:	Councilmember:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-381

RESOLUTION APPROVING SUBMITTAL OF A GRANT APPLICATION TO THE U.S. DEPARTMENT OF TRANSPORTATION FOR THE SMALL COMMUNITY AIR SERVICE DEVELOPMENT PROGRAM

WHEREAS, U.S. Department of Transportation (DOT) will be soliciting grant applications for the Small Community Air Service Development Program (SCASDP), and

WHEREAS, SCASDP has been a source of funding for cities desiring to enhance their commercial air service, and

WHEREAS, DOT has traditionally issued $20 million annually nationwide in grants to approximately 40 communities to support improved air service initiatives at local airports, and

WHEREAS, the City, as the airport sponsor, was awarded a SCASDP grant in 2005 that provided $550,000 in funding which was used to obtain additional air service between Modesto and Los Angeles, resulting in record passenger enplanements in 2008, and

WHEREAS, airports are eligible to reapply for this grant every two years,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves submittal of a grant application to the U.S. Department of Transportation for the Small Community Air Service Development Program.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009 by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carrier and the resolution adopted by the following vote:

AYES:	Councilmember:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmember:	None
ABSENT:	Councilmember:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-382

RESOLUTION ACCEPTING AN AIRPORT IMPROVEMENT PROGRAM GRANT OFFER (AIP PROJECT NO. 3-06-0153-32/34) IN THE AMOUNT OF $1,305,000 FROM THE FEDERAL AVIATION ADMINISTRATION (FAA) FOR PROJECTS SUBMITTED IN GRANT APPLICATION #34, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE ACCEPTANCE OF THE GRANT

WHEREAS, the City Council, on March 24, 2009, by Resolution No. 2009-131, authorized the submittal of a Federal Airport Improvement Program (AIP) Grant application for $1,286,251 to the Federal Aviation Administration (FAA), and

WHEREAS, verbal notification has been received from the FAA Program Manager extending a Grant Offer to the City of Modesto in response to Grant Application #34 for Modesto City-County Airport, and

WHEREAS, the Grant Offer must be accepted by the City on or before August 14, 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts an Airport Improvement Program Grant Offer in the amount of $1,305,000 from the Federal Aviation Administration (FAA) for projects submitted in Grant Application #34.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmember:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmember:	None
ABSENT:	Councilmember:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-383

A RESOLUTION AUTHORIZING CITY MANAGER, OR DEPUTY CITY MANAGER, TO SIGN FUNDING AGREEMENT AND AMENDMENTS AND ALL RELATED DOCUMENTS, EXCEPT AS NOTED OTHERWISE HEREIN, FOR FUNDING UNDER THE CALIFORNIA SAFE DRINKING WATER STATE REVOLVING FUND AND THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009, UPON RECEIPT AND APPROVAL OF THE FUNDING AGREEMENT BY THE CITY MANAGER; AUTHORIZING CITY MANAGER, OR DEPUTY CITY MANAGER, TO SIGN ALL CERTIFICATIONS AND REPORTS REQUIRED FOR SUCH FUNDING; AUTHORIZING CITY MANAGER, OR DEPUTY CITY MANAGER, TO APPROVE CLAIMS FOR REIMBURSEMENT; AUTHORIZING SENIOR CIVIL ENGINEER RESPONSIBLE FOR THE PROJECT TO EXECUTE BUDGET AND EXPENDITURE SUMMARY; AUTHORIZING CITY MANAGER, OR DEPUTY CITY MANAGER, TO SIGN THE CONTRACTOR'S RELEASE FORM, AND SENIOR CIVIL ENGINEER RESPONSIBLE FOR THE PROJECT TO SIGN THE CERTIFICATION OF PROJECT COMPLETION; AND DEDICATING REVENUES FROM WATER FUND AS THE SOURCE OF REVENUE TO REPAY SAID LOAN

WHEREAS, on August 5, 2009, the City of Modesto made application to the California Department of Public Health for funding under the California Safe Drinking Water State Revolving Fund and the federal American Recovery and Reinvestment Act of 2009 for a Project commonly known and described as Wellhead Treatment and Blending Lines – Wells 283 & 236 (herein the Project), and

WHEREAS, on August 5, 2009, said City of Modesto Council adopted a Project budget totaling $800,000.00, and

WHEREAS, it is anticipated that the Funding Agreement under the California Safe Drinking Water State Revolving Fund and the federal American Recovery and Reinvestment Act of 2009 will provide for a loan in the amount of $800,000.00, of which $400,000.00 will be provided as additional subsidization in the form of principle

forgiveness, and $400,000.00 shall be repaid to the California Department of Public Health over a 20 year repayment period at a 2.5017 percent interest rate, and

WHEREAS, prior to the California Department of Public Health's issuance of said Funding Agreement, City of Modesto Council is required to pass a resolution authorizing an officer to execute said Funding Agreement and amendments, authorizing an officer to execute all certifications and reports required of funding recipients under the California Safe Drinking Water State Revolving Fund and the federal American Recovery and Reinvestment Act of 2009; designating a person to approve claims for reimbursement, designating a person (Senior Civil Engineer) to sign the Budget and Expenditure Summary, designating a person (Senior Civil Engineer) to sign Certification of Project Completion, and designating a person to sign the Contractor's Release Form,

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, that the City Manager, or Deputy City Manager, is hereby authorized to sign the Safe Drinking Water State Revolving Fund and American Recovery and Reinvestment Act of 2009 Funding Agreement and any amendments or related documents, except as noted otherwise herein, upon receipt and approval of the Funding Agreement by the City Manager, for the Project thereto.

BE IT FURTHER RESOLVED AND ORDERED, that the City Manager, or Deputy City Manager, is hereby authorized to sign all certifications and reports required of funding recipients under the California Safe Drinking Water State Revolving Fund program and/or the federal American Recovery and Reinvestment Act of 2009.

BE IT FURTHER RESOLVED AND ORDERED, that the City Manager, or Deputy City Manager, is hereby authorized to approve Claims for Reimbursement of Project costs submitted pursuant to the terms of said funding agreement.

BE IT FURTHER RESOLVED AND ORDERED, that the Senior Civil Engineer responsible for the project is hereby authorized to execute the Budget and Expenditure Summary for said Project.

BE IT FURTHER RESOLVED AND ORDERED, that the City Manager, or Deputy City Manager, is hereby authorized to sign the Contractor's Release Form to be provided pursuant to requirements of said funding agreement.

BE IT FURTHER RESOLVED AND ORDERED, that the Senior Civil Engineer responsible for the project is hereby authorized to certify that the Project is complete and ready for final inspection.

BE IT FURTHER RESOLVED AND ORDERED, that the City of Modesto hereby designates Water Enterprise Fund revenues as the dedicated source of revenue to repay any non-subsidized loan principle amount of the Safe Drinking Water State Revolving Fund loan. This dedication shall remain in full force and effect until said loan is fully discharged, unless modification or change of such dedication is approved in writing by the California Department of Public Health. If for any reason, the dedicated source of revenues proves insufficient to satisfy the debt obligation of said loan, sufficient funds shall be raised through increased water rates, user charges, or assessments or any other legal means available to meet this loan obligation and to operate and maintain the Project.

BE IT FURTHER RESOLVED AND ORDERED, that the Project infrastructure investment is an appropriate use of taxpayer dollars.

BE IT FURTHER RESOLVED AND ORDERED, that the City of Modesto does hereby covenant to establish water rates and charges in amounts sufficient to generate net revenues to meet the requirements of the Safe Drinking Water State Revolving Fund and American Recovery and Reinvestment Act of 2009 Funding Agreement.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

RESCINDED

SEP 2 2 2009

THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2009-445

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-384

A RESOLUTION APPROVING ADJUSTMENTS TO THE MAXIMUM RATE SCHEDULE FOR CITY RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL SOLID WASTE COLLECTION SERVICES, TO BECOME EFFECTIVE AUGUST 1, 2009, AND RESCINDING RESOLUTION NO. 2009-121

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/Energy Information Agency (DOE/EIA), 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 December 27, 2007, by Resolution No. 2007-729, the Council approved the assessment of a Carpenter Road Landfill Mitigation fee on the haulers to be used for mitigation and monitoring at the closed Carpenter Road landfill, and

WHEREAS, the financial statements submitted by the haulers reflect only 6 months of this fee, and an adjustment to this component of the maximum rates is therefore necessary, 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, the financial statements submitted by the haulers do not reflect this fee, and an adjustment to this component of the maximum rates is therefore necessary, and

WHEREAS, the City's Service Agreements with the collection companies prohibit them from littering public rights of way in the process of collecting solid waste in the City, and in the event litter is caused by collection activities, the collector is responsible to make sure the litter is cleaned up, and

WHEREAS, litter that blows from the areas around commercial bins/containers and litter blown from collection vehicles as they move about the City collecting

residential and commercial wastes are major contributors to roadside litter on the City's main thoroughfares, and

WHEREAS, the City uses an Honor Farm crew to clean litter from the major thoroughfares, medians, and planter areas, and

WHEREAS, the litter abatement crew is essential to maintain the appearance of the City, and the cost of this litter abatement currently costs approximately $125,000 annually, and

WHEREAS, it would be impractical and unsafe for the collection companies to remove these materials from the rights of way themselves, and

WHEREAS, during the budget review process and at a Finance Committee on June 16, 2009, the Committee approved moving forward to Council with a recommendation to begin charging the collection companies a fee equivalent to $0.15 per residential account per month and $0.05 per cubic yard for waste from commercial bins for litter abatement caused by collection activities, 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 19, 2009, from the Parks, Recreation and Neighborhoods Department, a copy of which is on file in the office of the City Clerk, sets forth said recommendations, and

WHEREAS, said matter was set for a public hearing of the City Council to be held at 5:30 p.m. on August 5, 2009, 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 an adjustment to 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 August 1, 2009, 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. 2009-121 is hereby rescinded, effective August 1, 2009.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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 "1"
August 1, 2009

MAXIMUM CHARGES FOR GARBAGE SERVICE

STANDARD CONTAINERS

Maximum Monthly Rates
(Once a Week Pickup Service)

Standard container service shall include the following:

- One, 96-gallon container for garbage/recyclables
- One, 96-gallon container for green waste, food, paper, and other organics
- Blue bag recycling
- 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 **$22.37 per month** regardless of size of container. A fuel component of $0.71 per month is included in the maximum rate for the quarter beginning January 1, 2009 and ending March 31, 2009. The fuel component may be adjusted quarterly.
b. The maximum rate for each additional garbage container shall be **$16.65 per month, and $9.50 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 **$18.72 per month**. A fuel component of $0.71 per month is included in the maximum rate for the quarter beginning January 1, 2009 and ending March 31, 2009. The fuel component may be adjusted quarterly.
b. The maximum rate for each additional 60-gallon garbage container shall be **$16.22 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	$ 41.29	$ 72.09	$ 102.86	$ 133.64	$ 164.43	$ 195.22
2 CY	$ 72.09	$ 133.64	$ 195.22	$ 256.79	$ 318.35	$ 379.91
3 CY	$102.86	$ 195.22	$ 287.57	$ 379.91	$ 472.28	$ 564.62
4 CY	$133.64	$ 256.79	$ 379.91	$ 503.06	$ 626.19	$ 749.33
5 CY	$164.43	$ 318.35	$ 472.28	$ 626.19	$ 783.12	$ 934.04
6 CY	$195.22	$ 379.91	$ 564.62	$ 749.33	$ 934.04	$1,118.75

Container Size	FORK Participants Container Maximum Rates NUMBER OF COLLECTIONS PER WEEK					
	1	2	3	4	5	6
2 CY	$ 54.07	$ 100.23	$ 146.42	$ 192.59	$ 238.76	$ 284.93
3 CY	$ 77.14	$ 146.42	$ 215.67	$ 284.93	$ 354.21	$ 423.47
4 CY	$100.23	$ 192.59	$ 284.93	$ 377.29	$ 469.64	$ 562.00
5 CY	$123.32	$ 238.76	$ 354.21	$ 469.64	$ 587.34	$ 700.53
6 CY	$146.42	$ 284.93	$ 423.47	$ 562.00	$ 700.53	$ 839.06
90-gallon	$ 16.78	$ 33.56	$ 50.33	$ 67.11	$ 83.89	$ 100.67

- A detachable container rental rate of $10.00 per month is included in the above schedules.

1. **Weekly rental/Detachable Containers** - Shall not exceed the rate for 1 pickup per week for each size container.

2. **Fuel Component** - A fuel component of $0.62 per cubic yard per month ($0.14 per cubic yard) for a 1 cubic yard container collected once a week is included in the maximum rate for the quarter beginning January 1, 2009 and ending March, 2009. The fuel component shall be analyzed quarterly and adjustments shall be made as necessary. The adjustment shall be based on the average price of fuel for a preceding quarter as follows: July 1/January-March; October/April-June; January 1/July-September; April 1/October-December. Average prices shall be determined based on published prices for California from the Department of Energy.

DROP BOX CONTAINERS

1. Pick up charge - $210.95 per pick up
2. Rental - $0.85 per day up to 7 day maximum rental
- $3.00 per day for boxes kept 7 or more days without servicing
- $10.00 per day for boxes kept 21 or more days without servicing

3. Disposal charge - Actual charge to be paid by customer. Garbage company will provide up to 40 CY Drop Box containers for above stated charges subject only to load limit of transfer vehicle. An AB 939 Green Waste Diversion Fee of $8.40 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	$308.57	$ 585.66	$ 862.70	$1,139.74	$1,416.83	$1,693.87
4 CY	$400.93	$ 770.36	$1,139.74	$1,509.17	$1,878.57	$2,248.00
6 CY	$585.66	$1,139.74	$1,693.87	$2,248.00	$2,802.11	$3,356.24

Roll-Off Type:

1. 6 CY to 40 CY	$210.95 per pickup
2. Medical waste compactors	$265.00 per pickup
3. Washing compactor	$30.00
4. Disposal Charge:	Actual charge to be paid by customer
5. AB 939 Green Waste Diversion Fee	$8.40 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

1. 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.
2. The above residential maximum rates include a $1.33 per month per household AB 939 Green Waste Diversion Fee.
3. The above commercial bin and front-loader compactor maximum rates include an AB 939 Green Waste Diversion Fee of $2.36 per yard/month.
4. 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.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-385

A RESOLUTION APPROVING A COST SHARING AGREEMENT FOR ASSOCIATED TASK ITEMS OF WORK TO SHARE CERTAIN COSTS BETWEEN THE CITIES OF CERES AND MODESTO FOR THE DEVELOPMENT OF A REGIONAL WASTEWATER SYSTEM FEASIBILITY STUDY, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto and the City of Ceres are part of an agreement where the City of Modesto provides wastewater treatment for a defined area of North Ceres, and

WHEREAS, this agreement has been in place since the early 1970's and has proved beneficial to both agencies, and

WHEREAS, representatives from Modesto and Ceres have been meeting to discuss the concept of developing a regional wastewater system that would serve both cities, and

WHEREAS, this regional system would be broader than the current contractual arrangement, and

WHEREAS, preliminary staff reviews indicate that there are several advantages for regionalizing the wastewater that make it worthy of further analysis, and

WHEREAS, while the advantages are fairly easy to identify at the conceptual level, a greater degree of analysis is needed to make a decision whether or not to pursue a regional wastewater system partnership between the cities of Ceres and Modesto, and

WHEREAS, staff recommended securing consultant services to perform a Regional Wastewater System Feasibility Study (Study) for further analysis, and

WHEREAS, the estimated cost for this Study is $100,000, and the cost sharing between the City of Ceres and Modesto will be fifty (50) percent, or $50,000 each.

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 cities of Ceres and Modesto for the development of a Regional Wastewater System Feasibility Study.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Stephanie Lopez
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-386

A RESOLUTION APPROVING THE TRANSFER OF $50,000 FROM WASTEWATER FUND RESERVES TO CAPITAL IMPROVEMENT PROJECT (6210-480-B120) TO PAY FOR A REGIONAL WASTEWATER SYSTEM FEASIBILITY STUDY

WHEREAS, the City of Modesto and the City of Ceres are part of an agreement where the City of Modesto provides wastewater treatment for a defined area of North Ceres, and

WHEREAS, this agreement has been in place since the early 1970's and has proved beneficial to both agencies, and

WHEREAS, representatives from Modesto and Ceres have been meeting to discuss the concept of developing a regional wastewater system that would serve both cities, and

WHEREAS, this regional system would be broader than the current contractual arrangement, and

WHEREAS, preliminary staff reviews indicate that there are several advantages for regionalizing the wastewater that make it worthy of further analysis, and

WHEREAS, while the advantages are fairly easy to identify at the conceptual level, a greater degree of analysis is needed to make a decision whether or not to pursue a regional wastewater system partnership between the cities of Ceres and Modesto, and

WHEREAS, staff recommended securing consultant services to perform a Regional Wastewater System Feasibility Study (Study) for further analysis, and

WHEREAS, under separate Council action, a cost sharing agreement with the City of Ceres for this Study was approved, with each city contributing fifty (50) percent, or $50,000 each, and

WHEREAS, staff is requesting a transfer from Wastewater Fund Reserves (6210-800-8000-8003) in the amount of $50,000 into a Capital Improvement Project (6210-480-B120) to pay for the proposed Regional Wastewater System Feasibility Study,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the transfer of $50,000 from Wastewater Fund Reserves to Capital Improvement Project (6210-480-B120) to pay for a Regional Wastewater System Feasibility Study.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-387

A RESOLUTION AUTHORIZING THE ISSUANCE OF A REQUEST FOR PROPOSALS TO SECURE PROFESSIONAL SERVICES TO COMPLETE A REGIONAL WASTEWATER SYSTEM FEASIBILITY STUDY FOR AN ESTIMATED COST OF $100,000

WHEREAS, the City of Modesto and the City of Ceres are part of an agreement where the City of Modesto provides wastewater treatment for a defined area of North Ceres, and

WHEREAS, this agreement has been in place since the early 1970's and has proved beneficial to both agencies, and

WHEREAS, representatives from Modesto and Ceres have been meeting to discuss the concept of developing a regional wastewater system that would serve both cities, and

WHEREAS, this regional system would be broader than the current contractual arrangement, and

WHEREAS, preliminary staff reviews indicate that there are several advantages for regionalizing the wastewater that make it worthy of further analysis, and

WHEREAS, while the advantages are fairly easy to identify at the conceptual level, a greater degree of analysis is needed to make a decision whether or not to pursue a regional wastewater system partnership between the cities of Ceres and Modesto, and

WHEREAS, staff recommended securing consultant services to perform a Regional Wastewater System Feasibility Study (Study) for further analysis, and

WHEREAS, under separate Council action, a cost sharing agreement with the City of Ceres for the Study was approved, with each city contributing fifty (50) percent, or $50,000 each, and

WHEREAS, under separate Council action, staff is requesting a transfer of funds from Wastewater Fund Reserves (6210-800-8000-8003) in the amount of $50,000 into a Capital Improvement Project Account (6210-480-B120) to pay for the proposed Regional Wastewater System Feasibility Study, and

WHEREAS, the City of Modesto will issue the Request for Proposals and a joint panel representing both cities will select the consultant to perform the study,

WHEREAS, the City of Modesto will be the lead agency for managing the consultant services agreement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the issuance of a Request for Proposals to secure professional services to complete a Regional Wastewater System Feasibility Study for an estimated cost of $100,000.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-388

A RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ANY FUTURE AMENDMENTS TO THE COST SHARING AGREEMENT OR TASKS RELATED TO THE REGIONAL WASTEWATER FEASIBILITY STUDY FOR AMOUNTS NOT TO EXCEED $50,000

WHEREAS, the City of Modesto and the City of Ceres are part of an agreement where the City of Modesto provides wastewater treatment for a defined area of North Ceres, and

WHEREAS, this agreement has been in place since the early 1970`s and has proved beneficial to both agencies, and

WHEREAS, representatives from Modesto and Ceres have been meeting to discuss the concept of developing a regional wastewater system that would serve both cities, and

WHEREAS, this regional system would be broader than the current contractual arrangement, and

WHEREAS, preliminary staff reviews indicate that there are several advantages for regionalizing the wastewater that make it worthy of further analysis, and

WHEREAS, while the advantages are fairly easy to identify at the conceptual level, a greater degree of analysis is needed to make a decision whether or not to pursue a regional wastewater system partnership between the cities of Ceres and Modesto, and

WHEREAS, staff recommended securing consultant services to perform a Regional Wastewater System Feasibility Study (Study) for further analysis, and

WHEREAS, under separate Council action, a cost sharing agreement with the City of Ceres for this Study was approved, with each city contributing fifty (50) percent, or $50,000 each, 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 any future amendments to the cost sharing agreement or tasks related to the Regional Wastewater System Feasibility Study for amounts not to exceed $50,000.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-389

A RESOLUTION ACCEPTING THE COPS HIRING RECOVERY PROGRAM (CHRP) GRANT IN THE AMOUNT OF $4,474,782, FROM THE UNITED STATES DEPARTMENT OF JUSTICE, OFFICE OF COMMUNITY ORIENTED POLICING, TO FUND 13 POLICE OFFICER POSITIONS FOR THREE YEARS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY GRANT DOCUMENTS

WHEREAS, the Community Oriented Policing Services (COPS) Office was appropriated $1 billion through the Recovery Act to make grants to create or save state, local and tribal law enforcement jobs, and

WHEREAS, the COPS program is part of the $787 billion stimulus package passed earlier this year, and

WHEREAS, on July 28, 2009, the City of Modesto received notification from the United States Department of Justice, Office of Community Oriented Policing Services (COPS) Office that the City of Modesto will receive funding for 13 police officer positions, and

WHEREAS, the Fiscal Year 2009/10 Police Department operating budget will be amended to include budget for the salaries and benefits for eight officers from August 4, 2009 to June 30, 2010, and

WHEREAS, the funding for the remaining five positions awarded with this grant will remain on hold and a more detailed report on the Police Department's plan to hire an additional five officers will be brought back to the Council within 30 days, and

WHEREAS, the estimated amount of federal funds to be awarded to the City of Modesto over the three-year grant period is $4,474,782.00, and

WHEREAS, the grant award start date is July 1, 2009, and

WHEREAS, grantees must retain all sworn officer positions awarded under the COPS Hiring Recovery Program (CHRP) grant for a minimum of 12 months following the 36-month federal funding period, and

WHEREAS, the retained CHRP-funded positions should be added to the Police Department's budget with state and/or local funds, over and above the number of locally-funded positions that would have existed in the absence of the grant, and

WHEREAS, there is no local match required for this program, however, grantees must retain all sworn officer positions awarded under the CHRP grant for a minimum of 12 months following the 36-month federal funding period, and

WHEREAS, this item was reviewed at a Special Finance Committee meeting on July 31, 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the COPS Hiring Recovery Program (CHRP) Grant in the amount of $4,474,782, from the U.S. Department of Justice, Office of Community Oriented Policing, to fund 13 police officer positions for three years.

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 special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Olsen, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTES: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-390

A RESOLUTION AMENDING THE FISCAL YEAR 2009/2010 OPERATING BUDGET ESTIMATING REVENUE OF $4,474,782, AND APPROPRIATING FUNDS IN ORGANIZATION 0415-190-2973 UPON ACCEPTANCE OF THE COPS HIRING RECOVERY PROGRAM GRANT

WHEREAS, the Community Oriented Policing Services (COPS) Office was appropriated $1 billion through the Recovery Act to make grants to create or save state, local and tribal law enforcement jobs, and

WHEREAS, the COPS Program is part of the $787 billion stimulus package passed earlier this year, and

WHEREAS, on July 28, 2009, the City of Modesto received notification from the United States Department of Justice, Office of Community Oriented Policing Services (COPS) that the City of Modesto will receive funding for 13 police officer positions, and

WHEREAS, the Fiscal Year 2009/2010 Operating Budget will be amended to include budget for the salaries and benefits for eight police officers from August 4, 2009 to June 30, 2010, and

WHEREAS, the funding for the remaining five police officer positions awarded with this grant will remain on hold, and a more detailed report on the Police Department's plan for an additional five officers will be brought back to the Council within 30 days, and

WHEREAS, the estimated amount of federal funds to be awarded to the City of Modesto over the three-year grant period is $4,474,782.00, and

WHEREAS, the grant award start date is July 1, 2009, and

WHEREAS, grantees must retain all sworn officer positions awarded under the COPS Hiring Recovery Program grant for a minimum of 12 months following the 36-month federal funding period, and

WHEREAS, the retained CHRP-funded positions should be added to the Police Department's budget with state and/or local funds, over and above the number of locally-funded positions that would have existed in the absence of the grant, and

WHEREAS, there is no local match required for this program, however, grantees must retain all sworn officer positions awarded under the CHRP grant for a minimum of 12 months following the 36-month federal funding period, and

WHEREAS, this item was reviewed at a Special Finance Committee meeting on July 31, 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2009/2010 Operating Budget is hereby amended estimating revenue of $4,474,782 as indicated on the **attached** Request for Budget Adjustment.

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.

REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Polly Findlen
Telephone No.: 2-9518
Department: Police Department
Council Action Date:
Resolution Number:
FY: 09-10/MY
Fund Title: Special Revenue (0415) \ General Fund(0100)
Transfer No.

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
DEPARTMENTAL REVENUES					
FROM					
TO					**COPS HIRING RECOVERY GRANT (CHRP)**
MY-0415-190-2800-3650	N/A		$4,474,782		ARRA REIMBURSEABLE GRANT
APPROPRIATIONS					
FROM					
TO					**COPS HIRING RECOVERY GRANT (CHRP)**
10-0100-190-1962-0181	1900A		$432,272	$432,272	SALARIES FOR 8 OFFICERS
10-0100-190-1962-0191	1900A		$336,884	$336,884	BENEFITS FOR 8 OFFICERS
TRANSFERS BETWEEN FUNDS					
FROM					**COPS HIRING RECOVERY GRANT (CHRP)**
MY-0415-700-2800-7010	0415G		$769,156	$769,156	TRANSFER OUT TO GENERAL FUND
TO			$769,156	$769,156	TRANSFER IN FROM SPECIAL REVENUE
10-0100-700-1962-9041	N/A				

COMMENTS/JUSTIFICATION

To budget revenue and expenditures for ARRA - Cops Hiring Recovery Grant, which will fund 13 Police Officers.
At this time only **8 Officers** are being rehired, this budget adjustment is to reflect the salary and benefits for those **8 Officers.**
Grant is in MY-0415-190-2800, the positions are in 10-0100-190-1962.
Transfer from MY-0415-700-2800-7010 to 10-0100-700-1962-9041 to cover salary and benefits for 8 Officers in org 1962, FY 09/10

AUTHORIZATION (check if required)	SIGNATURE	DATE
ADMIN SVCS OFF/ADMIN ANALYST II		
DEPUTY DIRECTOR (Public Works Dept)		
DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT (Allocation of Dept Appr to Line-Item Level)		
FINANCE DIRECTOR (Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval)		
CFF/CFD ADMINISTRATOR When necessary for CIP		
CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Transfers into Personnel Services)		

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of August, 2009, by Councilmember Olsen, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-391

A RESOLUTION APPROVING SUPPORT FOR SENATE BILL 532, AS A NECESSARY COMPONENT TO FACILITATE THE NORTH COUNTY CORRIDOR STATE ROUTE 108 EAST ROUTE ADOPTION

WHEREAS, the City of Modesto is a member agency of the North County Corridor Transportation Expressway Authority, which consists of the Stanislaus Council of Governments (StanCOG), the cities of Oakdale and Riverbank and the County of Stanislaus, and

WHEREAS, the North County Corridor State Route (SR) 108 East Route Adoption will enhance traffic safety and improve transportation network performance by accommodating regional growth, promoting balanced traffic circulation, reducing congestion, and reducing travel times and vehicle hours of delay, and

WHEREAS, Senate Bill (SB) 532 is a necessary component to facilitate the North County Corridor SR 108 East Route Adoption, and

WHEREAS, SB 532 authorizes inclusion of specified miles east of Oakdale to be included within the limits of SR 108 as necessary to facilitate the North County Corridor SR 108 East Route Adoption, and

WHEREAS, SB 532 authorizes specified portions of SR 108 to be included in the State's Interregional Route System (IRRS) as necessary to facilitate the North County Corridor SR 108 East Route Adoption,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves support for SB 532, as a necessary component to facilitate the North County Corridor SR 108 East Route Adoption.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of August, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant, Olsen

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-392

RESOLUTION APPROVING A HOME LOAN AGREEMENT BETWEEN THE CITY OF MODESTO AND EAH, INC. FOR THE ALLOCATION OF HOME INVESTMENT PARTNERSHIP PROGRAM ENTITLEMENT FUNDS IN THE AMOUNT OF $1,000,000.00 FOR THE DEVELOPMENT OF A 150-UNIT AFFORDABLE HOUSING COMPLEX, ALSO REFERRED TO AS ARCHWAY COMMONS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND RELATED DOCUMENTS

WHEREAS, on November 1, 2007, a Request for Qualifications (RFQ) was released to solicit proposals for either the development of new construction or the rehabilitation of existing market rate housing to be converted to affordable units for low-income households, and

WHEREAS, proposals were due on January 14, 2008, with a total of eight (8) proposals received. Six (6) projects qualified for funding. Five (5) of the six (6) projects were fully or partially funded, leaving only the Archway Commons project for future review, and

WHEREAS, The Citizen's Housing & Community Development Committee (CH&CDC) review subcommittee met on June 17, 2009, to review the Archway Commons project to provide affordable rental housing to a mix of household types, including single individuals, couples, households with children as well as seniors, and

WHEREAS, the CH&CDC review subcommittee recommended to the CH&CDC at their July 7, 2009 meeting to allocate $1,000,000 for the development of this project. Only 11 out of the 150 units will be HOME units, therefore the investment per HOME unit will be $90,909.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Home Loan Agreement between the City of Modesto and EAH, Inc. for the allocation of HOME Investment Partnership Program Entitlement Funds in the amount of $1,000,000.00 for the development of a 150-unit affordable housing complex, also referred to as Archway Commons.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Home Loan Agreement 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 August 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-393

A RESOLUTION ACCEPTING THE WORK BY CALIFORNIA TRENCHLESS, INC. FOR THE "CELESTE/ROSE/SCENIC SANITARY SEWER IMPROVEMENTS PROJECT" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $3,852,501.84

WHEREAS, a report has been filed by the Director of Public Works that the Celeste/Rose/Scenic Sanitary Sewer Improvements Project has been completed by California Trenchless, Inc. in accordance with the contract agreement dated March 7, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Celeste/Rose/Scenic Sanitary Sewer Improvements Project" is hereby accepted as complete from said contractor California Trenchless, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder and to release securities upon expiration of statutory periods, and that payment of amounts totaling $3,852,501.84 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 11th day of August, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-394

A RESOLUTION APPROVING THE PROSPECTIVE BIDDER PREQUALIFICATION LIST FOR THE PRIMARY OUTFALL REHABILITATION PROJECT CONSISTING OF THE FOLLOWING CONTRACTORS: COLICH & SONS L.P.; EBERT MCGUIRE AND HESTER; INSITUFORM TECHNOLOGIES, INC.; KENNY CONSTRUCTION COMPANY; MICHELS CORPORATION DBA MICHELS PIPELINE CONSTRUCTION; AND SPINIELLO COMPANIES

WHEREAS, the Primary Outfall Rehabilitation Project involves of the rehabilitation of approximately 11,872 feet of an existing 60-inch diameter primary effluent pipeline, and

WHEREAS, in order to limit project impacts, the City will use trenchless technologies to rehabilitate and optimize the capacity of the existing system, and

WHEREAS, because of the nature and complexity of the project, City staff are prequalifying contractors for the proposed work based on prior experience with projects of similar size and complexity, and

WHEREAS, the deadline for prospective bidders to submit a prequalification package to bid on the project was July 1, 2009, and

WHEREAS, on June 15, 2009, by Resolution No. 2009-291, the City Council approved the Prospective Bidder Prequalification Appeals Panel for the Public Works' projects, and

WHEREAS, the City received Statements of Prequalifications from seven contractors and evaluated the prospective bidders' qualifications based on experience with projects of similar size and complexity consistent with State law, and

WHEREAS, in their initial submittal Michels Corporation dba Michels Pipeline Construction (Michels) used a project manager who did not qualify for the project, and

WHEREAS, as a result, Michels requested a protest hearing, which was held on August 3, 2009, and

WHEREAS, in their revised submittal, Michels changed the project manager dedicated to the assignment, therefore Michels also qualified, and

WHEREAS, as a result, the following prospective bidders qualified to submit bids on the project: Colich & Sons L.P.; Ebert McGuire and Hester; Insituform Technologies, Inc.; Kenny Construction Company; Michels Corporation dba Michels Pipeline Construction; and Spiniello Companies, and

WHEREAS the qualified bidders will be placed on the bidders' list included in the project bid documents, and

WHEREAS, any contractors who wish to submit subcontracting proposals to the pre-qualified bidders will be allowed to obtain bid documents,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Prospective Bidder Prequalification List for the Primary Outfall Rehabilitation Project consisting of: Colich & Sons L.P.; Ebert McGuire and Hester; Insituform Technologies, Inc.; Kenny Construction Company; Michels Corporation dba Michels Pipeline Construction; and Spiniello Companies.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of August, 2009 by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-395

A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH WEST YOST ASSOCIATES, INC. FOR ADDITIONAL SERVICES RELATED TO THE ENGINEER'S REPORT FOR WATER RATE AND CONNECTION FEE UPDATE STUDY IN AN AMOUNT NOT TO EXCEED $121,690, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO AGREEMENT

WHEREAS, on October 23, 2007, by Resolution No. 2007-614, the City Council approved an agreement with West Yost Associates, Inc. (WYA) for professional services to develop an Engineer's Report to support a subsequent Water Rate and Capacity Charges Study (conducted by another firm), and

WHEREAS, the City now requires additional services to complete the Engineer's Report for Water Rate and Connection Fee Update Study, and

WHEREAS, having an up-to-date Engineer's Report on the water system is the critical supporting document needed to conduct a new Water Rate and Capacity Charge Study, and

WHEREAS, this study is essential to ensure that rates accurately reflect the cost to provide the necessary operational services, capital improvements, and system maintenance to deliver safe and reliable water, and

WHEREAS, the main elements of the Engineer's Report include: 1) Updating current and build-out water demands; 2) Identifying and justifying the various capital improvements needed to provide and maintain reliable water service; 3) Developing cost estimates and prioritizing the proposed improvements; 4) Determining the cost allocations of the needed improvements between the existing rate payers and future users, and

WHEREAS, in general, the scope of work originally envisioned to develop the Engineer's Report was underestimated by City staff and the consultant, and

WHEREAS, specifically, the collection, verification, and analysis of the City-provided data was much greater and more difficult to utilize than anticipated, and

WHEREAS, in some cases, the data did not even exist and had to be culled out from other sources or generated for the first time, and

WHEREAS, in other cases, the data was not entirely accurate and had to be reconciled, and

WHEREAS, beyond the original scope, some of the other factors that required additional work by the consultant include: expansion of the study area boundary part way through the analysis; the incorporation of reduced future water demands due to the installation of residential water meters; more meetings and increased management oversight to reconcile missing or inaccurate data; additional cycles of submitted and reviewed draft documents; and additional items asked for by City staff to strengthen the defensibility of the documents, and

WHEREAS, due to the above referenced delay and time sensitivity of much of the data, new tasks are included in the amended scope of work for WYA that will give the City the option of updating the data that was originally collected and analyzed, and

WHEREAS, on or about July 15, 2009, WYA submitted to the City a revised scope of services and fee proposal for additional services for the Engineer's Report for Water Rate and Connection Fee Update Study,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to Agreement with West Yost Associates, Inc. for

additional services for the Engineer's Report for Water Rate and Connection Fee Update Study in the not-to-exceed amount of $121,690.00.

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 11th day of August, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-396

A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH FCS GROUP, INC. FOR ADDITIONAL SERVICES TO CONDUCT AN UPDATE TO THE WATER RATE AND CAPACITY CHARGE STUDY IN AN AMOUNT NOT TO EXCEED $57,515 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $13,717 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $71,232, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO AGREEMENT

WHEREAS, on February 5, 2008, by Resolution No. 2008-087, the City Council approved an agreement with FCS Group, Inc. (FCS Group) to conduct the Update to the Water Rate and Capacity Charge Study, and

WHEREAS, in general, the scope of work originally envisioned to conduct the Water Rate and Capacity Charge Study was underestimated by City staff and the consultant, and

WHEREAS, specifically, the collection, verification, and analysis of the City-provided data was much greater and more difficult to utilize than anticipated, and

WHEREAS, in some cases, the data did not even exist and had to be culled out from other sources or generated for the first time, and

WHEREAS, in other cases, the data was not entirely accurate and had to be reconciled, and

WHEREAS, beyond the original scope, some of the other factors that required additional work by the consultant include: expansion of the study area boundary part way through the analysis; the incorporation of reduced future water demands due to the installation of residential water meters; more meetings and increased management oversight to reconcile missing or inaccurate data; additional cycles of submitted and

reviewed draft documents; and additional items asked for by City staff to strengthen the defensibility of the documents, and

WHEREAS, due to the above-referenced delay and time sensitivity of much of the data, new tasks are included in the amended scope of work for FCS Group that will give the City the option of updating the data that was originally collected and analyzed, and

WHEREAS, the City now requires additional services for updating the Water Rate and Capacity Charge Study, and

WHEREAS, on or about July 8, 2009, FCS Group submitted to the City a revised scope of services and fee proposal for additional services for updating the Water Rate and Capacity Charge Study,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to Agreement with FCS Group, Inc. for additional services to conduct an update to the Water Rate and Capacity Charge Study in an amount not to exceed $57,515 for the identified scope of services, plus $13,717 for additional services (if needed), for a maximum total amount of $71,232.

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 11th day of August, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-397

A RESOLUTION APPROVING THE FEDERAL FISCAL YEAR (FFY) 2009/2010 DISADVANTAGED BUSINESS ENTERPRISE (DBE) RACE-CONSCIOUS IMPLEMENTATION PROGRAM PLAN AGREEMENT FOR FEDERALLY-FUNDED STREET, AIRPORT, TRANSIT AND PARKS PROJECTS AND ESTABLISH AN ANNUAL ANTICIPATED DBE PARTICIPATION LEVEL (AADPL) FOR FFY 2009/2010 OF 5.93%; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE ANNUAL SUBMITTAL FORM

WHEREAS, the City of Modesto, in order to receive federal funding from the U.S. Department of Transportation (DOT) through the California Department of Transportation (Caltrans) is required to sign the California Department of Transportation's Disadvantaged Business Enterprise (DBE) Race-Conscious Implementation Agreement for federally funded street, airport, and transit projects, and

WHEREAS, the City of Modesto has approved the FY 2009/2010 Disadvantaged Business Enterprise (DBE) Race-Conscious Implementation Agreement and desires to adopt the Federal Fiscal Year 2009/2010 Annual Anticipated DBE Participation Level (AADPL) goal of 5.93%, which includes 2.15% Race Neutral and 3.78% Race Conscious,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Federal Fiscal Year 2009/2010 Disadvantaged Business Race-Conscious Implementation Program Plan Agreement for federally-funded street, airport, transit and parks projects.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it establishes an Annual Anticipated DBE Participation Level for FFY 2009/2010 of 5.93%.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it authorizes the City Manager, or his designee, to execute the Annual Submittal Form.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of August, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-398

A RESOLUTION APPROVING SUPPORT OF THE REALIGNMENT OF STATE ROUTE 108, AS A NECESSARY COMPONENT TO FACILITATE THE NORTH COUNTY CORRIDOR STATE ROUTE 108 EAST ROUTE ADOPTION

WHEREAS, the City of Modesto is a member agency of the North County Corridor Transportation Expressway Authority, which consists of the Stanislaus Council of Governments (StanCOG); the cities of Oakdale and Riverbank; and the County of Stanislaus, and

WHEREAS, the North County Corridor State Route (SR) 108 East Route Adoption will enhance traffic safety and improve transportation network performance by accommodating regional growth, promoting balanced traffic circulation, reducing congestion, and reducing travel times and vehicle hours of delay, and

WHEREAS, the realignment of a portion of State Route 108 is necessary to facilitate the North County Corridor SR 108 East Route Adoption, and

WHEREAS, the realignment of a portion of State Route 108 will allow for interregional connectivity from McHenry/SR 108, north of Modesto, east and north easterly, to an area east of the SR 120/108 junction,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves support of the realignment of State Route 108, as a necessary component to facilitate the North County Corridor SR 108 East Route Adoption.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of August 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant, Olsen

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-399

RESOLUTION APPROVING AN AMENDED AND RESTATED DISPOSITION AND DEVELOPMENT AGREEMENT WITH EAH, INC. PROVIDING FINANCIAL ASSISTANCE NOT TO EXCEED $6,749,000 FOR THE PROPOSED DEVELOPMENT OF A 150-UNIT AFFORDABLE HOUSING COMPLEX, ALSO REFERRED TO AS ARCHWAY COMMONS

WHEREAS, the Redevelopment Agency of the City of Modesto (the "Agency") is carrying out the Redevelopment Plan for the Modesto Redevelopment Project (the "Redevelopment Project"); and

WHEREAS, in conformance with Health and Safety Code Section 33490, the Agency adopted a five-year Implementation Plan (the "Implementation Plan") for the Redevelopment Project; and

WHEREAS, the Agency previously entered into a Disposition and Development Agreement ("Existing DDA"), dated as of June 2, 2009, with EAH, Inc. ("Developer") providing an option for the Developer to either purchase or ground lease from the Agency certain property ("Site") for the development of a 150-unit affordable housing project (the "Housing Project"; and

WHEREAS, in light of current facts, conditions and circumstances, the Agency and Developer have cooperated in the preparation of an Amended and Restated Disposition and Development Agreement (the "Amended DDA") to clarify that the Developer will purchase the Site from the Agency, and make other conforming changes related thereto; and

WHEREAS, the Amended DDA also provides for Agency assistance for the Housing Project in an amount not to exceed $6,749,000.00 (the "Agency Loan"), which consists of three elements, including a Predevelopment Loan in the amount of $900,000;

a Development Loan, not to exceed $1,869,900; and a Purchase Loan for the purchase price in the amount of $3,980,000, which amounts are consistent with the Agency Assistance provided for under the Existing DDA; and

WHEREAS, on April 29, 2009, by Resolution No. 10-2009, the Agency approved a Purchase Agreement to acquire three (3) of four (4) parcels (the "Site") needed for the development of an affordable housing complex, also referred to as Archway Commons (the "Housing Project"), and by Resolution No. 11-2009, the Agency approved an Agreement to Negotiate Exclusively ("ANE") with EAH, Inc. ("Developer") to negotiate the terms and provisions of an agreement for the development of the Housing Project; and

WHEREAS, a Purchase Agreement was approved on June 2, 2009, by Resolution No. 13-2009, for the acquisition of the fourth and final parcel needed for the Housing Project; and

WHEREAS, the Agency closed escrow on the first three (3) parcels of the Site on May 21, 2009, and escrow closed on the fourth parcel on July 1, 2009; and

WHEREAS, the Agency has received a proposed Amended Disposition and Development Agreement (the "DDA") from the Developer which provides for the sale of the Site to the Developer for development of the Housing Project; and

WHEREAS, the proposed Amended DDA further provides that the Developer will develop the Housing Project on the Site, consisting of approximately 150 affordable housing units; and

WHEREAS, the proposed Amended DDA also provides for Agency assistance for the Housing Project in an amount not to exceed $6,749,000.00 (the "Agency Assistance"), of which $3,980,000 has already been expended for the acquisition of all four parcels for

the Site and the remaining $2,769,000 is to provide additional financial assistance for the planning and development of the Housing Project; and

WHEREAS, the Community Redevelopment Law of the State of California (Health and Safety Code Section 33000, et seq.) provides in Section 33431 that any sale or lease of Agency property may be made only after a public hearing of the Agency after publication of notice as provided by law; and

WHEREAS, the Community Redevelopment Law further provides in Section 33433 that before any property acquired, in whole or in part, with tax increment monies, is sold or leased for development pursuant to a redevelopment plan, such sale or lease shall first be approved by the legislative body after a public hearing, that notice of the time and place of the hearing shall be published in a newspaper of general circulation in the community for at least two (2) successive weeks prior to the hearing, and that the Agency shall make available for public inspection a copy of the proposed sale or lease and a report containing specified information and the financial aspects of the proposal; and

WHEREAS, notice of a joint public hearing of the City Council of the City of Modesto (the "City Council") and the Agency was published on July 27, August 3 and August 10, 2009, and a joint public hearing was held on August 11, 2009, to consider and act on the sale of the Site pursuant to the Amended DDA; and

WHEREAS, prior to approval of the Existing DDA, the Agency prepared a report pursuant to Section 33433 of the Health and Safety Code (the "Original Report"), describing the cost of the Amended DDA to the Agency, the value of the property interest to be conveyed, the purchase price and other information required by said Section 33433, and has prepared a Supplement to the Original Report ("Supplemental Report")

addressing the changes made through the Amended DDA, and the Original Report and Supplemental Report, together with the Amended DDA, was made available to the public for inspection;

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

Section 1. The City Council hereby finds and determines that the sale of the Site by the Agency to the Developer and development of the Housing Project on the Site pursuant to the Amended DDA will assist in the elimination of blight and will provide housing for very-low and low-income households, and is consistent with the Five-Year Implementation Plan adopted by the Agency pursuant to Health and Safety Code Section 33490. This finding is based upon the facts and information contained in the Original Report and the Supplemental Report prepared by the Agency pursuant to Health and Safety Code Section 33433.

Section 2. The City Council hereby finds and determines that the consideration for the Site to be paid by the Developer under the Amended DDA is not less than the fair reuse value at the use and with the covenants and conditions and development costs authorized by the Amended DDA. This finding is based upon the facts and information contained in the Original Report and the Supplemental Report prepared by the Agency pursuant to Health and Safety Code Section 33433.

Section 3. The City Council hereby approves the Amended DDA in substantially the form on file with the City Clerk. The City Council further approves and authorizes the sale of the Site to the Developer and the funding of the Agency Assistance, all as provided for under the Amended DDA.

Section 4. The Agency is hereby authorized to execute the Amended DDA, subject to any minor conforming, technical or clarifying changes approved by Agency Counsel. The Agency is hereby further authorized to undertake such further actions and execute such documents as are necessary to carry out and complete the obligations of Agency under the Amended DDA, including without limitation the execution of deeds trust agreement, and all other actions and documents necessary for the sale of the Site to the Developer, and funding of the remainder of the Agency Assistance, all as provided for in the Amended DDA.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of August, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant, Olsen

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-400

RESOLUTION APPROVING SUBMITTAL OF GRANT APPLICATIONS TO THE FEDERAL TRANSIT ADMINISTRATION (FTA) REQUESTING $453,406 IN FTA JOB ACCESS AND REVERSE COMMUTE FUNDS AND $218,719 IN FTA NEW FREEDOM FUNDS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL GRANT APPLICATION AND GRANT AGREEMENT DOCUMENTS

WHEREAS, City is applying for Job Access and Reverse Commute (JARC) and New Freedom funds on behalf of the Modesto Urbanized Area, as requested by the Federal Transit Administration (FTA), and

WHEREAS, StanCOG would typically be the agency to apply for these funds, but it has not yet achieved the status of a federally recognized "eligible grantee" for this type of funding, and

WHEREAS, the FTA asked the City of Modesto to act as the grantee for these funds and pass them through to StanCOG, and

WHEREAS, StanCOG will maintain financial responsibility for these monies if the grant applications are approved, and

WHEREAS, JARC was established by the federal government to address the unique transportation challenges faced by low-income persons seeking employment and keeping their jobs, and

WHEREAS, the New Freedom program was authorized to support public transportation services beyond those required by the Americans With Disabilities Act of 1990, and

WHEREAS, a public hearing was held on August 11, 2009, at 5:30 p.m., in the Tenth Street Place Chambers located, at 1010 Tenth Street, Modesto, California, in accordance with FTA regulations,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves submittal of grant applications to the Federal Transit Administration (FTA) requesting $453,406 in FTA Job Access and Reverse Commute funds and $218,719 in FTA New Freedom funds.

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

The foregoing resolution was introduced at a meeting of the Council of the City of Modesto held on the 11th day of August, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant, Olsen

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-401

A RESOLUTION DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION OF A THREE-MONTH EXTENSION OF AN EXISTING TEMPORARY CONSTRUCTION EASEMENT. PROPERTY OWNER: BRIGHT DEVELOPMENT, A CALIFORNIA CORPORATION, PROPERTY ADDRESS: NORTHEAST CORNER OF PELANDALE AVENUE AND SISK ROAD, MODESTO, CALIFORNIA, ASSESSOR'S PARCEL NUMBER: 135-29-019 (PORTION)

WHEREAS, the City of Modesto is vested with the power of eminent domain to acquire property 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, and 1240.140; California Government Code Sections 37350.5, 37353, 39792, 40401 and 40404; Streets and Highways Code Section 1810; and the Pelandale Avenue at Sisk/SR99 Improvements Joint Powers Agreement by and between the City of Modesto and the County of Stanislaus, dated November 8, 2007, and

WHEREAS, on May 27, 2008, the City Council of the City of Modesto, after a public hearing, consideration of the comments, reports, documents, and information presented to it, adopted and approved a Resolution of Necessity, Resolution No. 2008-314, determining that the public interest and necessity require the acquisition of the subject real property, as set forth in Resolution No. 08-314 and its attachments after making all of the findings required by it under the law, and directing the filing of Eminent Domain proceedings, and

WHEREAS, Resolution No. 2008-314 is incorporated into this resolution as though fully set forth herein, and

WHEREAS, pursuant to the provisions of Section 7267.2 of the California Government Code, the City has made an offer to the owner of the Subject Property for just compensation prior to the adoption of Resolution No. 2008-314, and

WHEREAS, after adoption of Resolution No. 2008-314, the City was unable to settle with the Property Owner, and

WHEREAS, the City filed a Complaint in Eminent Domain on June 9, 2008, to acquire the subject real property interests for the benefit of its Project, and

WHEREAS, the real property interests being acquired are within the Project area, and include a temporary construction easement consisting of 5,300 square feet (0.1217 acres), more or less, in and to a portion of the subject property, also identified as Assessor's Parcel Number 135-29-019, and

WHEREAS, the temporary construction easement being acquired through the pending eminent domain action, as more particularly described and depicted in **Exhibit "A" attached** hereto, and incorporated by this reference, is for a term of 12 months, and

WHEREAS, pursuant to the Court's Order for Prejudgment Possession on file in the eminent domain action regarding the subject property and subject property acquisitions, the City has been in possession of the subject property interests, including the temporary construction easement, since October 20, 2008, and

WHEREAS, due to circumstances beyond its control, the City has determined that it needs a three-month extension of the existing temporary construction easement in and to a portion of the subject property approved by the Council on May 27, 2008, Resolution No. 2008-314, and

WHEREAS, the City of Modesto through its counsel, engaged a qualified appraiser who has prepared an appraisal of the three-month extension of the existing temporary construction easement, and

WHEREAS, on June 29, 2009, the City of Modesto made the written offer required by Section 7267.2 of the Government Code for the extended term of the temporary construction easement (the additional three months), and

WHEREAS, pursuant to the provisions of Section 1245.235 of the Code of Civil Procedure, notice has been duly given to the property owner as set forth herein, who has been given a reasonable opportunity to appear and be heard before the City Council of the City of Modesto on the following matters:

(a) Whether the public interest and necessity require the Project;
(b) Whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
(c) Whether the extended term of the existing temporary construction easement (the additional three months) is necessary for the Project; and
(d) Whether the offer required by Government Code Section 7267.2 has been made to the owner of the property; and

WHEREAS the City has completed the environmental review process for the Project in that the Project is consistent and within the scope of the City's Urban Area General Plan and Final Master Environmental Impact Report, and no additional California Environmental Quality Act clearance was needed,

NOW, THEREFORE, THE CITY OF MODESTO FINDS, DETERMINES, AND ORDERS as follows:

1. The above recitals are facts on which these findings are based.

2. The public purpose for which the property interests as stated herein are to be acquired is for implementation of the Pelandale Avenue at Sisk Road/SR 99 Improvement Project.

3. For the foregoing reasons, the City of Modesto finds and determines that:

(a) The public interest and necessity require the Project;
(b) 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) The taking of the three-month extension of the existing temporary construction easement in and to the subject property described in **Exhibit "A"** is necessary for the Project;
(d) The offer required by Government Code Section 7267.2 has been made to the owner of the subject property;

4. The City's counsel will continue to do whatever is necessary to proceed with the filed eminent domain action in order to acquire the property and property interests necessary for the Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of August, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant, Olsen

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

LEGAL DESCRIPTION AND PLAT MAP: TEMPORARY CONSTRUCTION EASEMENT

Legal Description and Plat Map: Temporary Construction Easement

A parcel of land in the Southeast 1/4 of Section 3, Township 3 South, Range 8 East, Mount Diablo Meridian, in Stanislaus County, State of California, and further described in the Grant Deed to Bright Development, a California Corporation recorded December 7, 1987 as Instrument No 134987 of Official Records of Stanislaus County; said parcel of land further described as:

A strip of land 10.00 feet in with lying contiguous to and to the generally northeasterly of the following described line:

Commencing at the southeast corner of said Parcel recorded on December 7,1987 and on the northerly line of Pelandale Avenue (lying 20.00 feet northerly of centerline) as shown upon the map filed on December 7,1987 in Book 17 of Surveys at Page 71; thence along the easterly line of said Parcel, North 00°26'54" West 59.50 feet to the **Point of Beginning**; thence South 89°33'06" West 94.38 feet; thence along the arc of a tangent curve concave to the northeast having a radius of 51.50 feet, a chord bearing North 54°38'45" West 60.25 feet through a central angle of 71°36'20", an arc length of 64.36 feet to a point of reverse curvature; thence along the arc of a tangent curve concave to the southwest having a radius of 633.82 feet, a chord bearing North 22°34'23" West 82.47 feet, through a central angle of 7°27'37", an arc length of 82.53 feet to a non-tangent curve concave to the southwest having a radius of 509.50 feet, a chord bearing North 39°20'06" West 227.70 feet; through a central angle of 25°49'27", an arc length of 229.64 feet; thence North 52°14'50" West 58.57 feet to the southwest corner of said parcel and the **Point of Terminus.**

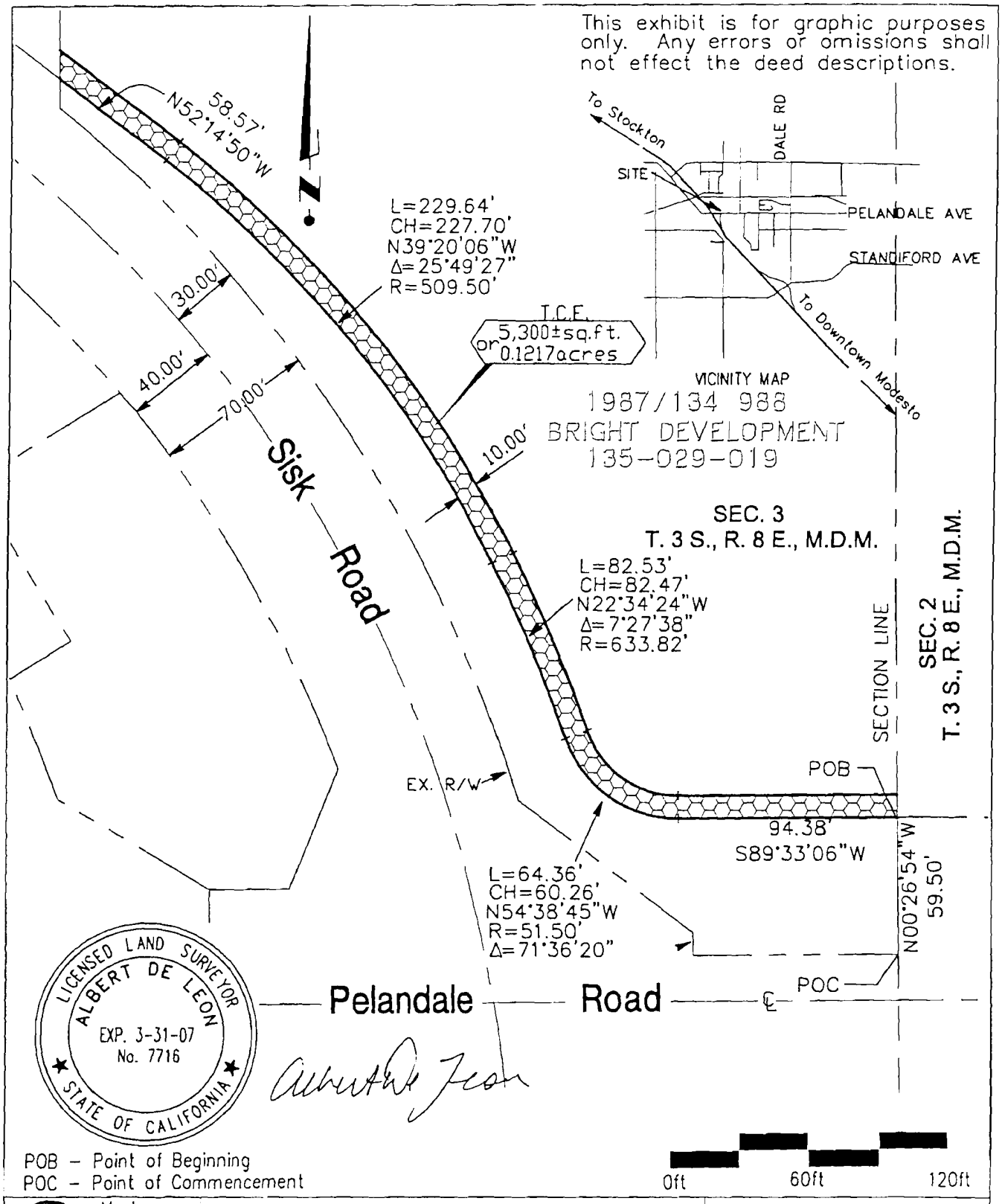
The sidelines of said strip shall be lengthened or shortened so as to terminate at the property lines of said lot.

Containing 5,300 square feet (0.1217 Acres) more or less.

This real property description has been prepared at Mark Thomas & Company, Inc., by me or under my direction, in conformance with the Professional Land Surveyors Act.

Albert De Leon LS 7716

February 22, 2007
Date



Mark Thomas & Company Inc.

Scale 1"=60'
Date 16-Feb-2007
Drawn By saw
Checked By DeLeon

CITY OF MODESTO

EXHIBIT B

Plat to Accompany Legal Description of
TEMPORARY CONSTRUCTION EASEMENT
for
Pelandale Road and Sisk Road

In Stanislaus County, California

Temporary Construction Easement Area 5,300±Sq.Ft.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-402

A RESOLUTION APPROVING A MEMORADUM OF UNDERSTANDING BETWEEN THE CITY OF MODESTO AND THE MODESTO POLICE NON-SWORN ASSOCIATION FOR A TERM OF JUNE 23, 2009 THROUGH JUNE 21, 2010

WHEREAS, the current Memorandum of Understanding (MOU) between the City of Modesto (CITY) and the Modesto Police Non Sworn Association (MPNSA) expired on June 22, 2009, and

WHEREAS, representatives of the CITY and the MPNSA have met and conferred in good faith concerning wages, hours, terms and conditions of employment for employees in said bargaining unit, and

WHEREAS, the CITY and MPNSA have reached agreement on a new MOU which, upon execution, shall be **attached** hereto and made a part hereof, and

WHEREAS, the MOU provides as follows:

SECTION 1. MANDATORY FURLOUGHS. For fiscal year 2009-2010, each bargaining unit member shall take 96-hours of mandatory furloughs. For twenty-four (24) pay periods beginning August 4, 2009, each bargaining unit member shall have four (4) unpaid furlough hours deducted from his/her paycheck, for a total of ninety-six (96) hours during fiscal year 2009-2010. Effective August 4, 2009 the CITY shall create for each member a furlough bank of ninety-six (96) hours. Between August 4, 2009 and June 30, 2010, the Department Director or designated representative shall ensure that all members exhaust all ninety-six (96) hours in the furlough bank in a manner that does not result in an increase in overtime cost, where applicable, due to the vacancy left by the furloughed employee. Furlough hours that have been deducted and banked but have not

been taken as time off by June 30, 2010, shall be forfeited by the employee and shall not be cashed out.

SECTION 2. HEALTH, DENTAL AND VISION BENEFITS. The CITY's contribution to employees' Health, Dental and Vision coverage shall be as follows:

	7/22/08	7/21/09
Family	$957	$1050
Employee Only	535	$596
Opt Out	425	$450

The agreement removes the provision that the CITY's contribution for Employee Only coverage will be 100% of the premium for the lowest cost HMO plan (including dental and vision).

SECTION 3. LAYOFF AND DEMOTION PROCEDURES. Several revisions including using time in classification instead of total City service to determine seniority and minor revisions to reflect current practice.

SECTION 4. HEALTH STUDY. The CITY agrees to engage a consultant to conduct a comprehensive review of health insurance plans and options for all active and retired employees. The review will consider options and shall include but not be limited to PERS health. Upon receipt of the study, the City and MPNSA agree to reopen on the topic of health plan options for actives and retirees. The reopener is on the issue of health plans and is not a reopener of total City contribution. The parties may mutually agree to reopen on other provisions affected by the issue of health plans.

SECTION 5. ADDITIONAL CHANGES. Changes to the MOU also include removing references to IBN from the agreement, removing references to the market study, amending language on pay differentials to remove the forty-eight (48) hour limit on paying the differential on sick leave, allowing squad bidding for Patrol and shift and

squad bidding for Records subject to the department's needs and approval, and amending the advance notice requirements for leave usage.

WHEREAS, the MPNSA membership has already ratified this Agreement, and

WHEREAS, the Council considered this matter at its meeting of August 11, 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the Agreement between the City of Modesto and the Modesto Police Non Sworn Association and upon execution of same, a copy of the Agreement 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 August, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-403

RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF TWO (2) DUMP TRUCKS FOR THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, TO VALLEY PETERBILT, TURLOCK, CA, FOR A TOTAL ESTIMATED COST OF $113,902 AND DELTA TRUCK CENTER, MODESTO, CA, FOR A TOTAL ESTIMATED COST OF $109,647 AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE PURCHASE ORDERS FOR A TOTAL ESTIMATED COST OF $223,549

WHEREAS, on October 28, 2008, the City Council, by Resolution No. 2008-592, authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment throughout FY 08/09 through various competitive processes, with the Purchasing Division coming back to Council for award authorization, and

WHEREAS, the two (2) dump trucks for the Compost Division and the Water Division were included in the FY 08/09 new vehicles and heavy equipment list authorized by Council, and

WHEREAS, on April 17, 2009, the Purchasing Division issued RFB No. 0809-23 for the purchase of two (2) dump trucks to thirty-three (33) prospective bidders, posted the bid on the City's web site and formally advertised as required by law, and

WHEREAS, based on providing the lowest responsive and responsible bids, City staff recommends the award of bid and contract for the purchase of two (2) dump trucks for the Public Works Department, Fleet Services Division, to Valley Peterbilt, Turlock, CA, for a total estimated cost of $113,902 and Delta Truck Center, Modesto, CA, for a total estimated cost of $109,647, and authorizing the Purchasing Manager to issue a purchase order for a total estimated cost of $223,549, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contract for the purchase of two (2) dump trucks for the Public Works Department, Fleet Services Division, to Valley Peterbilt, Turlock, CA, and Delta Truck Center, Modesto, CA, conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted in Fiscal Year 2009-10 in the following Fleet Equipment Replacement Fund accounts: 7210-480-5814-5856 for $113,902 and 7210-480-5814-5516 for $109,647,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase of two (2) dump trucks for the Public Works Department, Fleet Services Division, to Valley Peterbilt, Turlock, CA for a total estimated cost of $113,902 and Delta Truck Center, Modesto, CA, for a total estimated cost of $109,647.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue purchase orders for a total estimated cost of $223,549.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of September, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-404

RESOLUTION AMENDING THE FISCAL YEAR 2008-2009 AND FISCAL YEAR 2009-2010 ANNUAL BUDGETS

WHEREAS, a monthly financial analysis has been completed and it has been determined that certain adjustments are required to the Annual Budget of the City of Modesto for Fiscal Year 2008-2009 and Fiscal Year 2009-2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the Fiscal Year 2008-2009 and Fiscal Year 2009-2010 budgets have been adjusted as shown in **Exhibit A**, which is 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.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of September, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following votes:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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

COMMUNITY AND ECONOMIC DEVELOPMENT

This budget adjustment transfers funds from Reserves to the CFD Annual Maintenance account in the NorthPointe CFD fund for necessary repairs to the NorthPointe storm basin.

APPROPRIATIONS

FROM:		
2750-800-8000-8003	Contingency Reserves	(50,000)
TO:		
2750-140-0207-0223	Repair & Maintenance	50,000

REDEVELOPMENT AGENCY

This budget adjustment returns funds from Fund 9060 (RDA Low to Moderate Income Housing) to Fund 9050 (RDA Administration) and Fund 9080 (RDA Project Fund) for an Excess Surplus Penalty Refund.

APPROPRIATIONS

FROM:		
9060-140-K743-6030	Land/ROW Acquisition	(112,355)
TO:		
9050-800-8000-8003	Contingency Reserves - RDA Admin	19,174
9080-800-8000-8003	Contingency Reserves – RDA Project Plan	93,181

TRANSFERS BETWEEN FUNDS

FROM:		
9060-700-K743-7905	Transfer Out to Fund 9050	19,174
9060-700-K743-7908	Transfer Out to Fund 9080	93,181
TO:		
9050-700-K743-9906	Transfer In from Fund 9060	19,174
9080-700-K743-9906	Transfer In from Fund 9060	93,181

**This budget adjustment transfers funds into the Debt Service Fund (9450) from the General Fund (0100) and the Redevelopment Agency (9020) for Debt Service charges associated with the 2008 Lease Revenue Bonds.

APPROPRIATIONS

FROM:		
0100-800-8000-8003	Contingency Reserves	(76,845)

9020-800-8000-8003	Contingency Reserves – RDA COP Debt Service	(31,098)
TO:		
9450-120-DS27-0468	Remarketing Agent Fees	107,973

TRANSFERS BETWEEN FUNDS

FROM:		
0100-700-7000-7945	Transfer Out to Fund 9450	76,845
9020-700-7000-7945	Transfer Out to Fund 9450	31,098
TO:		
9450-700-7000-9010	Transfer In from Fund 0100	76,845
9450-700-7000-9902	Transfer In from Fund 9020	31,098

FINANCE

This budget adjustment recognizes unbudgeted Interfund Labor revenue in the General Fund and re-appropriates these funds to offset overtime expenses in the Water Fund.

REVENUES

TO:		
0100-120-1225-4909	InterFund Labor	30,157

APPROPRIATIONS

TO:		
6100-120-5023-0255	Services City Forces	30,157

PARKS, RECREATION AND NEIGHBORHOODS

This budget adjustment transfers funds from Centre Plaza FF&E Reserves to Furniture Fixtures & Equipment for specific projects and purchases that were not completed in FY2008-09.

APPROPRIATIONS

FROM:		
6710-800-8000-8003	Contingency Reserves	(8,180)
TO:		
6710-340-3420-0223	FF&E Repair & Maintenance	8,180

This budget adjustment appropriates the donation made by the Mansion Foundation to the McHenry Mansion basement brick foundation study.

REVENUES

FROM

0100-360-3611-8122	Mansion Foundation Donation	50,000

APPROPRIATIONS

TO:

0100-360-3611-5000	Basement Foundation Study	50,000

**This budget adjustment transfers funds from Green Waste Diversion Fund Reserves and appropriates these funds to the Green Waste Diversion Fund (Fund 0370) Fiscal Year 2008-09 Operating Budget for expenditures due to the January 1, 2009 fees increase.

APPROPRIATIONS

FROM:

0370-800-8000-8003	Green Waste Diversion Fund Reserves	(45,540)

TO:

0370-355-4444-0181	Salary Adjustment – Increase	21,990
0370-355-4444-9991	Service Credit – Intrafund	(11,311)
0370-355-4444-0218	Equip. Pool Rental	13,919
0370-355-4444-0235	Services Professional & Other	20,942

POLICE

This budget adjustment recognizes unbudgeted revenue from the Avoid the12 Grant and appropriates these funds to offset overtime expenses.

REVENUES

TO:

0100-190-1969-4025	Contract Police Services	13,700

APPROPRIATIONS

TO:

0100-190-1969-0130	Overtime	13,700

In Fiscal Year 2008-09, significant reductions were made to the Supplemental Law Enforcement Services Fund (SLESF) limiting the amount cities and counties received to $100,000. This budget adjustment allows the City of Modesto to meet this requirement.

REVENUES

FROM:

0400-190-2925-3188	SLESF	(86,341)

APPROPRIATIONS

TO:

0400-190-2925-0130	Overtime	(86,341)

PULBIC WORKS

This budget adjustment allows for the creation of a new organization in fund 6540 to provide a record of grant administration costs related to the of Federal Transportation Administration (FTA) Grants.

APPROPRIATIONS

FROM:		
6540-165-1672-9991	Intrafund Labor	(100,000)
TO:		
6540-165-1680-0259	Services City Forces	100,000

This budget adjustment recognizes unbudgeted revenue from the sale of real property at 1517 10th Street, and appropriates these revenues to General Fund Revenues, 0100-800-8000-8003, and Capital Improvement Project W011, Kansas-Needham Soil Remediation, 6180-430-W011-6010.

REVENUES

TO:		
0100-510-9510-8101	Sale of Real Property	233,959
6180-430-W011-8101	Sale of Real Property	4,569

APPROPRIATIONS

TO:		
0100-800-8000-8003	General Fund Reserves	233,959
6180-430-W011-6010	Engineering/Design/Administration	4,569

This budget adjustment closes the Capital Improvement Project, Detector Loops 2370-160-E667, and returns the unused Gas Tax Match funding to Gas Tax Reserves.

APPROPRIATIONS

FROM:		
2370-160-E667-8014	Detector Loops – Secondary	(302)
TO:		
2370-800-8000-8003	Contingency Reserves	302

TRANSFERS BETWEEN FUNDS

FROM:		
0700-700-E667-7237	Transfer Out to Fund 2370	(886)
TO:		

2370-700-E667-7070	Transfer Out to Fund 0700	(886)

This budget adjustment closes the Capital Improvement Project, Lighted Crosswalks 2370-160-E662-8014, and returns the unused Gas Tax Match funding to Gas Tax Reserves.

APPROPRIATIONS

FROM:		
2370-160-E662-8014	Lighted Crosswalks – Secondary	(29,503)
TO:		
2370-800-8000-8003	Contingency Reserves	29,503

TRANSFERS BETWEEN FUNDS

FROM:		
0700-700-E662-7237	Transfer Out to Fund 2370	(35,393)
TO:		
2370-700-E662-7070	Transfer Out to Fund 0700	(35,393)

This budget adjustment closes the Capital Improvement Project, Scenic and Bodem Right Turn Lane 2300-160-N060-8014, and returns the unused funding to the Capital Grants Fund Reserves.

APPROPRIATIONS

FROM:		
2300-160-N060-8014	Scenic and Bodem Right Turn Lane	(122,798)
TO:		
2300-800-8000-8003	Contingency Reserves	122,798

TRANSFERS BETWEEN FUNDS

FROM:		
1410-700-N060-7230	Transfer Out to Fund 2300	(106,890)
TO:		
2300-700-N060-7141	Transfer Out to Fund 1410	(106,890)

This budget adjustment recognizes PCE Settlement Revenue and Interest, and appropriates these funds in the Water PCE Litigation Fund Reserves.

REVENUES

TO:		
6112-440-5042-8121	PCE Settlement Trust Account	1,282,718
6112-440-5042-6101	Interest	43,946

APPROPRIATIONS

TO:		
6112-800-8000-8003	Water PCE Fund Reserves	1,326,664

This budget adjustment recognizes unbudgeted revenue to the Police Department from the Water Fund and Sewer Fund, and appropriates these funds to offset the costs of a police officer stationed in the Customer Services Lobby of TSP. Monies will be appropriated from the Water and Sewer Fund Reserves to offset the expense.

REVENUES

TO:		
0100-190-1961-4909	Interfund Labor	55,564

APPROPRIATIONS

FROM:		
6210-800-8000-8003	Contingency Reserves	27,782
6100-800-8000-8003	Contingency Reserves	27,782

TO:		
6210-480-5217-0255	Services City Forces	27,782
6100-120-5023-0255	Services City Forces	27,782
0100-800-8000-8003	Contingency Reserves	55,564

The 2006 Wastewater bond issue resulted in $15,600,000 in net bond proceeds which was budgeted to fund three Wastewater projects. This budget adjustment allows for the closure of Capital Improvement Project (CIP) A215, Dissolved Air Flotation, and combines Capital Improvement Projects B806, Wastewater Phase 1B Tertiary, and B061, Wastewater Phase 2 Tertiary, so that CIP B806 can be closed.

TRANSFERS BETWEEN FUNDS

FROM:		
6240-700-A215-7621	Transfer Out to Fund 6210	(3,189,178)
6240-700-B805-7621	Transfer Out to Fund 6210	5,141,946
6240-700-B806-7621	Transfer Out to Fund 6210	(1,952,768)

TO:		
6210-700-A215-9624	Transfer In From Fund 6240	(3,189,178)
6210-700-B805-9624	Transfer In From Fund 6240	5,141,946
6210-700-B806-9624	Transfer In From Fund 6240	(1,952,768)

** This budget adjustment is necessary to close Capital Improvement Project B627, 2005 Annual Sewer Rehabilitation, return the unused funding to the Wastewater Fund Reserves, and transfers funds from the Wastewater Fund Reserves to a Secondary Capital Improvement

Project B778, Collection System Rehabilitation Improvements, for future secondary project expenditures.

APPROPRIATIONS

FROM:		
6210-430-B627-8014	2005 Annual Sewer Rehab Closure	(137,788)
6210-800-8000-8003	Wastewater Reserves	(137,788)
TO:		
6210-800-8000-8003	Wastewater Reserves	137,788
6210-430-B778-6052	Collection System Rehab	137,788

** This budget adjustment recognizes Garbage Service Fee revenue in the Gas Tax Fund, and appropriates these funds in object 0360, Real Property Maintenance and Repair to maintain city streets.

REVENUES

TO:		
0700-480-4617-1307	Garbage Service Fees	189,949

APPROPRIATIONS

TO:		
0700-480-4617-0360	Real Property Maintenance & Repair	189,949

**This budget adjustment transfers funds adopted in the Fiscal Year 2009-10 Enterprise Fleet Replacement Sub Funds to the primary Fleet Fund. Purchases will be handled on an individual basis and the purchasing department will reimburse the Fleet Fund for the total cost.

APPROPRIATIONS

FROM:		
6109-480-5080-5515	Truck with Air Compressor	(126,000)
6109-480-5080-5516	Truck with Air Compressor #2	(110,000)
6109-480-5080-5517	Truck ¾ Ton Full Size	(32,000)
6109-480-5080-5521	Truck with Effer Crane #2	(125,000)
6219-480-5280-5518	Truck with Utility Body & Crane	(84,000)
6289-480-5380-5519	Truck with Effer Crane	(115,000)
TO:		
7210-480-5814-5515	Truck with Air Compressor	126,000
7210-480-5814-5516	Truck with Air Compressor #2	110,000
7210-480-5814-5517	Truck ¾ Ton Full Size	32,000
7210-480-5814-5521	Truck with Effer Crane #2	125,000
7210-480-5814-5518	Truck with Utility Body & Crane	84,000
7210-480-5814-5519	Truck with Effer Crane	115,000

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-405

A RESOLUTION APPROVING AN AGREEMENT WITH CPS HUMAN RESOURCE SERVICES (CPS) TO CONDUCT THE RECRUITMENT FOR THE POSITION OF DIRECTOR OF HUMAN RESOURCES; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City desires to retain the services of CPS Human Resource Services (CPS) to conduct the recruitment for the position of Director of Human Resources, and

WHEREAS, on March 12, 2007, the City entered into a Master Consulting Services Agreement with CPS, and

WHEREAS, the City has previously contracted with CPS under the Master Consulting Services Agreement to conduct the searches for City Manager, City Clerk and City Auditor, and

WHEREAS, the City desires to contract with CPS under this Master Consulting Services Agreement to conduct the search for the position of Director of Human Resources at an additional cost not to exceed $24,500, and

WHEREAS, CPS is specially trained, experienced and competent to provide executive search services for the City, and

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with CPS Human Resource Services to conduct the recruitment for the position of Director of Human Resources.

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

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 1st day of September, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-406

A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING WITH STANISLAUS COUNTY OFFICE OF EDUCATION IN THE AMOUNT OF $112,000 FOR THE SERVICES OF ONE MODESTO POLICE OFFICER/SCHOOL RESOURCE OFFICER AT PETERSEN ALTERNATIVE CENTER FOR EDUCATION CAMPUS TO PROVIDE DIRECT LAW ENFORCEMENT SERVICES, EXPERTISE AND TRAINING; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE MEMORANDUM OF UNDERSTANDING

WHEREAS, the Stanislaus County Office of Education (SCOE) requires one Modesto police officer to provide direct law enforcement services, expertise and training, and to act as a School Resource Officer at Petersen Alternative Center for Education (P.A.C.E.) campus, and

WHEREAS, the Modesto Police Department can provide a specially trained, uniformed police officer who can take any enforcement action at the school site, if warranted, and

WHEREAS, the officer's presence with the students provides mentoring and protection of youth in our community, and

WHEREAS, the City will be compensated by the SCOE in the amount of $112,000 for the services of one Modesto police officer, and

WHEREAS, the term of this MOU is August 17, 2009 to June 3, 2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Memorandum of Understanding with Stanislaus County Office of Education in the amount of $112,000 for the services of one Modesto Police Officer / School Resource Officer salary and benefits at Petersen Alternative Center for Education campus to provide direct law enforcement services, expertise and training.

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 1st day of September, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-407

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND MODESTO CITY SCHOOLS IN AN AMOUNT NOT TO EXCEED $448,000 FOR THE SERVICES OF FOUR MODESTO POLICE OFFICERS/SCHOOL RESOURCE OFFICERS TO PROVIDE DIRECT LAW ENFORCEMENT SERVICES AT 11 SCHOOL SITES; 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, 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 direct law enforcement action at the district school sites, if warranted, and

WHEREAS, the police officers' presence with the students provides mentoring and protection of youth in our community, and

WHEREAS, the term of this Agreement is July 1, 2009, to June 30, 2010, and

WHEREAS, the City shall be compensated by Modesto City Schools 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 in an amount not to exceed $448,000 for the services of four Modesto Police Officers/School Resource Officers (SROs) to provide direct law enforcement services at 11 school sites.

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 September, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-408

A RESOLUTION ACCEPTING THE SELECTIVE TRAFFIC ENFORCEMENT PROGRAM (STEP) GRANT IN THE AMOUNT OF $298,770 FROM THE OFFICE OF TRAFFIC SAFETY (OTS) TO INCREASE ENFORCEMENT FOR SPEED, DUI, AND MOTORCYCLE COLLISIONS/VIOLATIONS, WHILE ALSO REDUCING COLLISIONS WITH SPEED, DUI, AND FAILURE TO YIELD VIOLATIONS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY AWARD 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 $298,770 from OTS, and

WHEREAS, acceptance of said $298,770 grant will increase enforcement for speed, DUI, and motorcycle collisions/violations, while also reducing collisions with speed, DUI, and failure to yield violations, and

WHEREAS, OTS will pay 100% of the salary for an existing full-time Traffic Unit Community Services Officer (CSO), overtime for officers, and equipment to assist in traffic studies and other traffic related enforcement/investigation equipment, and

WHEREAS, the term of this grant will be from October 1, 2009 through September 30, 2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Selective Traffic Enforcement Program (STEP) Grant in the amount of $298,770 from the Office of Traffic Safety (OTS) to increase enforcement for speed, DUI, and motorcycle collisions/violations, while also reducing collisions with speed, DUI, and failure to yield violations.

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 1st day of September, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NUMBER 2009-409

A RESOLUTION AMENDING THE FISCAL YEAR 2009/2010 OPERATING AND MULTI-YEAR GRANT BUDGET TO REFLECT REVENUE AND EXPENSES IN THE AMOUNT OF $298,770 RELATED TO THE SELECTIVE TRAFFIC ENFORCEMENT PROGRAM (STEP) GRANT TO INCREASE ENFORCEMENT FOR SPEED, DUI, AND MOTORCYCLE COLLISIONS / VIOLATIONS

WHEREAS, the Police Department acquired a grant award in the sum of $298,770 from the Office of Traffic Safety (OTS) to increase enforcement for speed, DUI, and motorcycle collisions/violations, and

WHEREAS, the grant will pay 100% of the salary for an existing full-time Traffic Unit Community Services Officer (CSO), overtime for officers, and equipment to assist in traffic studies and other traffic related enforcement/investigation equipment, and

WHEREAS, there is no local match required for this grant, and

WHEREAS, the term of this grant will be from October 1, 2009 through September 30, 2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2009/2010 Operating and Multi-Year Budget is hereby adjusted as indicated below to initiate said grant project:

		Expense	
TO:	0100-190-1954-0181	$ 38,385	Salary for CSO for 12 months
	0100-190-1954-0191	14,625	Benefits for CSO
	0410-190-2100-0130	112,610	Overtime
	0410-190-2100-0207	2,200	Required Conferences
	0410-190-2100-0255	56,770	Interfund charges Community & Economic Development
	0410-190-2100-0356	20,500	Lidar and Radar Units
	0410-190-2100-0351	2,000	Camera and Video Equipment
	0410-190-2100-0308	21,010	Checkpoint supplies, Accelerometer and PAS Devices

	0410-190-2100-5000	13,000	Collision Reconstruction Equipment
	Revenue		
TO:	0410-190-2100-3490	$ 298,770	State Grants
	Transfer		
TO:	0100-700-1954-9041	$ 53,010	Transfer In from Fund 0410
FROM:	0410-700-2100-7010	53,010	Transfer Out to Fund 0100

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of September, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-410

A RESOLUTION ACCEPTING THE WORK BY SUNWORLD FOR THE PROJECT TITLED "PAMELA MONTEROSSO PARK" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $523,984.97

WHEREAS, a report has been filed by the Director of Public Works that the project titled "Pamela Monterosso Park" has been completed by Sunworld in accordance with the contract agreement dated December 12, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Pamela Monterosso Park" is hereby accepted as complete from said contractor Sunworld, that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $523,984.97 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 September, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:
By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-411

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE RSA ENHANCEMENT AND APRON REHABILITATION PROJECT, ACCEPTING THE BID, AND APPROVING A CONTRACT WITH GEORGE REED, INC. IN THE AMOUNT OF $702,772.50 FOR THE RSA ENHANCEMENT AND APRON REHABILITATION PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the RSA Enhancement and Apron Rehabilitation project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the RSA Enhancement and Apron Rehabilitation project were opened at 11:00 a.m. on July 28, 2009, and later tabulated by the Director of Public Works for the consideration of the Council, and

WHEREAS, the Director of Public Works has recommended that the bid of $702,772.50 received from George Reed, Inc. be accepted as the lowest responsible bid and the contract be awarded to George Reed, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the RSA Enhancement and Apron Rehabilitation project, accepts the bid of George Reed, Inc. in the amount of $702,772.50, and awards George Reed, Inc. the contract for the RSA Enhancement and Apron 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 1st day of September, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-412

A RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FULLY FUND THE CONTRACT FOR THE RSA (RUNWAY SAFETY AREA) ENHANCEMENT AND APRON REHABILITATION PROJECT

WHEREAS, multiple budget adjustments to the Capital Improvement Projects in the Special Aviation Fund are necessary to fully fund the contract with George Reed, Inc. for the RSA Enhancement and Apron Rehabilitation project along with engineering / design / administration support by City staff, contingency and construction administration, and

WHEREAS, the Fiscal Year 2009-2010 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 2009-2010 Capital Improvement Program budget as shown in **Exhibit A**.

BE IT FURTHER RESOLVED that the Finance Director, or his/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 1st day of September, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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

FUND: Special Aviation

This budget adjustment increases FAA Capital Grant revenues in Capital Improvement Project A004, Enhance Runway 10R Safety Area to appropriately populate funding for the correct bid item for the project titled, "RSA Enhancement and Apron Rehabilitation", and transfers funds from County Aircraft Tax Fund to Special Aviation Fund. This adjustment reappropriates these funds to offset expenses in the Special Aviation Fund.

REVENUES:		Increase/(Decrease)
FROM:		
6320-440-A004-3613		$98,246

APPROPRIATIONS:

TO:		
6320-440-A004-6040	Construction	$82,733
6320-440-A004-6050	Contingency	$20,410
6320-440-A004-6060	Construction Admin.	$274

TRANSFERS BETWEEN FUNDS:

FROM:		
6330-700-A004-7632	Transfer out to Fund 6320	$5,171
TO:		
6320-700-A004-9633	Transfer in from Fund 6330	$5,171

This budget adjustment increases FAA Capital Grant revenues in Capital Improvement Project A005, Replace/Update Airfield Windcone to appropriately populate funding for the correct bid item for the project titled, "RSA Enhancement and Apron Rehabilitation", and transfers funds from County Aircraft Tax Fund to Special Aviation Fund. This adjustment reappropriates these funds to offset expenses in the Special Aviation Fund.

REVENUES:	Increase/(Decrease)
FROM:	
6320-440-A005-3613	$24,959

APPROPRIATIONS:

TO:

6320-440-A005-6040	Construction	$21,618
6320-440-A005-6050	Contingency	$4,193
6320-440-A005-6060	Construction Admin.	$462

TRANSFERS BETWEEN FUNDS:

FROM:

6330-700-A005-7632	Transfer out to Fund 6320	$1,314

TO:

6320-700-A005-9633	Transfer in from Fund 6330	$1,314

This budget adjustment decreases FAA Capital Grant revenues in Capital Improvement Project A011, Apron Rehabilitation Design to appropriately populate funding for the correct bid item for the project titled, "RSA Enhancement and Apron Rehabilitation", and transfers previously received funds in the Special Aviation Fund back to the County Aircraft Tax Fund. This adjustment decreases these funds to offset expenses in the Special Aviation Fund.

REVENUES:	Increase/(Decrease)

FROM:

6320-440-A011-3613	($97,128)

APPROPRIATIONS:

TO:

6320-440-A011-6040	Construction	($81,792)
6320-440-A011-6050	Contingency	($4,268)
6320-440-A011-6060	Construction Admin.	($16,179)

TRANSFERS BETWEEN FUNDS:

FROM:

6330-700-A011-7632	Transfer out to Fund 6320	($5,111)

TO:

6320-700-A011-9633	Transfer in from Fund 6330	($5,111)

This budget adjustment decreases FAA Capital Grant revenues and Passenger Facility Charges in Capital Improvement Project A015, Airport Sec. 28R Approach End to appropriately populate funding for the correct bid item for the project titled, "RSA Enhancement and Apron Rehabilitation", and decreases these funds to offset expenses in the Special Aviation Fund.

REVENUES:		Increase/(Decrease)
FROM:		
6320-440-A015-3613		($15,181)
6320-440-A015-4405		($799)
APPROPRIATIONS:		
FROM:		
6320-440-A015-6040	Construction	($22,785)
TO:		
6320-440-A015-6050	Contingency	$4,083
6320-440-A015-6060	Construction Admin.	$2,722

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-413

A RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE RIGHT-OF-WAY CERTIFICATIONS FOR FEDERALLY FUNDED PROJECTS

WHEREAS, the City of Modesto uses various federally funded programs for construction projects, and

WHEREAS, these federal funds are controlled by the State of California through its agency, Caltrans, and

WHEREAS, the preliminary engineering phase of a project includes Caltrans' approval of certification of right-of-way, and

WHEREAS, a separate right-of-way certification must be completed by the City for each project, even if no right-of-way is required for the project, and

WHEREAS, authorizing the City Manager, or his designee, to sign right-of-way certifications is required for the City to continue use of federally funded programs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager, or his designee, to sign right-of-way certifications for federally funded projects.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of September, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-414

A RESOLUTION APPROVING AN AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY (FEE, GRANT DEED) BETWEEN THE CITY OF MODESTO AND HANS J. WAGNER AND DONALD E. WAGNER, TRUSTEE OF DONALD E. WAGNER TRUST, ET AL, IN THE AMOUNT OF $30,500, FOR THE ACQUISITION OF A PORTION OF PROPERTY LOCATED AT THE NORTHWEST CORNER OF PELANDALE AVENUE (APN: 078-018-021) AND THE GRANTING OF EXCESS PROPERTY ON AMERICAN AVENUE (APN: 078-018-021), FOR THE PELANDALE AVENUE WIDENING PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT, A GRANT DEED CONVEYING EXCESS PROPERTY, AND ALL RELATED DOCUMENTS REQUIRED TO CLOSE ESCROW

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 portion of a property located on Pelandale Avenue (APN: 078-018-021) owned by Hans J. Wagner and Donald E. Wagner, trustee of Donald E. Wagner Trust to be purchased by the City of Modesto for the Pelandale Avenue Widening project, and

WHEREAS, the City of Modesto desires to grant a portion of excess property that was acquired for the Pelandale Widening Project located on American Avenue (APN: 078-018-021) owned by Hans J. Wagner and Donald E. Wagner, trustee of Donald E. Wagner Trust not necessary for the Pelandale Avenue Widening project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement for Purchase and Sale of Real Property (Fee, Grant Deed) between the City of Modesto and Hans J. Wagner and Donald E. Wagner, trustee of Donald E. Wagner Trust, et al, in the amount of $30,500, for the acquisition of a portion of property located at the northwest corner of Pelandale Avenue (APN: 078-018-

021) and the granting of excess property on American Avenue (APN: 078-018-021), for the Pelandale Avenue Widening project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement, a Grant Deed conveying excess property, 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 1st day of September, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-415

A RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN AN ACCEPTANCE FORM FOR THE GRANT DEED FOR THE ACQUISITION OF A PORTION OF PROPERTY LOCATED AT THE NORTHWEST CORNER OF PELANDALE AVENUE (APN: 078-018-021), OWNED BY HANS J. WAGNER AND DONALD E. WAGNER, TRUSTEE OF DONALD E. WAGNER TRUST, ET AL TO BE PURCHASED BY THE CITY OF MODESTO FOR THE PELANDALE AVENUE WIDENING PROJECT

WHEREAS, Section 27281 of the Government Code requires a public agency to accept real property prior to the recordation of a deed or adopt a resolution accepting real property, and

WHEREAS, the City of Modesto desires to acquire a portion of property located at the northwest corner of the Pelandale Avenue (APN: 078-018-021), owned by Hans J. Wagner and Donald E. Wagner, trustee of Donald E. Wagner Trust, et al, to be purchased by the City of Modesto for the Pelandale Avenue Widening project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign an acceptance form on behalf of the City of Modesto for the Grant Deed for the acquisition of a portion of property located at the northwest corner of Pelandale Avenue (APN: 078-018-021), owned by Hans J. Wagner and Donald E. Wagner, trustee of Donald E. Wagner Trust, et al, to be purchased by the City of Modesto for the Pelandale Avenue Widening project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of September, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-416

A RESOLUTION APPROVING A NEW CAPITAL IMPROVEMENT PROGRAM (CIP) ACCOUNT FOR THE PROJECT TITLED, "ARRA CAPE & SLURRY SEAL ON VARIOUS STREETS", CONTINGENT UPON RECEIPT OF AUTHORIZATION TO PROCEED ("FNM-76") FROM FEDERAL HIGHWAY ADMINISTRATION (FHWA), WHICH DID NOT APPEAR IN THE ADOPTED CAPITAL IMPROVEMENT PROGRAM FOR FISCAL YEAR 2009-2010

WHEREAS, on April 28, 2009, the City Council was presented with the details of the Cape/Slurry Seal project, and

WHEREAS, this project was put together quickly to capture American Recovery and Reinvestment Act (ARRA) funds, and

WHEREAS, City staff submitted the Request for Authorization for construction of the Cape/Slurry Seal project to Caltrans on May 8, 2009, and

WHEREAS, this project was not included in the adopted CIP for Fiscal Year 2009-2010, and

WHEREAS, City staff recommends approving a new CIP Account 0530-430-H013 for the project titled, "ARRA Cape & Slurry Seal on Various Streets", contingent upon receipt of Authorization to Proceed ("FNM-76") from Federal Highway Administration (FHWA),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a new Capital Improvement Program (CIP) Account 0530-430-H013 for the project titled, "ARRA Cape & Slurry Seal on Various Streets", contingent upon receipt of Authorization to Proceed ("FNM-76") from Federal Highway Administration (FHWA).

BE IT FURTHER RESOLVED that the Finance Director, or his/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 1st day of September, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-417

A RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 CAPITAL IMPROVEMENT PROGRAM BUDGET, CONTINGENT UPON RECEIPT OF AUTHORIZATION TO PROCEED ("FNM-76") FROM FEDERAL HIGHWAY ADMINISTRATION (FHWA), IN ORDER TO FULLY FUND THE CONSTRUCTION ACTIVITIES FOR THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) FUNDED CAPE/SLURRY SEAL PROJECT

WHEREAS, a budget adjustment in the amount of $3,211,414 is necessary to fully fund the construction activities for the ARRA funded Cape/Slurry Seal project along with contingency and construction administration, and

WHEREAS, the Fiscal Year 2009-2010 Capital Improvement Program budget must be amended, contingent upon receipt of Authorization to Proceed ("FNM-76") from Federal Highway Administration (FHWA), 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 2009-2010 Capital Improvement Program budget, contingent upon receipt of Authorization to Proceed ("FNM-76") from Federal Highway Administration (FHWA), as shown in **Exhibit A**.

BE IT FURTHER RESOLVED that the Finance Director, or his/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 1st day of September, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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

FUND:

ARRA Reimbursable Grant – PW Streets

REVENUES:

ARRA Reimbursable Grant – PW Streets	0530-430-H013-3650-53	$3,211,414

EXPENDITURES:		Increase/(Decrease)
ARRA Cape & Slurry Seal on Various Sts	0530-430-H013-6040	$2,636,901
ARRA Cape & Slurry Seal on Various Sts	0530-430-H013-6050	$263,690
ARRA Cape & Slurry Seal on Various Sts	0530-430-H013-6060	$310,823

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-418

A RESOLUTION MAKING CERTAIN FINDINGS CONCERNING MITIGATION MEASURES, ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM, MAKING FINDINGS CONCERNING ALTERNATIVES, ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS, AND CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE KIERNAN BUSINESS PARK SPECIFIC PLAN AMENDMENT NO. 4 (SCH NO. 2007062071)

WHEREAS, on November 26, 2006, Dr. Aruna Chopra filed applications for amendments to the Kiernan Business Park Specific Plan and the Urban Area General Plan of the City of Modesto to re-designate property located in the Kiernan Carver Comprehensive Planning District from Business Park (BP) to Mixed Use (MU) and to amend the Kiernan Business Park Specific Plan to provide for mixed-use and medium-high-density residential development on the east side of Dale Road, between Kiernan Avenue and Bangs Avenue ("the Project"), and

WHEREAS, the City of Modesto ("the City"), on June 15, 2007, published an Initial Study and a Notice of Preparation for the Project, which identified potentially significant environmental impacts attributable to the Project, on which basis the City determined that an Environmental Impact Report ("EIR") was required for the Project, and

WHEREAS, the Notice of Preparation provided notice of the City's determination, and solicited public input on the proposed scope and content of the EIR for the Project, and

WHEREAS, on June 27, 2007, the City held a public scoping meeting to receive public comments on the scope and content of the EIR, and

WHEREAS, the City published and distributed a Draft EIR for the Kiernan Business Park Specific Plan Amendment #4 (SCH No. 2007062071) ("DEIR") for public comment on December 17, 2008,, in accordance with Section 21091 of the California Environmental Quality Act ("CEQA"), and

WHEREAS, the DEIR was available for public comment for a period of 45 days as required by Section 21091 of CEQA, the close of the public comment period being February 2, 2009, and

WHEREAS, during the 45-day public comment period the City received fifteen letters commenting on the DEIR, and

WHEREAS, the City prepared written responses to all written comments received on the DEIR, said responses being contained in a Final EIR for the Kiernan Business Park Specific Plan Amendment No. 4 (SCH No. 2007062071) ("FEIR") prepared pursuant to Section 15089 of the CEQA Guidelines, and

WHEREAS, the FEIR was published and distributed on June 26, 2009, and consists of the Draft EIR, a list of persons, organizations and public agencies commenting on the Draft EIR, copies of all written comments received, responses to those comments that raise environmental issues, and any revisions to the text of the Draft EIR made in response to the comments, as required by Section 15132 of the CEQA Guidelines, and

WHEREAS, the Project would include approval of the following: an amendment to the General Plan; an amendment to the Kiernan Business Park Specific Plan; annexation of a portion of the project site to the City of Modesto; adoption of a Facilities

Master Plan and an Infrastructure Finance Plan and the formation of an associated Community Facilities District; and subsequent entitlements, and

WHEREAS, CEQA requires that, in connection with the approval of a project for which an EIR has been prepared which identifies one or more significant environmental effects, the decision-making agency make certain findings regarding those effects, and

WHEREAS, a public hearing on the Project was held by the Planning Commission on July 20, 2009, in the Chambers, Tenth Street Place, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered, and

WHEREAS, after said public hearing, the Modesto City Planning Commission adopted Resolution No. 2009-21, recommending to the City Council adoption of certain findings and certification of the FEIR, and

WHEREAS, said matter was set for a public hearing of the City Council to be held on September 1, 2009, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing of the Council evidence both oral and documentary was received and considered, and

WHEREAS, the City Council has received and considered the FEIR for the Kiernan Business Park Specific Plan Amendment No. 4 (SCH No. 2007062071) that analyzed the potential environmental effects of the proposed Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines in respect to the FEIR:

1. That the FEIR has been completed in compliance with CEQA; that the City Council has reviewed and analyzed the FEIR and other information in the record and has considered the information contained therein, including the written and oral comments received at the public hearings on the FEIR and the Project, prior to acting upon or approving the Project; and that the FEIR represents the independent judgment of the City of Modesto; and

2. That the Findings and Statements set forth in **Exhibit "A"**, and incorporated herein by reference, be made by the Council as the City's findings under the California Environmental Quality Act ("CEQA") (Pub. Resources Code § 21000 et seq.) and the CEQA Guidelines (Cal. Code Regs., title 14, §15000 et seq.) relating to the Project. The Findings provide the written analysis and conclusions of the Council regarding the Project's environmental impacts, mitigation measures and alternatives to the Project.

3. That pursuant to Public Resources Code Section 21081 and CEQA Guidelines Sections 15091 *et seq.*, the City Council of the City of Modesto adopts and makes the following statement of overriding considerations regarding the remaining unavoidable impacts of the Project and the anticipated economic, social and other benefits of the Project.

   a. Significant Unavoidable Impacts

      With respect to the foregoing findings, as set forth in Exhibit A, and in recognition of those facts which are included in the record, the City has determined the following:

      - that the Project will cause significant, unavoidable impacts to Agricultural Resources, Transportation and Circulation, Air Quality; and

      - that the Project will contribute to significant, unavoidable cumulative impacts to Agricultural Resources, Transportation and Circulation, Air Quality, and Noise; and

      These impacts cannot be avoided or substantially reduced by feasible changes or alterations to the Project, other than the changes or alterations already adopted.

   b. Overriding Considerations

      The City Council specifically adopts and makes this Statement of Overriding Considerations that this Project includes all feasible measures that would eliminate or substantially lessen the significant impacts of the Project on the environment, and that the remaining significant, unavoidable impacts of the Project are acceptable in light of the environmental, economic, social and other considerations set forth herein because the benefits of the

Project outweigh the significant and adverse impacts of the Project. The City Council finds that each of the overriding considerations set forth below constitutes a separate and independent ground for finding that the benefits of the Project outweigh its significant adverse environmental impacts and sets forth an overriding consideration warranting approval of the Project. These matters are supported by evidence in the record.

c. Benefits of Proposed Project

The City Council has considered the FEIR, the public record of proceedings on the proposed Project and other written materials presented to the City as well as oral and written testimony at all public hearings related to the Project, and does hereby determine that implementation of the Project as specifically provided in the Project documents would result in the substantial public benefits set forth below.

The City Council has weighed the benefits of the proposed Project against its unavoidable environmental risks and adverse environmental effects identified in the FEIR and hereby determines that those benefits outweigh the risks and adverse environmental effects and, therefore, further determines that these risks and adverse environmental effects are acceptable.

(i) The project would create a mixed use area adjacent to the Kaiser Modesto Medical Center which will serve the hospital and its visitors, the immediate business park area, and residential areas. Provide a vibrant village atmosphere which provides a safe, pedestrian-friendly environment.

(ii) The project would create an extended-hours community by balancing business park and medical center uses with residential and retail to provide greater safety through increased surveillance and activity.

(iii) The project would attract small businesses that provide support services to the hospital and business park uses.

(iv) The project would provide multi-family residential uses, both apartments and condominiums, to provide housing choices for doctors and nurses, hospital employees and support staff, visitors, single parents, business owners and employees, and independent seniors.

(v) The project would be designed as a healthy, smart growth development that increases physical activity via walking and bicycling, reduces dependence on automobiles, and increases transit use.

(vi) The project would provide incentives to reduce traffic through the use of shared parking and reduced automobile parking standards. Balance the supply and management of parking to address the needs of the businesses, residents, and employees.

(vii) The project would incorporate an efficient infrastructure system designed to accommodate all phases of development.

(viii) The project would provide for employment-intensive uses in an attractive "campus-like" setting that is consistent with the needs of the target industries identified in the Kiernan Business Park Specific Plan.

4. The Mitigation and Monitoring and Reporting Program for the Kiernan Business Park Specific Plan Amendment #4 is **attached** to this resolution as **Exhibit "B"** and is incorporated and adopted as part of this resolution herein. The Program identifies impacts of the Project, corresponding mitigation, designation of responsibility for mitigation implementation and the agency responsible for the monitoring action.

5. The City Council hereby finds and recognizes that the FEIR contains additions, clarifications, modifications and other information in its responses to comments on the Draft Environmental Impact Report for the Project ("DEIR") and also incorporates information obtained by the City since the DEIR was issued. This Council hereby finds and determines that such additions, clarifications, modifications and other information are not significant new information as that term is defined under the provisions of the California Environmental Quality Act, because such additions, clarifications, modifications and other information do not indicate that any new significant environmental impacts not already evaluated would result from the Project and do not reflect any substantial increase in the severity of any environmental impact; that no feasible mitigation measures considerably different from those previously analyzed in the DEIR have been proposed that would lessen significant environmental impacts of the Project; and that no feasible alternatives considerably different from those analyzed in the DEIR have been proposed that would lessen significant environmental impacts of the Project. Accordingly, this Council hereby finds and determines that recirculation of the FEIR for further public review and comment is not warranted; and

6. The City Council does hereby designate the Community and Economic Development Director of the City of Modesto, at his office at 1010 Tenth Street, Modesto, California 95354 as the custodian of documents and record of proceedings on which the decision is based; and

7. The City Council does hereby make the foregoing findings with respect to the significant effects on the environment of such Project, as identified in the FEIR, with the stipulations that all information in these findings is intended as a summary of the full administrative record supporting the FEIR, which full administrative record should be consulted for the full details supporting these findings, and that any mitigation measures and/or alternatives that were suggested by comments submitted on the DEIR and were not adopted as part of the FEIR are hereby expressly rejected for the reasons stated in the responses to the comments set forth in the FEIR and elsewhere in the record.

BE IT FURTHER RESOLVED by the Council that it hereby certifies the Final Environmental Impact Report for the Kiernan Business Park Specific Plan Amendment No. 4 (SCH No. 2007062071), on file in the office of the Community and Economic Development Department and incorporated herein by reference.

BE IT FURTHER RESOLVED that the project applicant shall indemnify, defend, and hold harmless the City of Modesto, its agents, officers, and employees from any and all claims, actions, or proceedings against the City of Modesto, its agents, officers, and employees to attack, set aside, void, or annul, any approval by the City of Modesto and its advisory agency, appeal board, or a legislative body concerning the environmental impact report for the Kiernan Business Park Specific Plan Amendment #4 Project (File No. EIR-06-001). The City of Modesto shall promptly notify the applicant of any claim, action, or proceeding and shall cooperate fully in the defense. If the City fails to do so, the applicant shall not thereafter be responsible to defend, indemnify, or hold City harmless.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of September, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ACALA WOOD, City Attorney

Exhibit "A"

FINDINGS AND STATEMENTS ON THE KIERNAN BUSINESS PARK SPECIFIC PLAN AMENDMENT NO. 4 FEIR

Exhibit "B"

MITIGATION MONITORING AND REPORTING PROGRAM

KIERNAN BUSINESS PARK SPECIFIC PLAN AMENDMENT # 4 PROJECT ENVIRONMENTAL IMPACT REPORT (SCH# 2007062071)

FINDINGS AND STATEMENTS REQUIRED UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

(Public Resources Code, Section 21000 *et seq.*)

I. Introduction

On behalf of the City of Modesto (the "City"), and pursuant to the California Environmental Quality Act ("CEQA"), Turnstone Consulting prepared a Draft Environmental Impact Report (the "DEIR") for the Kiernan Business Park Specific Plan Amendment # 4 Project and other related approvals described below (collectively, the "Project"). The City of Modesto prepared a Final Environmental Impact Report (the "FEIR") in accordance with CEQA, which incorporated the DEIR prepared by Turnstone Consulting. The City is the lead agency for the FEIR.

To support its certification of the FEIR and approval of the Project, the City Council of the City of Modesto (the "City Council") makes the following findings of fact and statements of overriding considerations (collectively, the "Findings"). These Findings contain the City Council's written analysis and conclusions regarding the Project's environmental effects, mitigation measures, alternatives to the proposed Project, and the overriding considerations which, in the City Council's view, justify the approval of the Project despite its potential environmental effects. These Findings are based upon the entire record of proceedings for the FEIR, as described below.

The Project is Amendment #4 to the Kiernan Business Park Specific Plan setting out the framework for development of the 614-acre business park. Amendment #4 proposes the redesignation of approximately 39 acres of the existing 153-acre Business Park land use to 23 acres of Mixed Use and 16 acres of Medium High Density Residential Land uses. Development of the Mixed Use sub-area would include 80 dwelling units, 371,000 gross square feet (gsf) of retail area, including uses such as restaurants, pharmacies, and health clubs, 79,000 gsf of office area, and a 170-room hotel. The Medium High Density Residential sub-area would allow for 262 residential units. To support these new uses, the Project includes revisions to the Specific Plan's Circulation Plan to improve existing traffic and circulation conditions, including extensions and re-classification of existing bicycle paths and the additions of new bicycle paths. The Project also provides for new utilities as well as the extension of existing electrical, water, and sewer lines and storm drainage facilities.

The Project site location is partially within the City of Modesto (about 86 acres) and partially in an unincorporated area of Stanislaus County, within the City's Sphere of Influence (about 67 acres).

The approvals necessary for implementation of the Kiernan Business Park Specific Plan Amendment #4 include:

1. Adoption of Kiernan Business Park Specific Plan amendments to:

A. Change the land use designation for the 39-acre project area from Business Park (BP) to Mixed Use (MU) and Medium High Density Residential (MHDR);

B. Remove the Pelandale Expressway cross section;

C. Reclassify Dale Road from a four-lane minor arterial to a six-lane principal arterial between Kiernan Avenue and Bangs Avenue;

D. Reclassify Bangs Avenue from a two-lane industrial connector to a four-lane major collector;

E. Reclassify Healthcare Way from a two-lane industrial connector to a two-lane minor collector east of Dale Road;

F. Redesign cross sections for four-lane minor arterials;

G. Redesign cross sections for two-lane minor collectors;

H. Extend planned bicycle facilities and add new ones;

I. Change planned water, storm, and sanitary sewer pipeline alignments and add new ones consistent with the change in use from BP to MU and MHDP;

J. Implement new development standards and design guidelines for the MU and MHDR areas to provide a framework and direction for development within these areas;

K. Revise the Land Use Plan Diagram, the Circulation Plan Diagram, the Bike Paths Figure, and the Illustrative Public Facilities Plan Diagram in the Specific Plan to reflect the proposed changes to the Specific Plan.

2. Adoption of an amendment to the Urban Area General Plan to redesignate the 39-acre project area contained within the Kiernan/Carver Comprehensive Planning District of the General Plan from BP to MU.

3. Adoption of a resolution annexing a 67-acre portion of the project site into the City of Modesto, including approval by the Local Agency Formation Commission and, absent a negotiated agreement on service delivery and revenue sharing, simultaneous detachment of the 67 acres from the Salida Fire Protection District.

4. Adoption of a resolution to approve rezoning.

5. Adoption of a Facilities Master Plan and an Infrastructure Financing Plan for the project area.

6. Approval of a Development Agreement, if applicable, to guide development in the area.

7. Formation of a Community Facilities District to fund the construction of "backbone" public infrastructure, maintenance of applicable public facilities, and applicable public services.

8. Approval by the Modesto Irrigation District of the proposed storm water drainage system, and finalization of a Drainage Agreement between the Irrigation District and the City.

9. Subsequent entitlements, including approval of a Tentative Subdivision Map and/or tentative parcel map, if applicable.

II. General Findings and Overview

A. Record of Proceedings and Custodian of Record

The record of proceedings for the City's findings and determination is available for review by responsible agencies and interested members of the public during normal business hours at 1010 Tenth Street, Suite 4100, Modesto, California. The custodian of these documents is the City's Director of Community and Economic Development.

B. Preparation and Consideration of the FEIR and Independent Judgment Findings

The City Council finds, with respect to the City's preparation, review and consideration of the FEIR, that:

- The City retained the independent firm of Turnstone Consulting ("Turnstone") to prepare the DEIR, and Turnstone prepared the DEIR under the supervision and at the direction of the City of Modesto.

- The City circulated the DEIR for review by responsible agencies and the public and submitted it to the State Clearinghouse for review and comment by state agencies.

- The FEIR has been completed by the City of Modesto in compliance with CEQA.

- The Project will have significant, unavoidable impacts as described and discussed in the FEIR.

- The FEIR is adequate under CEQA to address the potential environmental impacts of the Project.

- The FEIR has been presented to the City Council, and the City Council has independently reviewed and considered information contained in the FEIR.

- The FEIR reflects the independent judgment of the City.

By these Findings, the City Council ratifies, adopts and incorporates the analyses, explanations, findings, responses to comments, and conclusions of the FEIR, except as specifically described in these Findings.

C. Findings Regarding Less-Than-Significant Impacts.

By these Findings, the City Council ratifies and adopts the FEIR's conclusions for the following potential environmental impacts which, based on the analyses in the FEIR, this City Council determines to be less than significant:

1. Land Use

- Impact A.1 – The proposed project would introduce new land use designations that would conflict with existing land use plans, policies, and/or regulations.

2. Agricultural Resources

- Impact B.2 – Development of the proposed project may burden continued agricultural operations surrounding the project site, and within the project site, prior to development under the proposed Specific Plan.

3. Air Quality

- Impact D.3 – Motor vehicle emissions would locally contribute to elevated concentrations of carbon monoxide.

- Impact D.4 – Implementation of the proposed project would cause sensitive receptors to be exposed to toxic air contaminants.

- Impact D.5 – Implementation of the proposed project would cause sensitive receptors to be exposed to objectionable odors.

4. Noise

- Impact E.1 – Project-related traffic could cause a substantial increase in noise levels for existing sensitive receptors adjacent to the project area.

5. Hazardous Materials

- Impact F.1 – Demolition of existing buildings could cause release of hazardous materials, causing potential hazards to the public and environment.

- Impact F.3 – Transportation of contaminated soil and/or building materials removed from the project site could result in accidental release of hazardous materials.

6. Hydrology and Water Quality

- Impact H.2 – Operation-phase use of the site could result in degradation of water quality in receiving waters by reducing the quality of storm water runoff.

- Impact H.4 – Implementation of the proposed project could place new development within an area potentially subject to dam failure inundation and/or inundation associated with spring/early summer snowmelt runoff.

- Impact H.5 – Implementation of the project could result in depletion of groundwater resources.

7. Community Services

- Impact I.1 – Development of the project site would result in an increased demand for Modesto Police Department officer hours due to the potential for increased on-site criminal activity and increased number of traffic incidents near the site.

- Impact I.2 – Development of the project site would result in an increase in the volume of emergency calls.

- Impact I.3 – Development of the mixed-use and high-density residential components of the proposed project with building heights over 30 feet could result in insufficient water pressure for firefighting.

- Impact I.4 – Build out of the Kiernan Business Park Specific Plan would result in an increase in the number of elementary (K-6), middle (7-8), and high (9-12) school students and could require the construction of new or physically altered school facilities.

8. Utility and Services Systems

- Impact J.1 – Development of the proposed Kiernan Business Park Specific Plan Amendment #4 area would result in an increased demand for wastewater collection, treatment, and disposal.

- Impact J.2 – Development of the proposed Kiernan Business Park Specific Plan Amendment #4 area would contribute to future cumulative increases in demand on the wastewater collection, treatment, and disposal system.

9. Water Supply

- Impact K.1 – Implementation of the Kiernan Business Park Specific Plan Amendment #4 could increase the demand for potable water.

- Impact K.3 – Development of the proposed project could contribute to cumulative demand for potable water in the City of Modesto water service area.

- Impact K.4 – Development of the proposed project would contribute to the potential for cumulative demand to result in overdraft of groundwater supplies.

III. Findings and Recommendations Regarding Significant Environmental Impacts

A detailed analysis of the potential environmental impacts and the proposed mitigation measures for the Kiernan Business Park Specific Plan Amendment #4 Project is set forth in Sections IV.A through IV.K of the DEIR, as incorporated into the FEIR. The DEIR evaluated the Project's potential environmental impacts in 11 separate categories, and also evaluated the Project's potential cumulative impacts. The City Council concurs with the conclusions in the DEIR, as incorporated into the FEIR, that: (i) a majority of the Project's significant and potentially significant impacts will be rendered less than significant by the mitigation measures described and discussed below; and (ii) for those impacts that will not be rendered less than significant by such mitigation measures, there are overriding considerations that make those impacts acceptable to the City.

IV.B. Agricultural Resources

Impact B.1 Implementation of the proposed project would directly result in the permanent loss of Prime Farmland.

a) **Potential Impact.** The impact identified above is described and discussed on page IV.B.7 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure B.1. (pp. IV.B.7 and IV.B.8 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

(i) **Effects of Mitigation.** Although it is possible that mitigation measure B.1, which provides that the City Council consider

creation of a farmland mitigation program that would require compliance as a condition precedent to the issuance of building permits, could partially compensate for the loss of Prime Farmland, it would not fully mitigate the loss resulting from the project to a less-than-significant level.

(ii) **Remaining Impacts.** As explained above, although implementation of Mitigation Measure B.1 could partially mitigate the environmental effects of the permanent loss of Prime Farmland, such impacts will remain significant even with mitigation. Because there are no feasible measures available to further mitigate this significant impact, it is considered significant and unavoidable.

(iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to the permanent loss of Prime Farmland, as set forth in the Statement of Overriding Considerations below.

Impact B.3 Implementation of the proposed project would incrementally contribute to the cumulative loss of Prime Farmland in Stanislaus County and in the Modesto area.

a) **Potential Impact.** The impact identified above is described and discussed on page IV.B.9 to IV.B.10 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure B.3 (the same as Mitigation Measure B.1, above).

c) **Findings**. Based on the FEIR and the entire record before the City, the City Council finds that:

(i) **Effects of Mitigation.** Although it is possible that mitigation measure B.3, which provides that the City Council consider creation of a farmland mitigation program that would require compliance as a condition precedent to the issuance of building permits, could partially compensate for the loss of Prime Farmland, it would not fully mitigate the loss resulting from the project to a less-than-significant level.

(ii) **Remaining Impacts.** As explained above, although implementation of Mitigation Measure B.3 could partially mitigate the environmental effects of the permanent loss of Prime

Farmland, such impacts will remain significant even with mitigation. Because there are no feasible measures available to further mitigate this significant impact, it is considered significant and unavoidable.

(iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to the permanent loss of Prime Farmland, as set forth in the Statement of Overriding Considerations below.

IV.C. Transportation and Circulation

Impact C.1 Construction and occupancy of the project site would result in significant impacts at study intersections adjacent to and near the project site under the existing plus project scenario.

a) **Potential Impact.** The potential impacts to study intersections related to construction and occupancy of the project site at adjacent and nearby intersections are described and discussed on page IV.C.44 to IV.C.47of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measures C.1b, c, d, f, and k (pp. IV.C.47 through IV.C.52 of the DEIR) shall be implemented in full. FEIR Mitigation Measures C.1a, e, g, h, i, j, and l are potentially infeasible, but shall be implemented to the extent that they later prove to be feasible.

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

(i) **Effects of Mitigation.** Mitigation Measures C.1b, c, d, f and k require construction or installation of various traffic improvements that would improve LOS at five different study intersections to less than significant levels. These five intersections are: Kiernan Avenue and Sisk Road; Kiernan Avenue and Stoddard Road; Kiernan Avenue and Dale Road; Bangs Avenue and American Avenue; Pelandale Avenue and Sisk Road.

Mitigation Measures C.1a, e, g, h, i, j and l also require construction or installation of traffic improvements that would improve LOS at seven additional intersections. These intersections are Kiernan Avenue and SR 99 Southbound Ramps; Kiernan Avenue and Carver Road; Bangs Avenue and Prescott

Road; Bangs Avenue and Carver Road; Bangs Avenue and Tully Road; Pelandale Avenue and SR 99 Southbound Ramps; Pelandale Avenue and Sisk Road; and Standiford Avenue and SR 99 Southbound Ramps.

However, as described below, these mitigation measures are potentially infeasible. Mitigation Measures C.1a and C.1e, involve intersections that are under the jurisdiction of CalTrans. While CalTrans has plans to construct some of these improvements, and is working with Stanislaus County to realize others, there is no guarantee that funding for construction will be available in time for the improvements to be completed for the proposed project, or that funding will become available within the near future. Mitigation Measures C.1j and C.1l are also under the jurisdiction of CalTrans. CalTrans has no funds to construct these improvements. The City and CalTrans are engaged in a joint effort to implement the improvements set out in C.1j, but design has not yet begun for that measure, or for those set out in Mitigation Measure C.1k. Since the City has no jurisdiction to design or implement these mitigation measures, they are infeasible, and the decrease in LOS is significant and unavoidable.

For Mitigation Measures C.1g, C.1h and C.1i, the City has no final designs that would allow these improvements to be completed by the time the proposed project is begun, and no guarantee of fair share contributions from other developments that would benefit from these improvements. The applicant for the proposed project will contribute its required fair share, but that would not be enough to fund the entire cost of the improvements. While it is anticipated that these improvements will be pursued by the City as it builds out, the City cannot guarantee their completion at this time. Therefore, these mitigation measures are infeasible and the decrease in LOS is significant and unavoidable.

The DEIR also identified potentially significant impacts at the intersection of Kiernan Avenue and American Avenue. However, these impacts will be eliminated by planned improvements to this intersection to be made by CalTrans, and no additional mitigation will be needed.

(ii) Remaining Impacts. As explained above, although implementation of Mitigation Measures C.1a through C.1l will reduce the impacts related to construction and occupancy of the project site, seven of these measures are not feasible, and impacts at seven study intersections would thus remain significant. Because there are no feasible measures available to further

mitigate these significant impacts, they are considered significant and unavoidable.

(iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to construction and occupancy of the project site, as set forth in the Statement of Overriding Considerations below.

Impact C.2 Construction and occupancy of the project site would result in significant impacts on freeway and roadway segments adjacent to and near the project site under the existing plus project scenario.

a) **Potential Impact.** The potential impacts to freeway and roadway segments adjacent to and near the project site identified above are described and discussed on pages IV.C.52 through IV.C.56 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure C.2c (pp. IV.C.52 through IV.C.55 of the DEIR) shall be implemented in full. The lane construction specified in Mitigation Measure C.2e was completed after the preparation of the traffic impact analysis; therefore the adoption of that Mitigation Measure is not necessary. Mitigation Measures C.2a, 2b, and 2d are potentially infeasible but shall be implemented to the extent that they later prove to be feasible

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

(i) **Effects of Mitigation.** For Mitigation Measures 2a and 2b (improvements to Kiernan Avenue in various locations and to Pelandale Avenue between the SR 99 Southbound Ramps and Northpointe Shopping Center), the recommended improvements are under the jurisdiction of CalTrans. CalTrans currently has plans to construct some of the improvements specified, and is working closely with the City to construct others, but the City cannot guarantee that the improvements will be funded or completed prior to construction of the proposed project, therefore these Mitigation Measures are infeasible. For Mitigation Measure 2c (improvements to Pelandale Avenue between Dale Road and Tully Road), the recommended improvement is currently under construction and will reduce the impact on this roadway segment to less than significant. For improvements recommended in Mitigation Measure 2d (improvements to Bangs

Avenue between American Avenue and Prescott Road), the construction is currently unfunded. Construction could be partially funded by a fair share contribution from the project applicant, but fair share contributions from other developments would be necessary to complete funding, and there is no assurance that this funding would become available prior to completion of the proposed project. This Mitigation Measure is therefore infeasible.

(ii) **Remaining Impacts.** Although the completion of Mitigation Measure C.2c will reduce the impact on Pelandale Avenue between Dale and Tully Roads to less than significant, the Mitigation Measures recommended to reduce the impact to Kiernan Avenue (C.2a), the Pelandale Avenue interchange with SR 99 (C.2b) and Bangs Avenue (C.2d) are considered infeasible. Because there are no feasible measures available to further mitigate these significant impacts, they are considered significant and unavoidable

(iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to impacts on freeway and roadway segments adjacent to and near the project site, as set forth in the Statement of Overriding Considerations below.

Impact C.3 Construction and occupancy of the project site would result in significant impacts on freeway ramp merge/diverge interchanges near the project site under the existing plus project scenario.

a) **Potential Impact.** The potential impacts to freeway ramp merge/diverge interchanges near the project site related to construction and occupancy of the site identified above are described and discussed on page IV.C.56 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure C.3 (p. IV.C.56 of the DEIR) is potentially infeasible, but it shall be implemented to the extent that it later proves to be feasible.

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

(i) **Effects of Mitigation.** While CalTrans has plans to improve the SR 99 merge/diverge interchanges identified in Impact C.3, the

improvements have not yet been designed or funded. The City does not have the authority to complete the improvements since these interchanges are under the jurisdiction of CalTrans, so this mitigation measure is considered potentially infeasible and the impact remains significant and unavoidable.

(ii) **Remaining Impacts.** As explained above, because there are no feasible measures available to mitigate this significant impact, it is considered significant and unavoidable.

(iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project on freeway ramp merge/diverge interchanges near the Project site, as set forth in the Statement of Overriding Considerations below.

Impact C.4. Construction and occupancy of the project site would result in significant impacts at study intersections adjacent to and near the project site under the near-term baseline plus project scenario.

a) **Potential Impact.** The impact of construction and occupancy of the project site at study intersections adjacent to and near the site identified above is described and discussed on page IV.C.65 through IV.C.66 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measures C.4.c and d (pp. IV.C.66 through IV.C.72 of the DEIR) shall be implemented in full. Mitigation Measures C.4 a, b, e, f, g, h, j, k, and l are potentially infeasible but shall be implemented to the extent that they later prove to be feasible. Mitigation Measure C.4.i is not physically feasible and will not be implemented.

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

(i) **Effects of Mitigation.** Mitigation Measures C.4a through C.4l provide for construction or installation of a set of traffic improvements that would improve LOS at the 12 affected intersections analyzed in the EIR. For two intersections (Dale Road and Kaiser Main Entrance; Bangs Avenue and American Avenue), the implementation of Mitigation Measures would improve the LOS so as to mitigate the impacts to less than significant levels (C.4c, C.4d). However, at nine of the remaining ten intersections the Mitigation Measures are

potentially infeasible due to issues relating to lack of funding and/or jurisdiction, and the impact would remain significant and unavoidable. Some of the Mitigation Measures are potentially infeasible because the location is outside the jurisdiction of the City of Modesto, but the City is working with the jurisdictions in question to try to see that the improvement is implemented (C.4a, C.4b, C.4h, C.4k). In some instances, the intersection is within the jurisdiction of the City, but the proposed project's fair share contribution to the recommended improvements is small in relation to the total cost and the City cannot legally require the project to fund the entire cost (C.4e, C.4f, C.4g, C.4i, C.4l). Mitigation Measure C.4j has received CalTrans approval, but also is still not adequately funded. And finally, for Mitigation Measure C.4i, the improvements cannot be constructed within the existing right of way and this measure is thus not physically feasible. Therefore, although the Mitigation Measures identified above would reduce the project impacts, most are infeasible, and the impacts at the following intersections remain significant and unavoidable:

Kiernan Avenue and SR 99 southbound ramps (C.4a)
Kiernan Avenue and Sisk Road (C.4b)
Bangs Avenue and Prescott Road (C.4e)
Bangs Avenue and Carver Road (C.4f)
Bang Avenue and Tully Road (C.4g)
Pelandale Avenue and SR 99 Southbound Ramps (C.4h)
Pelandale Avenue and Dale Road (C.4i)
Standiford Avenue and SR 99 Southbound Ramps (C.4j)
Standiford Avenue and SR 99 Northbound Ramps (C.4k)
Standiford Avenue and Sisk Road (C.4l)

(ii) **Remaining Impacts.** As explained above, although two of the Mitigation Measures set out above would reduce impacts to less than significant, the majority of the mitigation measures are potentially infeasible or actually infeasible. Because there are not feasible measures available to further mitigate these significant impacts, they are considered significant and unavoidable.

(iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project on study intersections adjacent to and near the project site, as set forth in the Statement of Overriding Considerations below.

Impact C.5 Construction and occupancy of the project site would result in significant impacts on freeway and roadway segments adjacent to and near the

project site under the near-term baseline plus project scenario.

a) **Potential Impact.** The impact of construction and occupancy of the project site on freeway and roadway segments adjacent to and near the site identified above is described and discussed on pages IV.C.72 through IV.C.73 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measures C.5.a through C.5.d (pp. IV.C.73 through IV.C.75 of the DEIR) are potentially infeasible but shall be implemented to the extent they later prove to be feasible. Mitigation Measure C.5.e is not physically feasible and will not be implemented.

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

(i) **Effects of Mitigation.** Mitigation Measures C.5a through C.5e identify the addition of lanes to affected freeway and roadway segments that would reduce the project's impact on LOS to less than significant levels. However, these Mitigation Measures are infeasible for the following reasons: either the City does not have jurisdiction to design and construct improvements (Mitigation Measures C.5a and C.5b) or funding is not anticipated to be available to construct the improvements before project completion (Mitigation Measure C.5c, C.5d and C.5e). In addition, Mitigation Measure C.5e cannot be constructed within the existing right of way. Because the Mitigation Measures are considered potentially infeasible, the impacts on 14 roadway and freeway segments identified in the EIR remain significant and unavoidable.

(ii) **Remaining Impacts.** As explained above, although implementation of Mitigation Measures C.5a through C.5e to widen roadways and freeways would reduce the impacts identified above, these Mitigation Measures are infeasible. Because there are no other feasible measures that would mitigate these significant impacts, they are considered significant and unavoidable.

(iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project on freeway and roadway segments adjacent to or near the Project site, as set forth in the Statement of Overriding Considerations below.

Impact C.6 Construction and occupancy of the project site would result in significant impacts on freeway ramp merge/diverge areas near the project site under the near-term baseline plus project scenario.

a) **Potential Impact.** The impact of construction and occupancy of the project site on freeway ramp merge/diverge areas near the site, identified above, is described and discussed on page IV.C.76 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure C.6 (p. IV.C.76 of the DEIR) is potentially infeasible but it shall be implemented to the extent it later proves to be feasible.

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

(i) **Effects of Mitigation.** Mitigation Measure C.6 identifies interchange improvements to SR 99 that will mitigate the impact of construction and occupancy of the project site. However, the improvements have not been approved, designed or funded by CalTrans. Since SR 99 is within CalTrans' jurisdiction, the City does not have the authority to implement this Mitigation Measure, and it is deemed infeasible.

(ii) **Remaining Impacts.** For the reasons identified above, this Mitigation Measure is potentially infeasible, and will not mitigate the impact identified above, which remains significant and unavoidable.

(iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts on nearby freeway ramp merge/diverge areas related to construction and occupancy of the Project site, as set forth in the Statement of Overriding Considerations below.

Impact C.7 Construction and occupancy of the project site would result in significant impacts on freeway and roadway segments adjacent to and near the project site under the cumulative baseline plus project scenario.

a) **Potential Impact.** The impact on freeway and roadway segments adjacent to and near the project site related to construction and occupancy of the site is described and discussed on page IV.C.77 through IV.C.80 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure C.7 (pp. IV.C.80 to IV.C.81 of the DEIR) shall be implemented.

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

(i) **Effects of Mitigation.** The transportation demand management (TDM) program identified in Mitigation Measure C.7 would potentially minimize single occupant vehicle trips, thereby reducing the severity of project impacts. However, given the uncertainty of vehicle trip reductions associated with TDM programs, this impact would remain significant and unavoidable.

(ii) **Remaining Impacts.** Although implementation of the TDM program identified in Mitigation Measure C.7 could potentially lessen the impact of the project on adjacent and nearby freeway and roadway segments, it is impossible to identify the effect of this Mitigation Measure with certainty, and this impact remains significant and unavoidable.

(iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts on freeway and roadway segments adjacent to and near the Project site, as set forth in the Statement of Overriding Considerations below.

Impact C.8 Construction-related traffic activity could have a significant although temporary impact.

a) **Potential Impact.** The impact of construction-related traffic activity identified above is described and discussed on page IV.C.81 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure C.8 (pp. IV.C.81 through IV.C.82 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measure C.8 will substantially lessen the temporary impact of construction-related traffic by requiring the project sponsor to develop a construction management plan to be

approved by the City Public Works Department and the Community Development Department.

IV.D. Air Quality

Impact D.1. Emissions of criteria pollutants during project construction would contribute to existing violations of the ambient air quality standards in the region.

a) **Potential Impact.** The impact of emissions of criteria pollutants during project construction identified above is described and discussed on pages IV.D.29 through IV.D.31 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure D.1 (pp. IV.D.32 through IV.D.33 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

(i) **Effects of Mitigation.** The implementation of San Joaquin Valley Air Pollution Control District recommendations to minimize emission during construction phases required by Mitigation Measure D.1 would reduce impacts of construction related PM_{10} and ozone precursors from construction equipment exhaust, but would not prevent a net increase in emissions.

(ii) **Remaining Impacts.** As explained above, this Mitigation Measure would not prevent a net increase in the emissions of criteria pollutants, and this impact would not be reduced to a less-than-significant level. Because there are no feasible measures available to further mitigate the significant impact identified above, it is considered significant and unavoidable.

(iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to the emission of criteria pollutants during project construction, as set forth in the Statement of Overriding Considerations below.

Impact D.2 Emissions of criteria pollutants during project operation would contribute to existing violations of the ambient air quality standards in the region.

a) **Potential Impact.** The impact of the emission of pollutants during project operation identified above is described and discussed on page IV.D.33 through page IV.D.35 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measures D.2a, D.2b and D.2c (pp. IV.D.35 through IV.D.37 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

(i) **Effects of Mitigation.** Mitigation Measure D.2a requires the project developers to incorporate into the site design a set of provisions to reduce emissions from motor vehicles. Mitigation Measure D.2b requires the project developers to prepare a trip reduction plan to reduce emissions from motor vehicle activity to be reviewed and approved by the City of Modesto. Mitigation Measure D.2c requires the project developers to incorporate into the site design a set of provisions to reduce emissions from energy consumption. Although implementation of these measures would reduce the impact identified above, it would not substantially lessen or avoid this impact, which would therefore remain significant even with mitigation.

(ii) **Remaining Impacts.** Because there are no feasible measures available to further mitigate the significant impact identified above, it is considered significant and unavoidable

(iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to the contribution of criteria pollutants emitted during Project operation to existing violations of ambient air quality standards in the region, as set forth in the Statement of Overriding Considerations below.

Impact D.6. The project would cause a cumulatively considerable net increase of pollutants for which the San Joaquin Valley is designated as nonattainment.

a) **Potential Impact.** The impact identified above is described and discussed on page IV.D.39 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure D.6 (p. IV.D.39 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

(i) **Effects of Mitigation.** Mitigation Measure D.6 incorporates by reference Mitigation Measures D.2a and D.2b (requiring the project developers to incorporate into the site design provisions to reduce emissions from motor vehicles to prepare a trip reduction plan to reduce motor vehicle emissions). Although implementation of these measures would reduce the impact identified above, it would not substantially lessen or avoid this impact, which would therefore remain significant even with mitigation.

(ii) **Remaining Impacts.** Because there are no feasible measures available to further mitigate the significant impact identified above, it is considered significant and unavoidable.

(iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to the Project's potential contribution to a cumulatively considerable net increase of pollutants for which the San Joaquin Valley is designated as nonattainment, as set forth in the Statement of Overriding Considerations below.

Impact D.7 The proposed project, including annexation of the proposed parcels to the City of Modesto and changes to adopted community plans, could conflict with or obstruct implementation of the ozone and PM_{10} attainment plans.

a) **Potential Impact.** The impact identified above is described and discussed on pages IV.D.40 to IV.D.41 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure D.7 (p. IV.D.41 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

(i) **Effects of Mitigation.** Mitigation Measure D.7 incorporates by reference Mitigation Measures D.2a through D.2c (requiring the project developers to incorporate into the site design provisions to reduce emissions from motor vehicles and energy consumption and to prepare a trip reduction plan to reduce motor vehicle emissions). Although implementation of these measures would reduce the impact identified above, it would not

substantially lessen or avoid this impact, which would therefore remain significant even with mitigation.

(ii) **Remaining Impacts.** Because there are no feasible measures available to further mitigate the significant impact identified above, it is considered significant and unavoidable.

(iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to its contribution to delaying the region's progress in attaining the standards set out in the ozone and PM_{10} attainment plan, as set forth in the Statement of Overriding Considerations below.

Impact D.8 The proposed project, including annexation of the proposed parcels to the City of Modesto and changes to adopted community plans, could increase greenhouse gas emissions and potentially accelerate the effects of greenhouse gases on global climate change.

a) **Potential Impact.** The impact of the proposed project on greenhouse gas emissions identified above is described and discussed on pages IV.D.41 through IV.D.43 of the DEIR. Due to the global nature of greenhouse gas/climate change impacts, and the relatively small contribution of this Project to such global impacts, the City Council does not find that the Project's impacts, without mitigation, are significant. However, to ensure that greenhouse gas emissions are nonetheless reduced to the maximum extent practicable, the City Council is nonetheless imposing mitigation requirements for this impact.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure D.8 (page IV.D.43 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

The implementation of Mitigation Measure D.8, which requires energy-efficient lighting and other steps to minimize the use of fossil fuels, in combination with the proposed project's "Smart Growth" orientation, as well as other measures already incorporated into the project to reduce greenhouse gas emissions, will ensure that the Project's cumulative impacts relating to greenhouse gas emissions will be at a less-than-significant level.

IV.E. Noise

Impact E.2. Project-related traffic could cause a substantial increase in noise levels or an exceedence of "Normally Acceptable" noise levels for sensitive receptors within the project area.

a) **Potential Impact.** The impact of a potential increase in noise levels identified above is described and discussed on pages IV.E.16 through IV.E.18 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measures E.2a and E.2b (p. IV.E.18 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measure E.2a requires the construction of noise barriers and the use of sound insulation, as determined by a qualified acoustical consultant. The use of such barriers and sound insulation would reduce this impact to a less-than-significant level.

Impact E.3. New stationary sources of noise associated with the proposed project could generate noise levels incompatible with ordinances or goals for the surroundings.

a) **Potential Impact.** The impact identified above is described and discussed on pages IV.E.19 to IV.E.20 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measures E.3 (pp. IV.E.19 to IVE.20 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measure E.3 will substantially lessen or avoid Project impacts related to new stationary sources of noise by requiring the developers of any project involving commercial uses or multi-family residential buildings that would include outdoor mechanical equipment to retain a qualified acoustical engineer to review and prepare a report on the project to ensure that noise levels will not exceed City Standards. The report shall be submitted to the City prior to approval of building permits. Implementation of this mitigation measure would reduce the impacts from stationary noise generated by the project site to a less-than-significant level.

Impact E.4. Pile-driving activities related to construction of taller buildings

in the Mixed Use area could temporarily generate noise and/or ground-borne vibration levels incompatible with ordinance or goals for the surroundings.

a) **Potential Impact**. The impact of pile-driving activities identified above is described and discussed on page IV.E.20 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure E.4 (p. IV.E.21 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measure E.4 requires limiting pile driving to typical working hours and requires monitoring of vibrations to protect the nearby use of vibration-sensitive equipment. Implementation of this mitigation measure would reduce the impacts from construction noise at the project site to a less-then-significant level.

Impact E.5. Non-stationary sources of noise associated with the proposed project could generate noise levels incompatible with ordinance or goals for the surroundings.

a) **Potential Impact.** The impact identified above is described and discussed on pages IV.E.21 to IV.E.22 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measures E.5 (pp. IV.E.22 to IV.E.23 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measure E.5 will substantially lessen or avoid Project impacts related to non-stationary sources of noise by requiring the project developers to retain a qualified acoustical engineer to review site plans and building designs for proposed commercial activities to be located adjacent to sensitive residential land uses and to identify a complete list of measures what will reduce noise levels at the nearest residential property line to an L_{dn} of 65 dB or less. Implementation of this mitigation measure would reduce the impacts from non-stationary sources of noise at the project site to a less-than-significant level.

Impact E.6. Cumulative development could lead to noise conflicts between incompatible land uses.

a) **Potential Impact.** The impact identified above is described and

discussed on page IV.E.23 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure E.6 (pp. IV.F.25 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

(i) **Effects of Mitigation.** Mitigation Measure E.6 incorporates by reference Mitigation Measures E.2a and E.2b, which include the performance of noise analyses conducted by qualified acoustical consultants. Mitigation Measure E.6 requires that such analyses include consideration of cumulative year 2025 conditions.

(ii) **Remaining Impacts.** Because there are no feasible measures available to further mitigate the significant impact identified above, it is considered significant and unavoidable.

(iii) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impacts of the Project relating to its contribution to cumulatively significant noise conflicts between incompatible land uses, as set forth in the Statement of Overriding Considerations below.

IV.F. Hazards

Impact F.2. Excavation for installation of utilities and other construction on the project site could encounter contaminated soil and/or groundwater and expose workers and the public to hazardous substances.

a) **Potential Impact.** The impact identified above is described and discussed on page IV.F.8 of the DEIR.

b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure F.2 (p. IV.F.8 to IV.F.9 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measure F.2 will substantially lessen or avoid the impact identified above by requiring completion of Phase I Environmental Site Assessments for all parcels for which a Phase I has not yet been performed, Phase II studies for parcels where indicated, and remediation of any discovered

chemical contamination, underground storage tanks, abandoned drums, or other hazardous materials or wastes under the direction of the City and the County Health Services Department. With the implementation of Mitigation Measure F.2, the impact of potential release of, and exposure to, hazardous materials would be less than significant.

IV.G. Biological Resources

Impact G.1. Implementation of the Specific Plan would result in loss of occupied burrowing owl habitat.

a) **Potential Impact.** The impact identified above is described and discussed on pages IV.G.10 to IV.G.11 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measures G.1a and G.1b (pp. IV.G.11 to IV.G.12 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measure G.1a requires preparation of a habitat assessment on the project site and within a 500-foot buffer zone prior to the start of construction. In the event that suitable Burrowing Owl habitat is discovered, the measure requires implementation of a set of mitigation measures designed by CDFG to avoid disturbance, injury or death of owls. In the event that it is infeasible to avoid development of areas containing occupied Burrowing Owl habitat, Mitigation Measure H.6b requires that the developers provide habitat compensation on off-site mitigation lands. Together, implementation of these mitigation measures will substantially lessen or avoid the Project's impacts related to the loss of occupied Burrowing Owl habitat.

Impact G.2. Implementation of the Specific Plan would result in disturbance of nesting raptors and migratory birds.

a) **Potential Impact.** The impact identified above is described and discussed on page IV.G.12 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measures G.2a and G.2b (pp. IV.G.12 and IV.G.13 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measures G2a and G2b provide for a construction schedule that avoids the nesting season, or if that schedule is impracticable, provide for pre-construction surveys conducted by a qualified ornithologist or wildlife biologist to identify and create construction-free buffer zones around nests. These measures would reduce the potential for significant impact to a less-than-significant level.

Impact G.3. Implementation of the Specific Plan would result in cumulative loss of Swainson's hawk and burrowing owl habitat.

a) **Potential Impact.** The impact identified above is described and discussed on page IV.G.13 to IV.G.14 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measures G.3 **(pp. ____ of the FEIR).**

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measure G.3 (which incorporates by reference Mitigation Measures G.1a and G.1b) will reduce cumulative impacts on burrowing owl habitat to a less-than-significant level. Implementation of Mitigation Measure G.2, which requires providing suitable off-site habitat management (HM) lands protected by fee title acquisition or conservation easement to provide foraging habitat, as well as long-term management of HM lands through a management endowment funded by project sponsors, will reduce cumulative impacts on Swainson's hawk habitat to a less-than-significant level.

IV.H. Hydrology and Water Quality

Impact H.1. Construction activities could result in degradation of water quality in nearby surface water bodies by causing accidental spills and/or by reducing the quality of storm water runoff.

a) **Potential Impact.** The impact identified above is described and discussed on page IV.H.11 of the DEIR.

b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure H.1 (pp. IV.H.11 and IV.H.12 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City,

the City Council finds that: Implementation of Mitigation Measure H.1 will substantially lessen to a less-than-significant level or avoid the impact identified above by requiring the developers to prepare a Storm Water Pollution Prevention Plan (SWPPP) for each development project (or one master SWPPP for all development) designed to reduce potential impacts to surface water quality during the construction period. The mitigation measure requires that the SWPPP emphasize measures designed to minimize erosion and off-site sedimentation, include specific and detailed Best Management Practices to mitigate construction-related pollutants and reduce erosion, provide for regular meetings of site supervisors to discuss pollution prevention, and include provisions for a monitoring program.

Impact H.3. Implementation of the project could alter drainage patterns at the site, potentially causing runoff to exceed the capacity of existing conveyances and result in localized flooding.

a) **Potential Impact.** The impact identified above is described and discussed on pages IV.H.13 to IV.H.14 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measures H.3a and H.3b (pp. IV.H.14 and IV.H.15 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measure 1.3a requires the developer to acquire written approval from the Modesto Irrigation District to discharge runoff to the MID Lateral No. 6, or in the alternative, develop and alternative plan for disposal of storm water in accordance with the City of Modesto standards for storm water runoff. Mitigation Measure 1.3b requires that every proposed development: a) include adequately-sized detention facilities designed by a licensed professional engineer to accommodate anticipated runoff associated with a 100-year storm event, with such drainage plan to be reviewed and approved by the City of Modesto Department of Public Works; b) include drainage components designed in compliance with City of Modesto standards; and c) establish a funding mechanism for maintenance and annual inspections of the detention basin, drainage ditches, and drainage inlets, with an annual report of inspections and remedial action to be submitted to the City of Modesto Public Works Department. Implementation of Mitigation Measures 1.3a and 1.3b will substantially lessen to a less-than-significant level or avoid the impact described above.

Impact H.6. Existing water supply wells within the Specific Plan area, if not

properly managed or decommissioned, could be damaged during construction, potentially resulting in impacts to groundwater quality.

a) **Potential Impact.** The impact on existing water supply wells identified above is described and discussed on page IV.H.16 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure H.6 (pp. IV.H.16 and IV.H.17 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measure H.6 requires that a survey shall be conducted to locate existing water supply wells and that each identified well shall be either properly abandoned or properly sealed in compliance with California Well Standards. Implementation of this Mitigation Measure will reduce this impact to a less-than-significant level.

IV.K. Water Supply

Impact K.2. Demand from the project would cause water pressure problems within the City's water distribution system.

a) **Potential Impact.** The impact identified above is described and discussed on page IV.K14 of the DEIR.

b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program:

FEIR Mitigation Measure K.2 (p. IV.K.15 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measure K.2, which requires the currently proposed project infrastructure be supplemented by the installation of an additional pipeline, and which recognizes system improvements currently planned to be installed by the City, will reduce this impact to a less-than-significant level.

IV. Findings Regarding Project Alternatives.

A. Identification of Project Objectives.

The CEQA Guidelines state that the "range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic purposes of the project and could avoid or substantially lessen one or more of the

significant effects" of the Project. CEQA Guidelines § 15126.6(c). Thus, an evaluation of the Project objectives is key to determining which alternatives should be assessed in the EIR.

The DEIR lists eight specific objectives for the Project (pages III.2 and III.3):

1. Create a mixed-use area adjacent to the Kaiser Modesto Medical Center which will serve the hospital and its visitors, the immediate business park area, and residential areas. Provide a vibrant village atmosphere which provides a safe, pedestrian-friendly environment.

2. Create an extended hours community by balancing business park and medical center uses with residential and retail to provide greater safety through increased surveillance and activity.

3. Attract small businesses that provide support services to the hospital and business park uses.

4. Provide multi-family residential uses, both apartments and condominiums, to provide housing choices for doctors and nurses, hospital employees and support staff, visitors, single parents, business owners and employees, and independent seniors.

5. Design a healthy, smart growth development that increases physical activity via walking and bicycling, reduces dependence on automobiles, and increase transit use.

6. Provide incentives to reduce traffic through the use of shared parking and reduced automobile parking standards. Balance the supply and management of parking to address the needs of the businesses, residents, and employees.

7. Provide for employment-intensive uses in an attractive "campus-like" setting that is consistent with the needs of the target industries identified in the Kiernan Business Park Specific Plan.

B. Alternatives Analyzed in the FEIR.

The CEQA Guidelines state that the range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic purposes of the project and could avoid or substantially lessen one or more of the significant effects of the Project. The City evaluated the alternatives listed below.

1. No Project Alternative.

a) Findings. The No Project Alternative is discussed at pages VI.2 of the DEIR. The No Project Alternative is rejected as an alternative, because it would not feasibly achieve the objectives of the Project.

b) Explanation. Under the No Project Alternative, the Project site would not be developed in accordance with the proposed Kiernan Business

Park Specific Plan Amendment #4 and physical conditions on the project site would remain as they currently are. The 86 acres within City of Modesto limits would continue in existing agricultural, residential, and commercial uses. The 67 acres in the County's land use designation and zoning would not be incorporated into the City of Modesto's boundaries and would remain in current agricultural and residential land use. Although the No Project Alternative would avoid the Project's significant impacts, it would not further the City's Project objectives of: creating a safe, pedestrian-friendly and vibrant mixed-use area to serve the Kaiser Modesto Medical Center and the immediate business park area; attracting small business and promoting employment-intensive uses consistent with the needs identified in the Kiernan Business Park Specific Plan; and designing a healthy, smart growth development that reduces automobile dependence and traffic.

2. Existing Kiernan Business Park Specific Plan Alternative

a) Findings. The Existing Kiernan Business Park Specific Plan Alternative is discussed at pages VI.3 through VI.15 of the DEIR. The Existing Kiernan Business Park Specific Plan Alternative is rejected as an alternative, because it would not feasibly achieve the objectives of the Project.

b) Explanation. The Existing Kiernan Business Park Specific Plan Alternative would result in the site being developed in accordance with the existing Kiernan Business Park Specific Plan Business Park (BP) land use designation, which allows for business park, office, and regional commercial development, but no residential uses. Impacts resulting from development under the existing Business Park Specific plan would be slightly greater than, but similar to, those identified for the proposed project. Additional mitigation measures in the area of transportation and circulation would be necessary to alleviate the traffic impacts of the existing Business Park Specific plan, and yet the alternative would not achieve the proposed project's objectives that arise from including residential uses within the Business Park Specific Plan: creating a safer, extended hours community; smart growth development that reduces dependence on automobiles; and creating a mixed-use area in the immediate business park that provides a safe, pedestrian-friendly environment as well as housing for hospital and business park staff and business owners.

3. Reduced Intensity Alternative.

a) Findings. The Reduced Intensity Alternative is discussed at pages VI.15 through VI.28 of the DEIR. The Reduced Intensity Alternative is rejected as an alternative, because it would not feasibly achieve the objectives of the Project.

a) Explanation. Under the Reduced Intensity Alternative, the western portion of the project site would be developed with BP, MU and MHDR land uses. About 40 percent less land area would be developed than is proposed with the Kiernan Business Park Specific Plan Amendment #4. Compared to the proposed project, the Reduced Intensity Alternative would have roughly 40 percent less BP space, 40 percent less MU space, but 92 more residential units in the MHDR land use area. Although the Reduced Intensity Alternative would result in reduced, though similar, impacts as compared to the Project, and although the DEIR identifies this alternative as

the environmentally superior alternative, it would diminish the Project objectives of attracting small businesses that provide support services to Kaiser Modesto and the business park and providing for employment-intensive uses consistent with the needs of the target industries identified in the Kiernan Business Park Specific Plan. Reducing the MU space by 40 percent would substantially lessen the opportunity for development of small businesses that provide support services to Kaiser Modesto and the business park. Reducing the BP space by 40 percent would substantially reduce the project's ability to provide for employment-intensive uses and be inconsistent with the anticipated General Plan intensity of .40 FAR overall.

V. Statement of Overriding Considerations.

Pursuant to Public Resources Code Section 21081 and CEQA Guidelines Section 15093, this City Council adopts and makes the following Statement of Overriding Considerations regarding the remaining significant unavoidable impacts of the Project, as discussed above, and the anticipated economic, social and other benefits of the Project.

The City finds and determines that: (i) the majority of the significant impacts of the Project will be reduced to acceptable levels by the mitigation measures recommended in these Findings; (ii) the City's approval of the Project as proposed will result in certain significant adverse environmental effects that cannot be avoided even with the incorporation of all feasible mitigation measures into the Project; and (iii) there are no other feasible mitigation measures or other feasible Project alternatives that would further mitigate or avoid the remaining significant environmental effects. The significant effects that have not been mitigated to a less-than-significant level and are therefore considered significant and unavoidable are:

- IV.B.1 – Agricultural Resources – Implementation of the proposed project would directly result in the permanent loss of Prime Farmland.

- IV.B.3 – Agricultural Resources – Implementation of the proposed project would incrementally contribute to the cumulative loss of prime agricultural land in the Modesto area and in Stanislaus County.

- IV.C.1 – Transportation and Circulation – Construction and occupancy of the project site would result in significant impacts at study intersections adjacent to and near the project site under the existing plus project scenario.

- IV.C.2 – Transportation and Circulation – Construction and occupancy of the project site would result in significant impacts on freeway and roadway segments adjacent to and near the project site under the existing plus project scenario.

- IV.C.3 – Transportation and Circulation – Construction and occupancy of the project site would result in significant impacts on freeway ramp merge/diverge interchanges near the project site under the existing plus project scenario.

- IV.C.4 – Transportation and Circulation – Construction and occupancy of the project site would result in significant impacts at study intersections adjacent to and near the project site under the near-term baseline plus project scenario.

- IV.C.5 – Transportation and Circulation – Construction and occupancy of the project site would result in significant impacts on freeway and roadway segments adjacent to and near the project site under the near-term baseline plus project scenario.

- IV.C.6 – Transportation and Circulation – Construction and occupancy of the project site would result in significant impacts on freeway ramp merge/diverge areas near the project site under the near-term baseline plus project scenario.

- IV.C.7 – Transportation and Circulation – Construction and occupancy of the project site would result in significant impacts on freeway and roadway segments adjacent to and near the project site under the cumulative baseline plus project scenario.

- IV.D.1 – Air Quality – Emissions of criteria pollutants during project construction would contribute to existing violations of the ambient air quality standards in the region.

- IV.D.2 – Air Quality – Emissions of criteria pollutants during project operation would contribute to existing violations of the ambient air quality standards in the region.

- IV.D.6 – Air Quality – The project would cause a cumulatively considerable net increase of pollutants for which the San Joaquin Valley is designated as nonattainment.

- IV.D.7 – Air Quality – The proposed project, including annexation of the proposed parcels to the City of Modesto and changes to adopted community plans, could conflict with or obstruct implementation of the ozone and PM_{10} attainment plans.

- IV.E.6 – Noise – Cumulative development could lead to noise conflicts between incompatible land uses.

The following statement identifies the reasons why, in the City's judgment, the benefits of the Project outweigh the significant and unavoidable effects. The substantial evidence supporting the enumerated benefits of the Project can be found in the preceding findings, which are herein incorporated by reference, in the Project itself, and in the record of proceedings as defined in Section II.A. Each of the overriding considerations set forth below constitutes a separate and independent ground for finding that the benefits of the Project outweigh its significant adverse environmental effects and is an overriding consideration warranting approval.

The City finds that the Project, as conditionally approved, would have the following economic, social, technological, and environmental benefits:

1. Growth Consistent With General Plan. The City's General Plan provides an overall framework for the City's growth. The Kiernan Business Park Specific Plan, as amended, provides an area-specific comprehensive framework for attractive and distinctive development within the Kiernan Avenue area that is consistent with the goals and policies of the General Plan.

2. Housing. The Kiernan Business Park Specific Plan Amendment #4 allows for 342 dwelling units in a variety of residential housing types and configurations. 262 of the dwelling units may be developed as Medium High Density Residential, at 18 to 24 units per acre. The variety and range of housing types allowed under the Specific Plan will increase opportunities for entry level and step-up housing, and provide for a balance of housing with business and retail to create a vibrant, extended-hours community.

3. Infrastructure Needs. The Kiernan Business Park Specific Plan Amendment #4 provides for the public facilities and infrastructure necessary to support smart growth in the Kiernan Avenue area, emphasizing pedestrian, bicycle and transit uses, and allowing for the incorporation of residences near work sites to minimize dependence on automobile usage.

4. Economic Development and Job Creation. The Kiernan Avenue area is a prime job-creating location because of it's proximity to Highway 99 and North Modesto. The Kiernan Business Park Specific Plan Amendment #4 provides for commercial and residential development that will serve enhance Modesto's local economy, generate jobs for residents, and create a better jobs/housing balance.

5. Public Revenues. The Kiernan Business Park Specific Plan Amendment #4 provides for new small business development opportunities on the north side of Modesto, which in turn will enhance the City's economic base through increased property and sales tax revenue.

KIERNAN BUSINESS PARK SPECIFIC PLAN AMENDMENT #4 PROJECT MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
Agricultural Resources				
B.1: Prior to any actual development in the Kiernan Business Park Specific Plan area, the City Council would consider creation of a farmland mitigation program to determine whether such a program could feasibly provide partial mitigation for the loss of prime farmland.	Project Developers and City of Modesto	City of Modesto shall finalize review and consideration of the adoption of a farmland mitigation program. Project Developers shall implement applicable portions of the program, if approved by City.	Community and Economic Development Department shall ensure farmland mitigation program is considered and instituted, if approved by the City Council.	The consideration of a farmland mitigation program shall be prior to issuance of certificate of occupancy for the first building within the plan area.
B.3: Prior to any actual development in the Kiernan Business Park Specific Plan area, the City Council would consider creation of a farmland mitigation program to determine whether such a program could feasibly provide partial mitigation for the loss of prime farmland. (Same as Mitigation Measure B.1)	Same as Mitigation Measure B.1	Same as Mitigation Measure B.1	Same as Mitigation Measure B.1	Same as Mitigation Measure B.1
Transportation and Circulation				
C.1b: Kiernan Avenue and Sisk Road: Widen Kiernan Avenue to provide two through lanes in each direction.	City of Modesto and Caltrans	The identified road improvements shall be completed by Caltrans and City of Modesto.	City Engineer shall verify completion of improvements.	Improvements shall be completed prior to issuance of a building permit for the final building within the first phase of development.
C.1c: Kiernan Avenue and Stoddard Road: Widen Kiernan Avenue to provide two through lanes in each direction. Signalize the intersection.	City of Modesto and Caltrans	The identified road improvements shall be completed by Caltrans and City of Modesto.	City Engineer shall verify completion of improvements.	Improvements shall be completed prior to issuance of a building permit for the final building within the first phase of development.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
C.1d: Kiernan Avenue and Dale Road: Widen Kiernan Avenue to provide two through lanes in each direction. Add turn pockets at all approaches. Signalize the intersection. Construct a second northbound left-turn lane and a northbound right-turn lane.	City of Modesto and Caltrans	The identified road improvements shall be completed by Caltrans and City of Modesto.	City Engineer shall verify completion of improvements.	Improvements shall be completed prior to issuance of a building permit for the final building within the first phase of development.
C.1f: Bangs Avenue and American Avenue: Install a two-lane roundabout with a northbound right-turn by-pass lane or install traffic signals and left-turn pockets on all approaches.	Project Developers and the City of Modesto	Project Developers shall either construct the improvements or pay their fair share and the improvements will be constructed by the City of Modesto	City Engineer shall verify completion of improvements per City specifications.	Improvements shall be completed prior to issuance of a building permit for the final building within the second phase of development.
C.1k: Pelendale Avenue and Sisk Road: Install a third westbound through lane, a second westbound left-turn lane, a second southbound through lane, and a second southbound left-turn lane.	City of Modesto	The identified road improvements shall be completed by the City of Modesto.	City Engineer shall verify completion of improvements.	Improvements shall be completed prior to issuance of a building permit for the final building within the first phase of development.
C.2c: Pelandale Avenue: Add an eastbound and westbound through lane between Dale Road and Tully Road.	City of Modesto	The identified road improvements shall be completed by the City of Modesto.	City Engineer shall verify completion of improvements.	Improvements shall be completed prior to issuance of a building permit for the final building within the first phase of development.
C.4c: Dale Road and Kaiser Main Entrance/The Plaza Way: Add a third southbound through lane; add a third northbound through lane.	Project Developers and Kaiser Modesto Medical Center	Kaiser Modesto Medical Center shall build the southbound lane. Project Developers shall construct the northbound lane.	City Engineer shall verify completion of improvements per City specifications.	Improvements shall be completed prior to issuance of a building permit for the final building within the first phase of development.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
C.4d: Bangs Avenue and American Avenue: Construct a two-lane roundabout with a northbound by-pass lane; or install a traffic signal and add an eastbound through lane, an eastbound left-turn pocket, a westbound through lane, a westbound left-turn pocket, a northbound left-turn lane, a northbound through lane, a northbound right-turn only lane, a southbound left-turn lane, and a southbound shared through/right-turn lane.	Project Developers	Project Developers shall either construct the improvements or pay their fair share and the improvements will be constructed by the City of Modesto	City Engineer shall verify completion of improvements per City specifications.	Improvements shall be completed prior to issuance of a building permit for the final building within the third phase of development.
C.7: Pelandale Avenue and Dale Road: No physical improvements are recommended for these roadways beyond the planned maximum cross-section. Other measures, such as signal timing coordination and transportation demand management measures, should be implemented to maximize through traffic efficiency and minimize single occupant vehicle trips. The project sponsor shall prepare a transportation demand management program to the satisfaction of City staff.	Project Developers	Project Developers shall prepare a transportation demand management program to the satisfaction of staff. Project Developers shall implement the provisions of the program in conjunction with development.	City Traffic Engineer and Transit Manager shall review and approve transportation demand management program, and monitor its use through the imposition of conditions of approval upon future development.	Transportation demand management program shall be instituted prior to development entitlement for any building within the plan area.
C.8: Construction-related traffic activity: The project sponsor shall develop a construction management plan for review and approval by the City Public Works Department and the Community Development Department.	Project Developers	Project Developers shall prepare a construction management plan to the satisfaction of staff. Project Developers shall implement the provisions of the program in conjunction with development.	Public Works Director and Community & Economic Development Director or designees shall review and approve a construction management plan, and monitor its provisions through the imposition of conditions of approval upon future development.	Construction management program shall be instituted prior to development entitlement for any building or tentative map within the plan area.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
C.9: **C.1a, e, g, h, i, j, and l, C.2a, 2b, and 2d, C.3, C.4 a, b, e, f, g, h, j, k, and l, C.5.a, b, c, d and e, C.6: Potentially Infeasible Mitigations:** Construct roadway segment, intersection and interchange improvements as specified in the subject sections of the EIR, where they become feasible.	City	The City shall ensure that these improvements are made when timing, jurisdictional and funding issues are resolved and shall require the project to provide a fair-share contribution to the off-site facilities, as specified in the FEIR, through payment to the project CFD.	C&ED Director	Prior to Adoption of the CFD by City Council and ongoing.
Air Quality				
D.1: The construction plans for each group of buildings shall incorporate the following recommendations from the District to minimize emissions during construction phases:				
• The project developers shall review Regulation VIII of the San Joaquin Valley Air Pollution Control District regulations and submit a compliance plan to the San Joaquin Valley Air Pollution Control District prior to commencing any phase of construction. The compliance plan must demonstrate that the current requirements of Regulation VIII will be implemented.	Project Developers	Project Developers shall review Regulation VIII and submit a compliance plan to the San Joaquin Valley Air Pollution Control District. The compliance plan shall be incorporated in construction contracts and implemented by developers.	Project Developers shall provide draft compliance plan to the Community and Economic Development Department for review and approval.	Compliance plan shall be submitted to and approved by the San Joaquin Valley Air Pollution Control District prior to the issuance of a grading or building permit, whichever occurs first.
• Prior to the issuance of construction contracts, the project developers shall perform a review of new technology, as it relates to heavy-duty equipment, to determine what, if any, advances in emissions reduction are available for use. It is anticipated that in the near future both NO_x and PM_{10} control equipment will be available. The San Joaquin Valley Air Pollution Control District should be consulted during this process.	Project Developers	Project Developers shall consult with SJVAPCD and identify available new technology and shall incorporate requirements for new technology in construction contracts. At minimum, future development shall achieve average emissions equal to or less than Tier II standards of 4.8 g/hp-hr for NOx, based on current	Project Developers shall report to the San Joaquin Valley Air Pollution Control District on new technology to be included.	The Project Developers shall incorporate available new technology in construction contracts.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
		SJVAPCD policies.		
• Dust suppression shall be implemented on all disturbed areas, including inactive outdoor storage piles, by application of water, chemical stabilizer/suppressant, or covering with a tarp, vegetative ground cover, or other suitable cover. *(cont'd.)*	Project Developers	Construction foreman or liaison shall implement necessary dust suppression activities in conjunction with project development	Construction foreman or liaison shall assign personnel to dust suppression duties and record techniques used in daily construction log and submit results in a monthly report to the San Joaquin Valley Air Pollution Control District.	Implement measures throughout the construction duration.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
• Dust suppression shall be implemented following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles using water or chemical stabilizer/suppressant.	Project Developers	Construction foreman or liaison shall implement necessary dust suppression activities in conjunction with project development	Construction foreman or liaison shall assign personnel to dust suppression duties and record techniques used in daily construction log and submit results in a monthly report to the San Joaquin Valley Air Pollution Control District.	Implement measures throughout the construction duration
• Dust suppression shall be implemented on all on-site unpaved roads, and off-site unpaved access roads used during the construction phase, using water or chemical stabilizer/suppressant. *(cont'd.)*	Project Developers	Construction foreman or liaison shall implement necessary dust suppression activities in conjunction with project development	Construction foreman or liaison shall assign personnel to dust suppression duties and record techniques used in daily construction log and submit results in a monthly report to the San Joaquin Valley Air Pollution Control District.	Implement measures throughout the construction duration

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
• All land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill, and demolition activities shall be effectively controlled of fugitive dust emissions by application of water during the activity or by presoaking.	Project Developers	Construction foreman or liaison shall implement necessary dust suppression activities in conjunction with project development	Construction foreman or liaison shall assign personnel to dust suppression duties and record techniques used in daily construction log and submit results in a monthly report to the San Joaquin Valley Air Pollution Control District.	Implement measures throughout the construction duration
• 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. *(cont'd.)*	Project Developers	Construction foreman or liaison shall implement necessary dust suppression activities in conjunction with project development	Construction foreman or liaison shall assign personnel to dust suppression duties and record techniques used in daily construction log and submit results in a monthly report to the San Joaquin Valley Air Pollution Control District..	Implement measures throughout the construction duration

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
• The project developers shall limit traffic speed on unpaved roads to 15 miles per hour.	Project Developers	The construction foreman or liaison shall post speed limit signs and ensure that construction vehicle operators travel at or less than 15 mph.	The construction foreman or liaison shall monitor speed limits. Project Developers shall monitor compliance throughout the construction duration.	The Project Developers shall install speed limit signs as part of the site preparation process prior to issuance of a grading permit. Implement measures throughout the construction duration.
• The project developers shall install sandbags or other control measures to prevent silt runoff to public roadways from sites with a slope greater than 1 percent.	Project Developers	All slopes shall be measured by the Project Developers and identified on the building permit plan set submitted. The construction foreman or liaison shall oversee the placement of sandbags or other runoff control measure(s) on all slopes determined to have a slope greater than 1 percent.	The construction foreman or liaison shall monitor runoff control measure(s) and shall conduct weekly runoff control measure(s) inspections and shall submit results in a monthly report to the San Joaquin Valley Air Pollution Control District.	The building permit submittal shall identify slope measurements. Implement measures throughout the construction duration.
• The project developers shall install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site, to prevent track-out of soil to public roadways. *(cont'd.)*	Project Developers	The construction foreman or liaison shall ensure that wheel washers and/or equipment washers are in place at all points of exit from the site and are correctly implemented.	Construction foreman or liaison shall record inspections in a daily construction log and submit results in a monthly report to the San Joaquin Valley Air Pollution Control District.	The washers shall be provided prior to issuance of grading or building permit, whichever occurs first. Implement measures throughout the construction duration.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
• The project developers shall install windbreaks at windward sides of construction areas, if necessary to prevent wind-blown dust.	Project Developers	Windbreaks shall be installed by the Project Developers. The construction foreman or liaison shall ensure that windbreaks are correctly placed and implemented.	The construction foreman or liaison shall inspect installed windbreaks on a weekly basis and record inspections in the construction log. Inspection results shall be submitted in a monthly report to the San Joaquin Valley Air Pollution Control District.	Windbreaks shall be installed by the Project Developers prior to the issuance of grading or building permit, whichever occurs first. Implement measures throughout the construction duration.
• The project developers shall suspend excavation and grading activity when winds exceed 20 miles per hour. *(cont'd.)*	Project Developers	Project developers shall install wind speed measuring devices and ensure that these devices are correctly located and calibrated.	The construction foreman shall cease all excavating and grading activities when wind speed measuring devices indicate speeds over 20 mph. Suspension of construction activity due to wind speeds shall be recorded in the construction log. Construction reports shall be submitted to the San Joaquin Valley Air Pollution Control District. on a monthly basis.	Wind speed measuring devices shall be installed by the Project Developers prior to the issuance of grading or building permit, whichever occurs first. Implement measures throughout the construction duration.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
• The project developers shall limit the area subject to excavation, grading, and other construction activity at any one time. *(cont'd.)*	Project Developers	The project sponsor shall provide a written statement with any request for development permits or other permits involving movement of soil supporting a determination that the request minimizes the amount of exposed soil on the project site during the relevant construction period. The Community and Economic Development Director will either accept the report or require additional means to reduce the amount of exposed soil, such as hydroseeding or planting vegetation with irrigation, in areas that are proposed to be exposed for more than 20 days with no construction activity. Construction shall comply with the General Construction Permit.	The construction foreman or liaison shall ensure that construction activities do not exceed the allowable area of excavation and grading activity permitted on the site and shall oversee implementation of any required best management practices. The construction foreman or liaison shall record excavation and grading activities in a construction log on a daily basis and submit results in a monthly report to the San Joaquin Valley Air Pollution Control District.	Project Developer shall provide a plan to reduce soil exposure prior to the issuance of grading or building permit, whichever occurs first. Implement measures throughout the construction duration.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
• The project developers shall ensure that the accumulation of mud or dirt is expeditiously removed from adjacent public streets at least once every 24 hours when construction activities are occurring (the use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions).	Project Developers	The construction foreman or liaison shall establish and implement a daily street sweeping schedule during construction activities that involve movement of soil.	The construction foreman or liaison shall monitor daily street sweeping and provide a daily log. Results shall be submitted in a monthly report to the San Joaquin Valley Air Pollution Control District.	Project Developer shall provide a daily street sweeping schedule prior to the issuance of grading or building permit, whichever occurs first. Implement measures throughout the construction duration.
• The project developers shall use alternative-fuel construction equipment, where feasible.	Project Developers	Project Developers shall consult with SJVAPCD to identify feasible goals for equipment use. These goals shall be incorporated into construction contracts. The Project Developers shall use alternative-fuel construction equipment throughout the construction duration, where feasible.	The Project Developers shall report to the San Joaquin Valley Air Pollution Control District. the alternative-fuel equipment to be used in each phase.	Project Developer shall provide a list of any alternative equipment prior to the issuance of grading or building permit, whichever occurs first. Implement measures throughout the construction duration.
• The project developers shall minimize idling time (e.g., to a 10-minute maximum). *(cont'd.)*	Project Developers	The construction foreman or liaison shall limit idling time on the construction site to a 10-minute maximum.	The construction foreman or liaison shall monitor idling.	Implement measures throughout the construction duration.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
• The project developers shall limit the hours of operation of heavy-duty equipment and/or the amount of equipment in use to the minimum practical.	Project Developers	The construction foreman or liaison shall limit the hours of heavy-duty equipment and/or the amount of equipment in use on the construction site.	The construction foreman or liaison shall monitor hours and use of heavy-duty equipment.	Implement measures throughout the construction duration.
• The project developers shall replace fossil-fueled equipment with electrically driven equivalents (provided they are not run via a portable generator set), where feasible.	Project Developers	Project Developers shall incorporate requirements to replace fossil-fueled equipment with electrically driven equivalents, where feasible.	Project Developers shall report to the San Joaquin Valley Air Pollution Control District. about electrically driven equipment to be used in each phase.	The Project Developers shall use electrically driven equipment throughout the construction duration, where feasible.
• The project developers shall take steps to curtail construction activity during periods of high ambient pollutant concentrations; this may include reducing construction activity during the peak hour of vehicular traffic on adjacent roadways or ceasing construction activity during days declared as Spare the Air days by the San Joaquin Valley Air Pollution Control District.	Project Developers	The construction foreman or liaison shall comply with traffic control programs to curtail construction activities during periods of high ambient pollution based on advisories from the the San Joaquin Valley Air Pollution Control District, such as on declared 'Spare the Air' days.	The construction foreman or liaison shall curtail or cease construction activity based on the San Joaquin Valley Air Pollution Control District advisories.	During advisory periods, such as 'Spare the Air' days, construction activity shall be curtailed or stopped.
• The project developers shall implement activity management to reduce cumulative short-term impacts.	Project Developers	Project Developers shall submit and implement an activity management plan.	The San Joaquin Valley Air Pollution Control District. shall review the activity management plan.	Activity management plan shall be submitted to and approved prior to the issuance of a grading or building permit, whichever occurs first. Implement measures throughout the construction duration.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
D.2a: Implementation of design features to reduce emissions from motor vehicle activity:				
• The project developers shall incorporate improvements for transit service, including bus turnouts, transit loading areas, and shelters.	Project Developers	Project Developers shall provide a plan for bus turnouts, loading and shelters along perimeter streets.	The Transit Manager shall review and approve the plan.	Review and approval of transit service improvements shall occur prior to development entitlement for any building or tentative map within the plan area. All improvements shall be completed prior to certificate of occupancy or recordation of tentative map, or as determined by the FMP and IFP.
• The project developers shall incorporate sidewalks and bicycle paths throughout the site and connect those facilities to any nearby pedestrian and bicycle facilities, including those located at open space areas, parks, schools, or commercial areas. *(cont'd.)*	Project Developers	Project Developers shall submit plans to the Community and Economic Development Department that identify the appropriate locations of all pedestrian and bicycle facilities elements and implement the plans.	The Community and Economic Development Department shall review and approve plans and ensure the improvements are constructed accordingly.	Review and approval of pedestrian and bicycle facilities shall occur prior to development entitlement for any building within the plan area. All improvements shall be completed prior to certificate of occupancy, or as determined by the FMP and IFP.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
• The project developers shall incorporate secure bicycle storage and parking facilities throughout the site.	Project Developers	Project Developers shall submit plans to the Community and Economic Development Department that identify all the bicycle storage and parking facilities on the project site and implement the plans.	The Community and Economic Development Department shall review and approve plans and ensure the improvements are constructed accordingly.	Review and approval of bicycle storage facilities shall occur prior to development entitlement for any building within the plan area. All improvements shall be completed prior to certificate of occupancy, or as determined by the FMP and IFP.
D.2b: The project developers shall prepare a trip reduction plan for review and approval by the City of Modesto prior to occupation of each phase of the proposed project. To be compliant with the policies of the *Urban Area General Plan*, the trip reduction plan shall address how the following features will be implemented: • Providing matching services (for participants in carpools and vanpools) by employers with over 100 weekday employees or coordination with Caltrans' "Commuter Computer" program; • Employer-based dissemination of commute information; • A program to guarantee rideshare participants a ride home in case of emergency; • Flex-time scheduling; • Site plan design which encourages pedestrian movement between adjacent land uses; • Incentives such as preferred location of four percent of parking for carpoolers and hybrid or other clean-fuel vehicles; • Encouraging submission of site plans featuring mixed land uses or "neo-traditional" design; and • Encouraging employers to experiment with telecommuting options, where feasible. ***(cont'd.)***	Project Developers	Project Developers shall submit trip reduction plans to the Community and Economic Development Department for review and approval.	The Community and Economic Development Department shall review and approve a trip reduction plan for each phase of the project.	The trip reduction plans shall be submitted and approved prior to certificate of occupancy for each phase of the project.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
D.2c: The site design shall fulfill the following requirements to reduce emissions from energy consumption:				
• The project developers shall incorporate energy-efficient building design features including automated control systems for heating and air conditioning and energy efficiency to achieve a 20 percent reduction beyond the requirements of the Building Code (Title 24, California Code of Regulations), increased wall and ceiling insulation beyond Building Code requirements, light-colored roof materials to reflect heat, and energy-efficient lighting and lighting controls.	Project Developers	Project developers shall submit construction drawings showing energy efficient building design features and implement the measures	The Building Division shall review and approve all construction plans to ensure that all energy efficiency measures are included and implemented..	Prior to issuance of building permit for any building, construction plans shall show that all energy efficient measures are included. Prior to certificate of occupancy for any building, all energy efficient design features included in construction plans shall be implemented
• The project developers shall orient buildings to the north to maximize natural cooling and heating.	Project Developers	Project developers shall submit site plans demonstrating northern orientation of buildings and construct the buildings in accordance with the approved plans.	The Planning Division shall confirm appropriate building orientation in conjunction with development plan review. The Building Division shall ensure buildings are constructed in accordance with the approved plans.	Building orientation shall be reviewed prior to development plan approval for any building within the plan area.
• The project developers shall incorporate approved deciduous trees to provide shade on the south- and west-facing sides of buildings. *(cont'd.)*	Project Developers	Project Developers shall submit site plans showing shade trees on the south- and west-facing sides of buildings and implement the plans.	The Department of Parks, Recreation and Neighborhoods shall review and approve all landscape plans.	Prior to building permit issuance of each project, landscape plans shall be approved. Implement measures prior to certificate of occupancy.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
• Natural gas burning units for space and water heating in the residential units shall use low-NOx space heaters and water heaters.	Project Developers	Project developers shall show low-NOx space and water heaters in construction drawings for natural gas burning residential units and implement the measures.	The Building Divisions shall review and approve all construction plans to ensure that low-NOx space and water heaters are included..	Prior to issuance of building permit for any residential building, construction plans shall be provided demonstrating the use of low NOx space and water heaters.
• All access roads, driveways, and parking areas serving the Business Park (BP) shall be constructed with materials that minimize particulate emissions in accordance with the requirements of SJVAPCD Regulation VIII and are appropriate to the scale and intensity of use.	Project Developers	Project developers shall demonstrate access roads, driveways and parking areas are in compliance with the requirements of Regulation VIII for particulate emissions	The San Joaquin Valley Air Pollution Control District shall review and approve plans for access roads driveways and parking areas	Prior to the issuance of a grading permit improvements plans shall be reviewed and approved by the San Joaquin Valley Air Pollution Control District.
D.8: The project shall implement the following measures to reduce the project impacts on global climate change: • For lighting in public streets, parking areas, and recreation areas, use of energy-efficient light and mechanical, computerized, or photocell switches to reduce unnecessary energy use; • Use of alternative, non-fossil-fuel-based energy systems; • Orientation of lots to maximize natural energy conservation; • Provision of bike racks and changing rooms for commercial development; • Planting of large-canopy, deciduous shade trees that are designed to fit in planters that are large enough to contain them without disrupting public improvements at project buildout.	Project Developers	Project Developers shall provide plans demonstrating compliance with global climate change measures to the Community and Economic Development Department for review and approval.	The Planning Division shall review and approve the plans. The Building Division shall ensure development is constructed in accordance with the approved plans.	Plans demonstrating consistency with global climate change measures shall be reviewed and approved prior to development entitlement for any building within the plan area.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
Noise				
E.2a: To reduce noise levels at significantly impacted proposed residential land uses would require the construction of noise barriers up to approximately six feet in height and properly locating outdoor-use areas to be partially shielded by project proposed buildings. Specific noise barrier heights required to reduce noise levels to a less-than-significant noise level depend on the setback distance and exposure to the adjacent roadway and are to be determined by a qualified acoustical consultant. Noise barriers may need to be constructed at the following locations: • Along Healthcare Way • Along The Plaza Way • Along Dale Road Since noise barriers typically provide noise reduction for receivers at a first-story height, some façades at higher elevations would likely be exposed to noise levels that require sound-rated windows to meet Building Code requirements. With the additional sound insulation to be determined by a qualified acoustical consultant, interior noise levels would achieve the applicable standards of an L_{dn} less than 45 dB.	Project Developers	Project Developers shall submit plans demonstrating compliance with community noise standards by locating buildings and outdoor activity areas for residential land uses outside the 65dBA noise contour, as dimensioned on page IV.E.17 of the EIR; or Project Developers shall commission a noise study, if buildings or outdoor activity areas are proposed within the 65dBA contour, to determine appropriate sound attenuation measures. These measures shall be incorporated into the development plans	The Planning Division shall review development plans and noise studies, where required, to ensure buildings and outdoor activity areas meet community noise standards. The Building Division shall ensure development is constructed in accordance with the approved plans	Prior to development entitlement for any building, development plans demonstrating compliance with community noise standards shall be provided. Prior to building permit issuance for any building, construction plans shall show all noise control features. The noise control features shall be installed prior to certificate of occupancy.
E.2b: The City and state do not specify interior noise standards for commercial uses. Commercial land uses located more than approximately 130 feet from the Kiernan Avenue centerline, 50 to 70 feet of the Dale Road centerline (depending on location along Dale Road, see Table IV.E.4), and 45 feet from the Bangs Avenue centerline would be exposed to noise levels interpreted by the City as "Normally Acceptable", and would be considered less-than-significant impacts. A qualified acoustical consultant should prepare a supplemental noise analysis for any commercial building located at closer distances (i.e., exposed to greater than 70 dB L_{dn}) to these roadways. The noise analysis should include an interior noise goal specific to the building and mitigation necessary to meet the goal.	Project Developers	Project Developers shall submit plans demonstrating compliance with community noise standards by locating buildings for commercial land uses outside the 70dBA noise contour, as dimensioned on page IV.E.17 of the EIR; or Project Developers shall commission a noise study, if buildings are proposed within the 70dBA contour, to determine appropriate sound attenuation measures. These measures shall be incorporated into the development plans.	The Planning Division shall review development plans and noise studies, where required, to ensure buildings and outdoor activity areas meet community noise standards. The Building Division shall ensure development is constructed in accordance with the approved plans	Prior to development entitlement for any building, development plans demonstrating compliance with community noise standards shall be provided. Prior to building permit issuance for any building, construction plans shall show all noise control features. The noise control features shall be installed prior to certificate of occupancy..

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
E.3: Each development project that involves commercial uses or multi-family residential buildings that would include outdoor mechanical equipment shall carry out the following: • Retain a qualified acoustical engineer to prepare a noise study for submission to the City, ensuring that noise levels will not exceed City Standards. The following noise reduction measures should be considered by the acoustical engineer: o Use of acoustical silencers on inlet and discharge openings of mechanical equipment, o Installation of parapets or enclosures with louvers or other barriers to shield noise, o Orientation of equipment so that it faces away from sensitive receptors, and o Orientation or setback of buildings to increase distance from sensitive receptors.	Project Developers	Project Developers shall submit a noise report to the Community and Economic Development Department and implement the features where outdoor mechanical equipment is proposed.	The Community and Economic Development Department shall review and approve the noise report.	A noise report shall be provided and approved prior to development entitlement for any commercial or residential building within the plan area. Prior to building permit issuance of each project, construction plans shall show all noise reduction features are included. The noise reduction features shall be implemented prior to certificate of occupancy.
E.4: Construction-related pile driving activities shall be conducted in accordance with the following: • Limit the operation or use of pile-driving equipment to the hours between 7:00 a.m. and 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.): • Perform vibration measurements at MRI locations during pile driving to assess the potential for interference with the equipment. This should be conducted as a "mock-up" test to assess the potential for vibration impacts. A compatible schedule may need to be developed for pile-driving activities that would allow for the non-impacted operation of the MRI equipment.	Project Developers	Project Developers shall limit operations of pile driving equipment to between the hours of 7:00 a.m. and 9:00 p.m. on weekdays, and 9:00 a.m. and 9:00 p.m. on holidays and weekends. Project Developers shall perform a vibration measurements test at MRI locations in coordination with Kaiser Medical Center, and, if interference would occur, schedule pile driving activities around the use of MRI equipment.	Project Developers shall perform a vibration measurement test at the location closest to MRI facilities to determine if interference would occur and establish a schedule for review and approval by the building division for pile driving activities. The construction foreman or liaison shall ensure that pile driving only occurs during approved hours.	A pile driving schedule shall be established prior to the issuance of a building permit for the first building within the project area. .

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
E.5: A qualified acoustical engineer shall be retained to review the site plans and building designs for proposed commercial activities when located adjacent to sensitive residential land uses. The acoustical engineer shall consider the following measures, and shall identify a complete list of measures that will reduce noise levels at the nearest residential property line to an L_{dn} of 65 dB: • Limiting loading and exterior warehouse activities to daytime hours from 7:00 a.m. to 9:00 p.m. • Requiring loading and trash compacting and collection activities to be fully enclosed. • Location and orientation of parking lot areas with respect to noise sensitive land uses. • Establishing minimum setback distances between common open space for multi-family residential buildings and locations of loading docks, warehousing activity areas, and trash compaction and collection areas in commercial developments.	Project Developers	Project Developers shall submit a noise report to the Community and Economic Development Department and implement the noise features.	The Community and Economic Development Department shall review and approve final noise report and building plans demonstrating compliance with the identified noise features.	Prior to development entitlement for any commercial building, a noise study shall be reviewed and approved Prior to building permit issuance, construction plans shall show all noise reduction features specified by the noise study. The noise reduction features shall be implemented prior to certificate of occupancy.
E.6: Acoustical recommendations prepared to address Impact E.2 should also consider cumulative year 2025 conditions.	Project Developers	Noise studies required as a result of mitigation measures E.2a and E.2b. shall include a cumulative 2025 analysis	The Planning Division shall ensure that a cumulative 2025 analysis is performed on required noise studies	Prior to development entitlement, a noise analysis including cumulative 2025 conditions shall be reviewed and approved by the Planning Division.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
Hazards				
F.2: Conduct Phase I Environmental Site Assessments, conduct site investigations, and implement remediation as necessary.	Project Developers	Project Developers shall retain a registered environmental assessor to conduct Phase I Environmental Site Assessments on properties where the assessment was not previously prepared, conduct further site investigations, where necessary, and implement the remediation.	The Community and Economic Development Department shall review and approve the Phase I Environmental Site Assessments, other needed site investigations and remediation in collaboration with the Stanislaus County Environmental Review Committee and County Health Services Department.	Conduct Phase I Environmental Site Assessments and other necessary site investigations prior to issuance of grading or building permit, whichever occurs first. Remediation shall be implemented prior to issuance of grading or building permit or as determined by the Phase I ESA and/or other site investigations.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
Biological Resources				
G.1a: Implementation of formal CDFG guidelines (Staff Report on Burrowing Owl Mitigation) to avoid and minimize impacts to Burrowing Owls. In conformance with federal and state regulations regarding the protection of raptors, a habitat assessment in accordance with CDFG guidelines for Burrowing Owls should be completed prior to the start of construction. Burrowing Owl habitat on the project site and within a 500-foot (150 m) buffer zone should be assessed. If the habitat assessment concludes that the site and immediate vicinity lack suitable Burrowing Owl habitat, no additional action would be warranted. However, if suitable habitat is located on, or immediately adjacent to, the site, all Burrowing Owl habitat should be mapped at an appropriate scale, and the following mitigation measures should be implemented: 1. In conformance with federal and state regulations regarding the protection of raptors, a pre-construction survey for Burrowing Owls, in conformance with CDFG guidelines, should be completed no more than 30 days prior to the start of construction within suitable habitat. Three additional surveys should also be completed per CDFG guidelines prior to construction. 2. No Burrowing Owls will be evicted from burrows during the nesting season (February 1 through August 31). Eviction outside the nesting season may be permitted pending evaluation of eviction plans and receipt of formal written approval from the CDFG authorizing the eviction. 3. A 250-foot (76 m) buffer, within which no new activity will be permissible, will be maintained between project activities and nesting Burrowing Owls during the nesting season. This protected area will remain in effect until August 31, or at the CDFG's discretion and based upon monitoring evidence, until the young owls are foraging independently. 4. If accidental take (disturbance, injury, or death of owls) occurs, the CDFG will be notified immediately.	Project Developers	Project Developer shall retain a qualified biologist to conduct pre-construction survey for breeding or resident burrowing owls in pastures, fallow fields, canal rights of way and other areas where ground squirrels occupy or have occupied burrows or pipes or other locations that could be used by burrowing owls. If found, establish and implement construction schedule to avoid nesting season, identify buffer areas, and report accidental take to CDFG.	CDFG shall review the habitat assessment and mitigation measures.	Complete survey and establish and implement construction schedule and buffer area prior to issuance of the first grading or building permit, whichever occurs first, and monitor during construction.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
G.1b: Compensation for loss of Burrowing Owl habitat. If pre-construction surveys determine that Burrowing Owls occupy the site and avoiding development of occupied areas is not feasible, then habitat compensation on off-site mitigation lands should be implemented. Habitat Management (HM) lands comprising existing Burrowing Owl foraging and breeding habitat should be acquired and preserved. An area of 6.5 acres (2.6 ha) (the amount of land found to be necessary to sustain a pair or individual owl) should be secured for each pair of owls, or individual in the case of an odd number of birds. As part of an agreement with the CDFG, the project applicant should secure the performance of its mitigation duties by providing the CDFG with security in the form of funds that would: • Allow for the acquisition and/or preservation of 6.5 acres (2.6 ha) of HM lands; • Provide initial protection and enhancement activities on the HM lands, potentially including, but not limited to, such measures as fencing, trash clean-up, artificial burrow creation, grazing or mowing, and any habitat restoration deemed necessary by CDFG; • Establish an endowment for the long-term management of the HM lands; and • Reimburse the CDFG for reasonable expenses incurred as a result of the approval and implementation of this agreement.	Project Developers and Project Biologist	If avoidance is not feasible, work with CDFG to secure a habitat mitigation agreement.	CDFG shall review and approve the habitat mitigation plan.	Habitat mitigation agreement shall be secured prior to issuance of the first grading or building permit, whichever occurs first.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
G.2a: Compensation for the disturbance of nesting raptors and migratory birds. To the extent practicable, construction should be scheduled to avoid the nesting season, January through August. **G.2b:** If it is not possible to avoid the nesting season, pre-construction surveys shall be conducted to ensure that no nests of rare or protected species would be disturbed during project implementation. Surveys shall be conducted no more than 14 days prior to construction during the early part of the breeding season (January through April) and no more than 30 days during the late part of the breeding season (May through August). Surveys shall include all potential nest substrates in and adjacent to the construction area. If an active nest is found close enough to a construction area to be disturbed, the project ornithologist, in conjunction with CDFG, shall determine the extent of a buffer-free zone around the nest .	Project Developers	Project Developers shall retain a qualified ornithologist or wildlife biologist to conduct a survey no more that 14 days prior to demolition or construction activities occurring January through April and no more than 30 days prior to demolition or construction activities occurring May through August. The ornithologist, in consultation with the CDFG, shall determine potential for demolition or construction impact to nesting raptors and migratory birds and establish a construction-free buffer zone accordingly in consultation with the CDFG.	CDFG shall review the habitat assessment and proposed construction buffer zone.	Construction-free buffer zone shall be established prior to issuance of the first grading or building permit, whichever occurs first.
G.3: Same as Mitigation Measures G.1a and G.1b for burrowing owls; the cumulative loss of habitat for Swainson's hawks should be mitigated by providing 0.25 acre of off-site HM lands comprising irrigated row crops, ruderal areas, fallow fields, and irrigated pasture. All HM lands protected under this requirement may be protected through fee title acquisition or conservation easement (acceptable to CDFG) on agricultural lands or other suitable habitats that provide foraging habitat for Swainson's hawks. Management Authorization holders/project sponsors shall provide for the long-term management of HM lands by funding a management endowment (the interest on which shall be used for managing the HM lands) at a rate agreed upon by CDFG.	Project Developers	Same as Mitigation Measures G1a and G1b, and Project Developers shall provide 0.25 acre of off-site HM lands comprising irrigated row crops, ruderal areas, fallow fields, and irrigated pasture through fee title acquisition or conservation easement, and provide a funding management endowment at a rate agreed upon by the CDFG.	CDFG shall review the habitat assessment and approve the mitigation measures.	Same as Mitigation Measures G.1a, G.1b, and provide 0.25 acre of off-site HM lands and management endowment prior to first grading or building permit, whichever occurs first.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
Hydrology and Water Quality				
H.1: The project proponent shall prepare an SWPPP for each development project under the Specific Plan (or one master SWPPP for all development) designed to reduce potential impacts to surface water quality through the construction period of all of the project components (whether or not the particular portion of the project disturbs more than 1 acre).The project SWPPP shall include and adequately address all elements in the State General Construction Permit (Waste Discharge Requirements for Discharges of Stormwater Runoff Associated with Construction Activity, State Water Resources Control Board Order Number 99-08-DWQ).	Project Developers	Project Developers shall prepare and implement SWPPP.	The City Engineer shall review and approve the SWPPP.	Complete the SWPPP prior to issuance of a grading or building permit, whichever occurs first, for each project. SWPPP measures shall be implemented during grading and construction for each project.
H.3a: As a condition of approval of the final grading and drainage plans for the first project proposed in the Specific Plan area, the developer must acquire written approval from the MID to discharge runoff to the MID Lateral No. 6 (up to 5.0 cubic feet per second), and provide this documentation to the City of Modesto Public Works Department. If approval from MID cannot be obtained then an alternative plan for disposal for stormwater would need to be developed and accepted in accordance with the City of Modesto standards for stormwater runoff.	Project Developers	Project Developers shall secure written approval from MID for discharge into canal Alternative stormwater drainage design must be approved if MID approval is not obtained.	City Engineer shall review and approve the agreement with MID or review and approve an alternative design if necessary.	The MID agreement or alternative design shall be in place prior to issuance of a grading permit for the first development within the plan area.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
H.3b: As a condition of approval of the final grading and drainage plans for all projects proposed within the Specific Plan area, detailed hydraulic analysis must demonstrate that implementation of the proposed drainage plans will: • Include adequately sized detention facilities to accommodate anticipated runoff associated with the 100-year storm event. A licensed professional engineer shall prepare the final drainage plan for the project and plans must be submitted to the City of Modesto Public Works Department for review and approval. • Include drainage components that are designed in compliance with City of Modesto standards. The grading and drainage plans shall be reviewed for compliance with these requirements by the Public Works Department. • Establish a funding mechanism for maintenance and annual inspections of the detention basin, drainage ditches, and drainage inlets. Any accumulation of sediment or other debris shall be promptly removed. An annual report documenting the inspection and any remedial action conducted shall be submitted to the City of Modesto Public Works Department for review.	Project Developers	Project Developers shall prepare a drainage plan that demonstrates compliance with City Standards and implement the plan.	The City Engineer shall review and approve the drainage plan.	Prior to issuance of a grading permit for any development within the plan area, or where appropriate as determined by the FMP and IFP, final grading and drainage plans meeting City Standards shall be reviewed and approved Grading and drainage facilities shall be developed and maintained in accordance with the approved plans.
H.6: Before a grading plan for development of a particular parcel within the plan area is approved, a well survey shall be conducted by a State-registered geologist or engineer to determine the location and characteristics of each well for that particular parcel. The survey results shall be submitted to the City for review. The water supply wells shall either be: 1. Properly abandoned in compliance with the California Department of Water Resources, California Well Standards and Stanislaus County Code, Chapter 9.36 prior to final approval of the grading plan, or 2. Inspected by a qualified professional to determine whether each well is properly sealed at the surface to prevent infiltration of water-borne contaminants into the well casing or surrounding gravel pack. The California Well Standards require an annular surface seal of at least 20 feet. If any of the wells are found not to comply with this requirement, the applicant shall retain a qualified well driller to install the required seal. Documentation of the inspections and seal installations, if any, shall be provided to the City prior to final approval of the grading plan.	Project Developers	Project Developers shall conduct a well survey to determine location and characteristics of each well. The survey shall be conducted by a state-registered geologist or engineer, and results shall be submitted to the City Engineer and implemented by the developers.	The City Engineer shall review the well survey and determine whether the well be abandoned or sealed.	The well survey shall be conducted prior to issuance of a grading permit for any development within the plan area and shall be implemented prior to certificate of occupancy.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
Water Supply				
K.2: In order to maintain adequate water pressure in the City's delivery system, it would be necessary to design and construct project specific, local, and system-wide water facility improvements. There are three categories of improvements: • Project-specific improvements funded by the project sponsor, • Localized system improvements that would be funded by the City's Ongoing Strengthening and Repairing Water Pipelines Program, • System-wide Improvements funded by the City's Connection Fee Program. The localized system improvements and system-wide improvements are currently planned to be installed by the City. In addition to the project infrastructure currently proposed by the project sponsor (i.e., 10 inch to 12 inch water distribution pipelines would be installed following the alignments of Healthcare Way, The Plaza Way, Chopra Parkway, and other planned roads within the project site), a 12-inch diameter pipeline should be constructed in Kiernan Avenue along the entire northern boundary of the project site. This pipeline is recommended in order to enhance system reliability to the project by providing a system loop and an alternative route for delivery of water supplies. Installation of the recommended pipeline would not create any new impacts within the Kiernan Business Park Specific Plan Amendment #4 project site.	Project Developers and City of Modesto	Project Developers shall fund and install project specific water facility improvements. The project developer shall pay fair share of localized system improvements through payment of water fees. The City shall construct the localized system improvements and system-wide improvements necessary to serve the project.	City of Modesto Public Works Department	Project-specific improvements shall be approved prior to issuance of a grading permit for any development within the plan area. Project-specific improvements shall be installed prior to certificate of occupancy for any building within the plan area. Modesto Public Works Department to install system-wide improvements as needed
General Notes: The Capital Facilities Fee and other applicable fee programs identify regional infrastructure improvements (such as roads, sewer, water, etc.) that are based on the buildout of the City's *Urban Area General Plan*. These projects are identified in the City's Capital Improvement Program. If a development project occurs in the project area that requires infrastructure improvements be constructed in advance of the CIP schedule, then the development will be responsible to construct the identified improvement. The developer will enter into a reimbursement agreement with the City, construct the project, and will be reimbursed per the terms of the agreement.				

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MODESTO CITY COUNCIL
RESOLUTION NO. 2009-419

A RESOLUTION APPROVING AN AMENDMENT TO THE MODESTO URBAN AREA GENERAL PLAN REGARDING THE KIERNAN BUSINESS PARK SPECIFIC PLAN AMENDMENT NO. 4, PROPERTY LOCATED ON THE EAST SIDE OF DALE ROAD, BETWEEN KIERNAN AVENUE AND BANGS AVENUE (CHOPRA)

WHEREAS, on August 15, 1995, by Resolution No. 95-408, the City Council certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 92052017) for the Modesto Urban Area General Plan, and

WHEREAS, a General Plan for the City of Modesto entitled "City of Modesto Urban Area General Plan", was adopted by the City Council by Resolution No. 95-409 on August 15, 1995, in accordance with Section 65300 of the Government Code, and

WHEREAS, said General Plan has been amended by Modesto City Council Resolution Nos. 95-584, 96-20, 96-338, 96-639, 97-3, 97-137, 97-158, 98-293, 99-162, 99-564, 2000-303, 2000-633, 2001-47, 2001-476, 2002-154, 2002-526, 2003-101, 2003-122, and 2007-066, 2008-142 and 2008-583 copies of which are on file in the office of the City Clerk, and

WHEREAS, Government Code Section 65358 permits the amendment of General Plans by the legislative body up to four times per year, and

WHEREAS, Aruna Chopra ("Applicant") of Chopra Development Enterprises, LLC, submitted the Kiernan Business Park Specific Plan Amendment No. 4 ("Project") application (File No. P-SPA-06-002) to facilitate the development of Mixed Use and Medium-High Density Residential land uses on property located on the east side of Dale Road, between Kiernan Avenue and Bangs Avenue, ("Property"), and

WHEREAS, City staff determined that this Specific Plan would require an amendment to the General Plan, and

WHEREAS, the Applicant has filed a General Plan Amendment (File No. GPA-06-003) to re-designate a portion of the Kiernan Carver Comprehensive Planning District from Business Park (BP) to Mixed Use (MU), and

WHEREAS, a Final Environmental Impact Report was prepared for the Kiernan Business Park Specific Plan Amendment No. 4 (SCH No. 2007062071) and the proposed General Plan Amendment which analyzed the potential environmental effects of the proposed Project, and

WHEREAS, on July 29, 2009, the Planning Commission held a duly noticed public hearing in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary relating to this proposed amendment to the Modesto Urban Area General Plan was considered, and

WHEREAS, after said public hearing, the Modesto Planning Commission adopted Resolution No. 2009-22, recommending to the City Council adoption of the proposed amendment to the General Plan as described in **Exhibit "A"**, **attached** hereto and incorporated herein by reference, and

WHEREAS, said matter was set for a public hearing of the City Council to be held on September 1, 2009, 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 City Council was held for the purpose of receiving public comment on the proposed amendment to the Modesto Urban Area General Plan as described in **Exhibit "A"**, **attached** hereto and incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby finds and determines that the proposed amendment to the Modesto Urban Area General Plan 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 Environmental Impact Report for the Kiernan Business Park Specific Plan Amendment No. 4 (SCH No. 2007062071) and has been adequately analyzed by the EIR.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby adopts the proposed amendment to the General Plan as described in **Exhibit "A"**, **attached** hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Department Director is hereby authorized and directed to forward certified copies of this resolution and said amendment to the General Plan to the Board of Supervisors, and file a notice of determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

BE IT FURTHER RESOLVED that the project applicant shall indemnify, defend, and hold harmless the City of Modesto, its agents, officers, and employees from any and all claims, actions, or proceedings against the City of Modesto, its agents, officers, and employees to attack, set aside, void, or annul, any approval by the City of Modesto and its advisory agency, appeal board, or a legislative body concerning a general plan

amendment for the specific plan (File No. GPA 06-003), and related files. The City of Modesto shall promptly notify the applicant of any claim, action, or proceeding and shall cooperate fully in the defense. If the City fails to do so, the applicant shall not thereafter be responsible to defend, indemnify, or hold City harmless.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of September, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

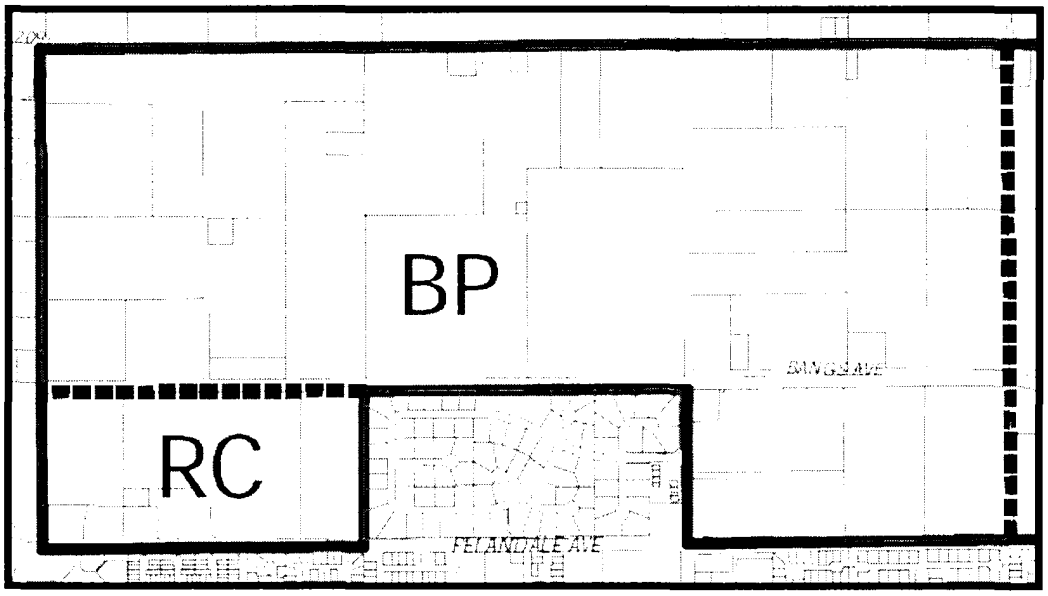
By: _____
SUSANA ACALA WOOD, City Attorney

Exhibit "A"

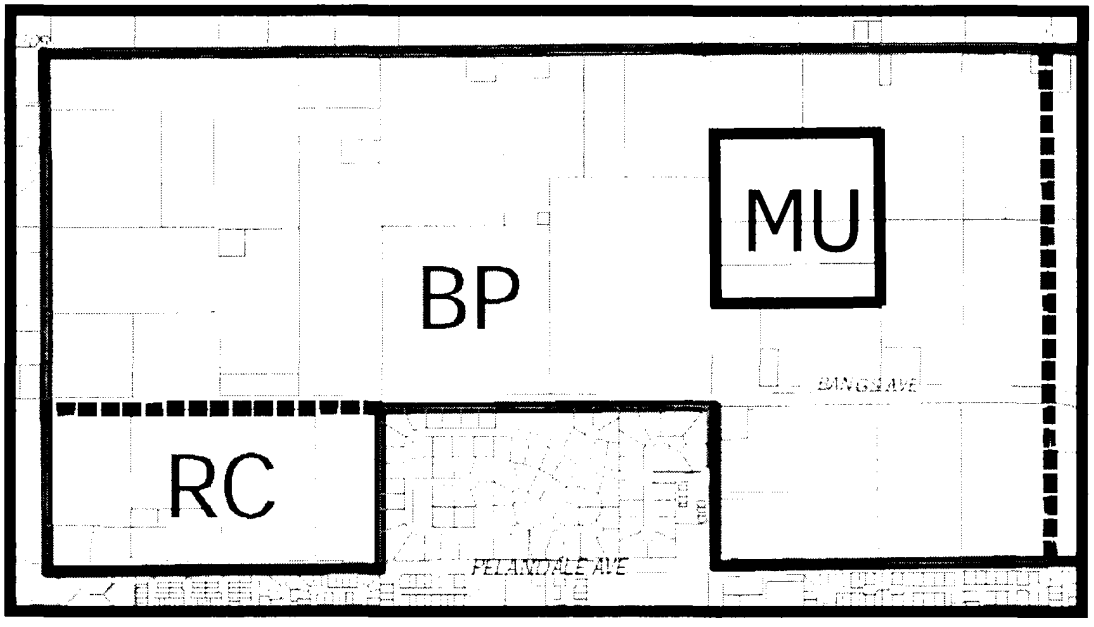
URBAN AREA GENERAL PLAN AMENDMENT
FOR THE KIERNAN BUSINESS PARK SPECIFIC PLAN AMENDMENT #4

Existing/Proposed GP Land Use Diagrams

Existing



Proposed



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MODESTO CITY COUNCIL
RESOLUTION NO. 2009-420

A RESOLUTION APPROVING AN AMENDMENT NO. 4 TO THE KIERNAN BUSINESS PARK SPECIFIC PLAN TO FACILITATE THE DEVELOPMENT OF MIXED USE AND MEDIUM HIGH DENSITY RESIDENTIAL DEVELOPMENT (CHOPRA)

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 April 1, 1997, the City Council by Resolution No. 97-159 adopted the Kiernan Business Park Specific Plan, and

WHEREAS, Government Code Section 65453 permits the amendment of specific plans as often as deemed necessary by the legislative body, and

WHEREAS, on November 4, 1997, the City Council by Resolution No. 97-631 adopted Amendment No. 1 to the Kiernan Business Park Specific Plan to add language to allow for changes in utility service providers, and

WHEREAS, on April 7, 1998, the City Council by Resolution No. 98-170 adopted Amendment No. 2 to the Kiernan Business Park Specific Plan to add language to permit indoor theaters in the Regional Commercial Designation within a Planned Development Zone, and

WHEREAS, on August 10, 2004, the City Council by Resolution No. 2004-37 adopted Amendment No. 3 to the Kiernan Business Park Specific Plan to modify the Land Use and Circulation diagrams and development standards for the Kaiser Medical

Center Site, to revise the planned street system in the future business park and to incorporate design standards into the Specific Plan, and

WHEREAS, Chopra Development Enterprises has filed an application to amend the Kiernan Business Park Specific Plan to modify the Land Use, Circulation and Utility diagrams and associated text, to revise portion of the planned roadway system, to add design standards and guidelines for Mixed Use and Medium-High Density Residential land uses and to reformat the Specific Plan in accordance with the Specific Plan Procedures and Preparations Guide, and

WHEREAS, in connection with public circulation and review of the Draft Environmental Impact Report for the Kiernan Business Park Specific Plan Amendment No. 4 (SCH No. 2007062071), the proposed amendments to the Kiernan Business Park Specific Plan were released for public review and comment for a 45-day period from December 17, 2008 to February 2, 2009, and

WHEREAS, on July 20, 2009, the Planning Commission held a duly noticed public hearing in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, relating to this proposed amendment to the Kiernan Business Park Specific Plan, and

WHEREAS, after said public hearing, the Modesto City Planning Commission adopted Resolution No. 2009-23, recommending to the City Council an amendment to the Kiernan Business Park Specific Plan to modify the Land Use, Circulation and Utility diagrams and associated text, to revise portion of the planned roadway system, to add design standards and guidelines for Mixed Use and Medium-High Density Residential

land uses and to reformat the Specific Plan in accordance with the Specific Plan Procedures and Preparations Guide, and

WHEREAS, said matter was set for a public hearing of the City Council to be held on September 1, 2009, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing of the Council was held for the purpose of receiving public comment on the proposed amendment to the Kiernan Business Park Specific Plan, and

WHEREAS, the proposed specific plan amendment was analyzed by the Final EIR for the Kiernan Business Park Specific Plan Amendment No. 4 (SCH No. 2007062071), and the City Council by Resolution No. 2009-418 has certified the Final EIR,

NOW, THEREFORE, BE IT RESOLVED by the City Council that it hereby finds and determines as follows:

1. The proposed amendment to the Kiernan Business Park Specific Plan is consistent with the General Plan, because:

    a. The amendment would result in a mix of compatible land uses within close proximity, provide a range of jobs, and provide for diversity of housing, among other things (Section III.C.3).

    b. The proposed changes to the Circulation System are consistent with the General Plan Circulation System (Sec. V.B.2.);

2. The proposed Specific Plan Amendment is within the scope of the Kiernan Business Park Specific Plan Amendment #4 Final EIR (SCH No. 2003072085) and has been adequately analyzed by the EIR.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Kiernan Business Park Specific Plan Amendment No. 4, on file in the office of the Community and Economic Development Department and incorporated herein by reference, is hereby adopted.

BE IT FURTHER RESOLVED by the Council that the City Clerk is hereby authorized and directed to send certified copies of this resolution and said amendment to the Kiernan Business Park Specific Plan to the Board of Supervisors of the County of Stanislaus.

BE IT FURTHER RESOLVED that the project applicant shall indemnify, defend, and hold harmless the City of Modesto, its agents, officers, and employees from any and all claims, actions, or proceedings against the City of Modesto, its agents, officers, and employees to attack, set aside, void, or annul, any approval by the City of Modesto and its advisory agency, appeal board, or a legislative body concerning the specific plan (File No. SPA-06-002). The City of Modesto shall promptly notify the applicant of any claim, action, or proceeding and shall cooperate fully in the defense. If the City fails to do so, the applicant shall not thereafter be responsible to defend, indemnify, or hold City harmless.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of September, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-421

A RESOLUTION APPROVING A NEW CAPITAL IMPROVEMENT PROGRAM (CIP) ACCOUNT FOR THE PROJECT TITLED, "ARRA STREET OVERLAY AND ADA CURB RAMP IMPROVEMENTS", CONTINGENT UPON RECEIPT OF AUTHORIZATION TO PROCEED ("FNM-76") FROM FEDERAL HIGHWAY ADMINISTRATION (FHWA), WHICH DID NOT APPEAR IN THE ADOPTED CAPITAL IMPROVEMENT PROGRAM FOR FISCAL YEAR 2009-2010

WHEREAS, the City proposes to utilize American Recovery and Reinvestment Act (ARRA) funds to design and construct a street overlay and Americans with Disabilities Act (ADA) curb ramp improvements project, and

WHEREAS, a list was quickly prepared to include overlay candidate streets and locations requiring ADA curb ramp upgrades, and

WHEREAS, City staff utilized a list maintained by Public Works containing public requests for new or upgraded curb ramps, and

WHEREAS, in addition, the curb ramps adjacent to the streets that will be receiving an asphalt overlay will be required to be upgraded to current ADA standards, and

WHEREAS, City staff submitted the Request for Authorization for preliminary engineering to Caltrans on August 6, 2009, and

WHEREAS, there is an extremely short amount of time to prepare plans and specifications, and receive Authorization to Proceed with construction, and

WHEREAS, per ARRA funding guidelines, we must receive the Authorization to Proceed with construction no later than March 2, 2010, and

WHEREAS, this project was not included in the adopted CIP for Fiscal Year 2009-2010, and

WHEREAS, City staff will attempt to complete plans and specifications by mid-January allowing ample time for Caltrans staff to review and obligate the funds by the March 2nd deadline, and

WHEREAS, the total amount of funding expected for both design and construction of this project is $3,269,225, and

WHEREAS, this project was not included in the adopted CIP for Fiscal Year 2009-2010, and

WHEREAS, City staff recommends approving a new CIP Account 0530-430-H014 for the project titled, "ARRA Street Overlay & ADA Curb Ramp Improvements", contingent upon receipt of Authorization to Proceed ("FNM-76") from Federal Highway Administration (FHWA),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a new Capital Improvement Program (CIP) Account 0530-430-H014 for the project titled, "ARRA Street Overlay & ADA Curb Ramp Improvements", contingent upon receipt of Authorization to Proceed ("FNM-76") from Federal Highway Administration (FHWA).

BE IT FURTHER RESOLVED that the Finance Director, or his/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 1st day of September, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-422

A RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 CAPITAL IMPROVEMENT PROGRAM BUDGET, CONTINGENT UPON RECEIPT OF AUTHORIZATION TO PROCEED ("FNM-76") FROM FEDERAL HIGHWAY ADMINISTRATION (FHWA), IN ORDER TO FULLY FUND THE DESIGN ACTIVITIES FOR THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) FUNDED STREET OVERLAY AND ADA CURB RAMP IMPROVEMENTS PROJECT

WHEREAS, a budget adjustment in the amount of $380,000 is necessary to fully fund the design activities for the ARRA funded Street Overlay and ADA Curb Ramp Improvements project along with engineering/design/administration support from City staff, and

WHEREAS, the Fiscal Year 2009-2010 Capital Improvement Program budget must be amended, contingent upon receipt of Authorization to Proceed ("FNM-76") from Federal Highway Administration (FHWA), 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 2009-2010 Capital Improvement Program budget, contingent upon receipt of Authorization to Proceed ("FNM-76") from Federal Highway Administration (FHWA), as shown in **Exhibit A**.

BE IT FURTHER RESOLVED that the Finance Director, or his/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 1st day of September, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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

FUND:

ARRA Reimbursable Grant – PW Streets

REVENUES:

ARRA Reimbursable Grant – PW Streets	0530-430-H014-3650-53	$380,000

EXPENDITURES: Increase/(Decrease)

ARRA Street Overlay & ADA Curb Ramp Imprv	0530-430-H014-6010	$380,000

REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Gail Clement
Telephone No.: 15538
Department: Public Works

Council Action Date: 9/1/09
Resolution Number:

FY: 09-10

Fund Title: ARRA-PW Streets
Transfer No.

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
DEPARTMENTAL REVENUES					
FROM					
TO MY-0530-430-H014-3650-53	H014	$ -	$380,000	$380,000	ARRA Reimbursable Grant-PW Streets
APPROPRIATIONS					
FROM					
TO MY-0530-430-H014-6010	H014	$ -	$380,000	$380,000	**ARRA Street Overlay & ADA Curb Ramp** Eng/Dsgn/Admin

COMMENTS/JUSTIFICATION

This adjustment is to amend the budget by increasing American Recovery and Reinvestment Act (ARRA) revenues in the amount of $380,000, and appropriating funds to Object 6010-Engineering/Design/Administration in CIP Account H014-ARRA Street Overlay & ADA Curb Ramp Improvements to provide funding for design activities for the project. A copy of the ARRA Authorization to Proceed is attached.

AUTHORIZATION (check if required)	SIGNATURE	DATE
DEPUTY DIRECTOR (Public Works)		
DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT Acting		8/11/09
FINANCE DIRECTOR		
CITY MANAGER		

TRANSFER NO. _____
BY: _____ DATE: _____

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-423

RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF ONE BIN LOADER TRUCK FOR THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, TO INTERSTATE TRUCK CENTER, LLC, STOCKTON, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR A TOTAL ESTIMATED COST OF $149,179

WHEREAS, on October 28, 2008, the City Council, by Resolution No. 2008-592, authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, throughout FY 08/09 through various competitive processes, with the Purchasing Division coming back to Council for award authorization, and

WHEREAS, the bin loader truck for the Street Sweeping Division is included in the FY 08/09 new vehicles and heavy equipment list authorized by Council, and

WHEREAS, on March 28, 2009, the Purchasing Division issued RFB No. 0809-22 for the purchase of one bin loader truck to twenty-three (23) prospective bidders, posted the bid on the City's web site 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 and contract for the purchase of one bin loader truck for the Public Works Department, Fleet Services Division, to Interstate Truck Center, LLC, Stockton, CA, and authorizing the Purchasing Manager to issue a purchase order for a total estimated cost of $149,179, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contract for the purchase of one bin loader truck

for the Public Works Department, Fleet Services Division, to Interstate Truck Center, LLC, Stockton, CA, conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted in FY 09/10 for the amount of $149,179, in the Fleet Equipment Replacement Fund in account 7210-480-5814-5856,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase of one bin loader truck for the Public Works Department, Fleet Services Division, to Interstate Truck Center, LLC, Stockton, 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 $149,179.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of September, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-424

A RESOLUTION APPROVING A LICENSE AGREEMENT WITH THE MODESTO IRRIGATION DISTRICT FOR UTILIZATION OF A 40-FOOT PORTION OF ITS RIGHT-OF-WAY FOR THE PURPOSE OF INSTALLING, OPERATING AND MAINTAINING A CLASS I BICYCLE TRAIL; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto Non-Motorized Transportation Master Plan was adopted by Council in 2006, and

WHEREAS, the Virginia Corridor Trail is included in the adopted Modesto Non-Motorized Transportation Master Plan, and

WHEREAS, the Virginia Corridor Trail is a 4.2-mile Class I bicycle and pedestrian trail, with eight phases of construction planned for the trail, and

WHEREAS, Phases I through IV have been completed, from downtown Modesto to Granger Avenue, or about 1.4 miles, and

WHEREAS, Phase V of the project will link Granger and Bowen Avenues, via a bike/pedestrian bridge over Briggsmore Avenue, and

WHEREAS, construction of Phase V of the Virginia Corridor Trail will occupy a 40-foot portion of the Modesto Irrigation District's right-of-way, and

WHEREAS, in order to plan for installation and maintenance of Phase V of the trail, a License Agreement with MID is needed,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a License Agreement with the Modesto Irrigation District for utilization of a 40-foot portion of its right-of-way for the purpose of installing, operating and maintaining a Class I bicycle trail.

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 September, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-425

A RESOLUTION APPROVING THE CITIZENS HOUSING AND COMMUNITY DEVELOPMENT COMMITTEE RECOMMENDED LIST OF APPRAISERS TO BE USED ON A ROATING AS-NEEDED BASIS TO ASSIST THE CITY WITH THE PREPARATION AND REVIEW PROCESS OF APPRAISAL AND ACQUISITION DOCUMENTS, RELATED TO THE NEIGHBORHOOD STABILIZATION PROGRAM

WHEREAS, on May 26, 2009, by Resolution 2009-220, the City Council adopted guidelines for the Housing and Urban Development (HUD) funded Neighborhood Stabilization Program (NSP), for the purpose of allocating funds to organizations and individuals to purchase and rehabilitate foreclosed homes in order to stabilize neighborhoods, and

WHEREAS, acquisitions financed with NSP grant funds are subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA), and its implementing regulations at 49 Code of Federal Regulations (CFR) Part 24, and the requirements set forth in the NSP Notice that was published in the Federal Register on October 6, 2008, and

WHEREAS, HUD anticipates that most of these transactions will qualify as voluntary acquisitions under the applicable regulations of 49 CFR 24.101(b), and

WHEREAS, the NSP Notice requires appraisals to be performed with respect to the NSP funded acquisition of foreclosed upon homes and residential properties, even though they may be considered voluntary under the URA, and

WHEREAS, in those cases, the URA appraisal requirements of 49 CFR 24.103 must be met, and

WHEREAS, the URA and its implementing regulations (49 CFR Part 24) set forth minimum requirements for real property acquisition appraisals for Federal and federally-assisted programs, and

WHEREAS, appraisals subject to the URA must be prepared according to these requirements, and

WHEREAS, in order to assure compliance with the real property acquisition appraisal requirements, the Parks, Recreation and Neighborhoods Department completed a Request for Proposal (RFP), and

WHEREAS, on June 5, 2009, the Parks, Recreation and Neighborhoods Department solicited Request for Proposal (RFP) No. RPAS for appraisal services for the City of Modesto from sixty (60) prospective proposers, posted the proposal on the City's website, and formally advertised as required by law, and

WHEREAS, on June 24, 2009, the evaluation committee comprised of internal staff met to evaluate and score each proposal, and

WHEREAS, on August 17, 2009, the Citizens Housing and Community Development Committee recommended approving the following appraisers for inclusion on the eligible vendor list: Prime Time Appraisals, W.F. Bambas Appraisal Company, Pacific Valley Appraisal, Inc. Cogdill & Giomi, Inc., and AR/WS,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the eligible vendor list of appraisers to be used on a rotating, as-needed basis to provide appraisal services to assist the City of Modesto with the preparation and review process of appraisal and acquisition documents, related to the Neighborhood Stabilization Program.

The foregoing Resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of September 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-426

A RESOLUTION APPROVING A PURCHASE AND SALE AGREEMENT BETWEEN ACACIA MEMORIAL PARK ASSOCIATION OF MODESTO AND THE CITY OF MODESTO FOR REAL PROPERTY LOCATED AT 800 E. MORRIS AVENUE (APN 111-057-022); AND AUTHORIZING THE CITY MANAGER, OR HIS DESEGINEE, TO EXECUTE THE PURCHASE AND SALE AGREEMENT, GRANT DEED AND ANY RELATED DOCUMENTS

WHEREAS, the City of Modesto owns the property at 800 E. Morris Avenue (APN 111-057-022), and

WHEREAS, in 2005 the City declared the property as surplus, and now desires to sell the property, and

WHEREAS, the building on the property burned down in 2006 and the City cleared the debris and leveled the property, and

WHEREAS, a proposal of $400,000 for the purchase of the property was offered by Acacia Memorial Park Association of Modesto,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Purchase and Sale Agreement between Acacia Memorial Park Association of Modesto and the City of Modesto for real property located at 800 E. Morris Avenue (APN 111-057-022).

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Purchase and Sale Agreement, Grant Deed and any 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 September, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-427

A RESOLUTION AUTHORIZING CITIZEN'S HOUSING AND COMMUNITY DEVELOPMENT COMMITTEE TO APPROVE STATEMENT OF QUALIFICATIONS SUBMITTED FOR THE HOUSING AND URBAN DEVELOPMENT FUNDED NEIGHBORHOOD STABILIZATION PROGRAM, AND ALSO TO REVIEW AND APPROVE FUNDING ASSOCIATED WITH THE NEIGHBORHOOD STABILIZATION PROGRAM FOR THE PURCHASE AND REHABILITATION OF FORECLOSED HOMES; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE REQUIRED DOCUMENTS

WHEREAS, on July 30, 2008, the President signed Title III of Division B of the Housing and Economic Recovery Act, 2008 (HERA). Section 2301-Emergency Assistance for the Redevelopment of Abandoned and Foreclosed Homes, named Neighborhood Stabilization Program (NSP) allocated $8.1 million to the City of Modesto. NSP funding is considered a special allocation of Community Development Block Grant funds, and

WHEREAS, the Citizens' Housing and Community Development Committee ("CH&CDC") originally reviewed the Annual Action Plan Amendment for the NSP funds on November 12, 2008, and it was approved by City Council on November 25, 2008, by Resolution No. 2008-649. The City Manager executed the NSP grant agreement on March 23, 2009, and

WHEREAS, staff developed guidelines for allocating the funding based on four areas and approved as part of the City of Modesto NSP which was approved by City Council on May 12, 2009, by Resolution No. 2009-220, and

WHEREAS, staff recommends that due to time constraints and volatility of the real estate market, as well as the tight constraints to allocate the NSP funds, that the

CH&CDC have authorization to approve Request For Qualifications applications as well as review and approve funding requests for the NSP, and

WHEREAS, the CH&CDC established an NSP Sub-committee at its August 17, 2009, meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Citizen's Housing and Community Development Committee to approve Statement of Qualifications submitted for the Housing and Urban Development funded Neighborhood Stabilization Program, and also to review and approve funding associated with the Neighborhood Stabilization Program for the purchase and rehabilitation of foreclosed homes.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of September, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)
APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-428

RESOLUTION APPROVING THE REPORT RESPONDING TO THE STANISLAUS COUNTY 2008-2009 CIVIL GRAND JURY REPORT REGARDING LEASING PRACTICES AT THE MODESTO CITY/COUNTY AIRPORT, AND AUTHORIGING THE MAYOR TO EXECUTE THE RESPONSE LETTER TO THE GRAND JURY

WHEREAS, a report from the Stanislaus County 2008-2009 Civil Grand Jury contained findings to Case No. 09-06C arising from a complaint alleging that the Modesto City Council approved ground and hangar leases without appropriate review, and

WHEREAS, the report made five recommendations regarding the leasing practices at the Modesto City/County Airport, and

WHEREAS, under State law, the City of Modesto has until September 29, 2009, to provide a written response to Jack M. Jacobson, Presiding Judge, Stanislaus County Superior Court,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the report responding to the Stanislaus County 2008-2009 Civil Grand Jury Report regarding leasing practices at the Modesto City/County Airport.

BE IT FURTHER RESOLVED that the Mayor is authorized to execute the response letter.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of September, 2009 by Councilmember Hawn, who moved its adoption, which motion be duly seconded by Councilmember Lopez, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-429

A RESOLUTION FINDING THAT THE ROSELLE AVENUE WIDENING PROJECT BETWEEN FLOYD AVENUE AND SYLVAN AVENUE IS WITHIN THE SCOPE OF THE PREVIOUSLY CERTIFIED VILLAGE ONE SPECIFIC PLAN PROGRAM EIR, AS AMENDED BY THE VILLAGE ONE SUPPLEMENTAL EIR AND THE ADDENDUM TO THE EIR (SCH NO. 90020181)

WHEREAS, Council has received and considered the Written Checklist, Environmental Assessment No. EA/PW No. 2009-13, that concludes that the project entitled "Roselle Avenue Widening Project between Floyd Avenue and Sylvan Avenue," is within the scope of the previously certified Village One Specific Plan Program EIR, as amended by the Village One Supplemental EIR and the Addendum to the EIR (SCH No. 90020181), and that, pursuant to Sections 15168(c) and 15162 of the CEQA Guidelines, no new environmental review is required,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines:

1. As per Sections 15168(c) and 15162 of the California Environmental Quality Act ("CEQA") Guidelines, this Project is within the scope of the projects covered by the Village One Program EIR, as amended by the 1994 Supplemental EIR and the 2003 Addendum to the EIR ("Program EIR") and no new environmental document or findings are required by CEQA.

2. There are no substantial changes proposed in the Project which result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Program EIR are required.

3. No substantial changes have occurred with respect to the circumstances under which the Project is undertaken which will result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and therefore, no major revisions to the Program EIR, are required.

4. There is no new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence when the Program EIR, was adopted which shows any of the following:

    a. one or more significant effects which is not discussed in the Program EIR; or,

    b. significant effects which were previously examined will be substantially more severe than previously shown; or,

    c. previously infeasible mitigation measures or alternatives are now feasible and would substantially reduce one or more significant effects of the project, but the Project proponents decline to adopt the mitigation measure or alternative; or,

    d. mitigation measures or alternatives which are considerably different from those analyzed in the Program EIR would substantially reduce one or more significant effects on the environment, but the Project proponents decline to adopt the mitigation measure or alternative.

The City Council has received and considered the Written Checklist Environmental Assessment EA/PW No. 2009-13, which provides the substantial evidence to support findings 1-4 above.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of September, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-430

A RESOLUTION AUTHORIZING CHANGE ORDERS IN THE AMOUNT OF $112,406.28 FOR THE "CLARATINA AVENUE EXTENSION BETWEEN COFFEE ROAD AND OAKDALE ROAD" PROJECT

WHEREAS, the City Council, on June 24, 2008, by Resolution No. 2008-374, awarded a $1,083,508.05 contract to Teichert Construction to construct the Claratina Avenue Extension project between Coffee Road and Oakdale Road, and

WHEREAS, additional work not included in the original bid needed to be added to the project to allow completion of the project, and

WHEREAS, the cost of the extra work has been estimated to be $112,406.28, 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 Public Works currently has authority to approve change orders up to a cumulative amount of $86,680.64,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes change orders in the amount of $112,406.28 for the Claratina Avenue Extension between Coffee Road and Oakdale Road project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of September, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-431

A RESOLUTION ACCEPTING THE WORK BY TEICHERT CONSTRUCTION FOR THE PROJECT TITLED "CLARATINA AVENUE EXTENSION BETWEEN COFFEE ROAD AND OAKDALE ROAD" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $1,195,914.33

WHEREAS, a report has been filed by the Director of Public Works that the project titled "Claratina Avenue Extension project between Coffee Road and Oakdale Road" has been completed by Teichert Construction in accordance with the contract agreement dated June 24, 2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Claratina Avenue Extension project between Coffee Road and Oakdale Road" is hereby accepted as complete from said contractor 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 $1,195,914.33 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 8th day of September, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-432

RESOLUTION APPROVING THE CITY OF MODESTO CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER) FOR FISCAL YEAR 2008-2009, AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL DOCUMENTS RELATED TO THE SUBMISSION OF THE CAPER, AND AUTHORIZING STAFF TO FORWARD THE REPORT TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) FOR THEIR REVIEW AND APPROVAL

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, 2008, through June 30, 2009, and

WHEREAS, each year the City must review and report on the performance of activities funded under the Community Development Block Grant (CDBG), HOME Investment Partnership Grant, and Emergency Shelter Grant (ESG) funds, and

WHEREAS, the CAPER must be made available for public review and comment for a minimum 15-day period, and

WHEREAS, the CAPER was made available for public review and comment from August 19, 2009, through September 08, 2009, and

WHEREAS, all public comments, and staff responses to these comments, must be presented to the City Council for review and approval, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) met on August 17, 2009, and reviewed and recommended the CAPER, and

WHEREAS, a duly noticed public hearing was held by the Council on September 08, 2009, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, to consider approval of the CAPER,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the City of Modesto Consolidated Annual Performance and Evaluation Report (CAPER) for Fiscal Year 2008-2009, and a copy of said report is on file in the office of the City Clerk.

BE IT FURTHER RESOLVED that the City Manager, or his 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 forward the report to the U.S. Department of Housing and Urban Development (HUD).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of September, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST_____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-433

RESOLUTION APPROVING SUBMITTAL OF A GRANT APPLICATION TO THE FEDERAL TRANSIT ADMINISTRATION (FTA) REQUESTING $4.5 MILLION IN CONGESTION MITIGATION AND AIR QUALITY (CMAQ) FUNDS FOR THE NEW BUS MAINTENANCE FACILITY PROJECT; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL GRANT APPLICATION AND GRANT AGREEMENT DOCUMENTS

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

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

WHEREAS, the City of Modesto has received authority from the Designated Recipient, StanCOG, to apply for CMAQ funds in the amount of $4,500,000 for the New Bus Maintenance Facility project, and

WHEREAS, the Bus Maintenance Facility project is included in the Federal Transportation Improvement Program (FTIP) adopted by StanCOG, and

WHEREAS, StanCOG recently advised staff that CMAQ funds might be available for projects that are ready or nearly ready, to begin construction. and

WHEREAS, these State CMAQ funds are not currently designated for local projects, and

WHEREA, City does not know the amount of available funds or if the City has a realistic opportunity to receive funding, and

WHEREAS, City needs to submit a grant application and secure state and federal approval before the end of September to have any possibility of obtaining these funds, and

WHEREAS, a public hearing was held on September 8, 2009, at 5:30 p.m., in the Tenth Street Place Chambers located, at 1010 Tenth Street, Modesto, California, in accordance with FTA regulations,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the submittal of an application on behalf of the City of Modesto with the Federal Transit Administration for CMAQ funds in the amount of $4,500,000 authorized by 49 U.S.C. Chapter 53, Title 23, or other Federal statutes authorizing a project administered by the Federal Transit Administration.

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

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of September, 2009, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-434

A RESOLUTION APPROVING CHANGES TO VARIOUS AIRPORT RATES AND FEES FOR SPECIFIC ACTIVITIES AND SERVICES AT THE MODESTO CITY-COUNTY AIRPORT, EFFECTIVE OCTOBER 1, 2009, AND RESCINDING RESOLUTION NO. 2008-291

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

WHEREAS, Modesto City Council Resolution No. 2008-291 established the current Airport Rental Charges and Fees and contains provisions for rate increases which went into effect July 1, 2008, based upon an increase in the CPI, and

WHEREAS, during the past year the CPI of the western United States decreased by 0.2%, and

WHEREAS, certain Airport rates and fees for specific activities and services are recommended for adjustment unrelated to the current CPI, and

WHEREAS, aircraft landing fees were increased in 2008 (for the first time since 1994) by $.02 from $0.66 to $0.68 per thousand pounds of gross weight, and

WHEREAS, recent surveys indicate that Modesto's rate is still well below the survey average of $1.26 per thousand pounds of gross weight charged to aircraft carrying passengers and/or cargo for hire, and

RESCINDED
MAR 12 2013
THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2013-96

WHEREAS, during the 2008 review process, staff agreed to increase the rate gradually to a level more comparable with other airports, and

WHEREAS, staff proposes increasing the fee by $.20 to $.88 per thousand pounds, and

WHEREAS, construction of new aircraft storage T-hangars (hangar row "L") will require new rates be established for the rental of each of the ten new units, as well as an attached end storage unit, and

WHEREAS, based on current rates for comparable hangars at Modesto City-County Airport, staff proposes a rate of $245 per unit per month for each hangar in row "L", and a rate of $45 per month for the end storage unit in hangar row "L", and

WHEREAS, while reviewing existing rates and fees, variables and discrepancies were noted, and

WHEREAS, there is no specific provision for helicopter use of Airport tie-downs, and staff proposes adding them to the existing rate schedule, and

WHEREAS, current monthly charges for leased office space are based solely on a square footage rate, with utilities billed to the Airport for some office spaces, and to tenants for other office spaces, and

WHEREAS, staff recommends tenants be billed quarterly for utility costs based on actual usage when the building's utilities are paid by the Airport, and

WHEREAS, existing language for off-airport car rental operators states that they have an option of paying for terminal advertisement space and callboard phone service in lieu of 10% of gross receipts, and

WHEREAS, staff recommends removal of such language, and

WHEREAS, a duly noticed public hearing was held by the Council on September 8, 2009 at 5:30 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing all interested persons were given the opportunity to be heard relative to the proposed changes to various rates and fees for specific activities and services at the Modesto City-County Airport,

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

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

(a) T-Hangars

Hangar A	.....	$129/*$157 unit per month
End Units	.....	$149/*$178 unit per month
Hangar B	.....	$155/*$184 unit per month
End Units	.....	$192/*$221 unit per month
Hangar C	.....	$163*$193 unit per month
End Units	.....	$198/*$2260 unit per month
Hangar D	.....	$147/*$176 unit per month
End Units	.....	$175/*$205 unit per month
Hangar E	.....	$214 unit per month
End Units	.....	$250 unit per month
Hangar F	.....	$214 unit per month
End Units	.....	$250 unit per month
Hangar G	.....	$214 unit per month
Hangar H	.....	$214 unit per month
Hangar I	.....	$418 unit per month

Hangar J	.....	$214 unit per month
Hangar K	.....	$241 unit per month
End Unit	.....	$359 unit per month
Hangar L	.....	$245 unit per month
End Unit	.....	$45 per month
Storage	.....	$85 per month
Portables - Land Rent	.....	$63 unit per month

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

(b) Storage Hangars:

Hangar No. 1	....	$1,568.00 per month
Hangar No. 2	....	$1,309.00 per month
Hangar No. 3	....	$ 689.00 per month
Hangar No. 4	....	$1,173.00 per month
Hangar No. 5	....	$1,167.00 per month
Hangar No. 6	....	$ 684.00 per month

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

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

(a) Tail-in Tie-Down – Permanent, helicopter, light single and multi-engine (under 12,500 lbs.) $39.00 per month

(b) Taxi-in Tie-Down – Permanent, helicopter, light single and multi-engine (under 12,500 lbs.) $63.00 per month

(c) Taxi-in Tie-Down – Permanent, helicopter, large multi-engine (over 12,500 lbs.) $.05 per square foot per month

(d) Taxi-in Tie-Down – Transient, helicopter/single-engine aircraft $7.20 per day

(e) Taxi-in Tie-Down – Transient, helicopter/twin-engine aircraft (under 12,500 lbs.) $9.25 per day

(f) Taxi-In Tie-Down – Transient, helicopter/twin-engine aircraft (over 12,000 lbs.) $13.50 per day

(g) Jets – $13.50 per day

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

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

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

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

(a)	Old Administration Building	..... $.86 per square foot Utilities paid by Airport. Tenants will be billed quarterly for use based on actual charges.
(b)	Office Building No. 1	..... $.86 per square foot Utilities paid by tenant
(c)	Office Building No. 2	..... $.86 per square foot Utilities paid by tenant

(d) Hangar Office Space ..... $.50 per square foot
Utilities paid by tenant

SECTION 4. TEMPORARY USE OF AIRPORT PASSENGER TERMINAL. Organization and service providers desiring to temporarily use the passenger terminal will be charged a daily rate:

(a) Ticket counter ..... $.092 per square foot

(b) Other areas ..... $.092 per square foot

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

(a) All light single, multi-engine aircraft and helicopters - $10.00 per landing

(b) All large single and multi-engine aircraft – $.88 per 1,000 pounds of gross weight, but not less than $10.00 per landing

(c) All transient aircraft owned and operated by individuals, companies, and corporations carrying their own products shall not be charged for the first two (2) trips per calendar months. All other trips for the same calendar month shall be charged for at the same rates applied to nonscheduled aircraft carrying cargo for hire.

(d) No landing fee shall be charged for any aircraft, which lands at the airport due to any mechanical or other emergency, except weather, provided that such emergency is reported to the Airport Control Tower prior to landing.

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

(a) Enplaned passenger by airline - $4.50 per ticketed passenger.

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

Display Size	Display Only	Display & Telephone
7.5" x 9.5"	$15.00	$25.00
7.5" x 21"	$35.00	$55.00
19" x 21"	$45.00	$65.00

SECTION 8. FAX SERVICE. Persons wishing to use the airport administration office fax machine shall be charged for the service. Airport personnel are authorized to collect as follows:

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

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

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

SECTION 10. FUEL FLOWAGE FEES. A fuel flowage fee of seven cents ($.07) per gallon of fuel sold or dispensed on the Airport shall be collected for the City of

Modesto by the fuel vendors, except that reduced fuel flowage fees collected from scheduled air carriers can be negotiated for volume purchases.

SECTION 11. TEMPORARILY BASED COMMERCIAL SERVICES. Any person engaging in a commercial enterprise, temporarily based at the Modesto City-County Airport/Harry Sham Field, shall pay to the City a license fee in the sum of Two Hundred and no/100ths ($200.00) Dollars, payable in advance.

Each such operator shall also pay to the City as a minimum an additional sum of Ninety and no/100ths ($90.00) Dollars per month, or any portion thereof, payable in advance, for the privilege of using the Airport and its facilities.

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

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

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

SECTION 15. ANNUAL ADJUSTMENT OF RENTS, FEES AND CHARGES. Commencing July 1, 2003, the rents, fees and charges set forth in Sections 1, 2, and 4 of this resolution may be adjusted annually as of the first day of July.

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

In no case shall the minimum rents, fees and charges be less than existing approved and adopted rents, fees and charges nor shall any increase in a year be greater than five (5%) percent. If the indexes change so that the base year differs from that in effect on July 1, 2008, the Index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is discontinued or revised at any time after the effective date of this resolution, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

SECTION 16. EFFECTIVE DATE. This resolution shall go into effect and be in full force and operation on October 1, 2009.

SECTION 17. RESCIND. This resolution rescinds Council Resolution No. 2008-291.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of September, 2009, by Councilmember Marsh, 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:	Hawn, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmember:	None
ABSENT:	Councilmember:	Keating

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-435

RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF AMANDA FISHER FROM THE CULTURE COMMISSION

WHEREAS, Amanda Fisher was appointed a member of the Culture Commission on August 5, 2009, and

WHEREAS, Amanda Fisher has tendered her resignation from the Culture Commission, and

NOW, THERFORE, BE IT RESOLVED that the resignation of Amanda Fisher from the Culture Commission be, and hereby is accepted with regret.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 22nd day of September, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers None.

ABSENT: Councilmembers None.

ATTEST: Stephanie Lopez
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-436

RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF RICHARD HORNING FROM THE GOLF COURSES ADVISORY COMMITTEE

WHEREAS, Richard Horning was appointed a member of the Golf Courses Advisory Committee on August 5, 2009, and

WHEREAS, Richard Horning has tendered his resignation from the Golf Courses Advisory Committee, and

NOW, THERFORE, BE IT RESOLVED that the resignation of Richard Horning from the Golf Courses Advisory Committee be, and hereby is accepted with regret.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 22nd day of September, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-437

A RESOLUTION APPROVING THE APPOINTMENT OF BRAD HAWN, CHRIS TYLER, KEVIN YOUNG, RON JESKE, MICHAEL BRINTON, JIM MIGUEL, NICK PINHEY, BRENT SINCLAIR, JULIE HANNON, RICH ULM, BILL SANDHU, JEFF BARNES, AMY GEDNEY AND VICKEY DION TO THE CAPITAL IMPROVEMENT PROGRAM TASK FORCE

WHEREAS, in 2008, the City Council initiated the process to evaluate and prioritize capital improvement projects for the annual preparation of the Capital Improvement Program (CIP), and

WHEREAS, the process included a CIP Task Force consisting of a City Councilmember, a City Planning Commission member, and Airport Advisory Committee member, two representatives of the public-at-large, and interdepartmental staff, and

WHEREAS, the goal of the CIP Task Force is to obtain the input and participation from a broader range of stakeholders, and

WHEREAS, the CIP Task Force will engage in evaluating and prioritizing projects using evaluation criteria and an evaluation protocol, and

WHEREAS, each member will have equally weighted votes in the process and serve from September 2009 through September 2010, and

WHEREAS, the proposed members for the CIP Task Force are:

Councilmember	Brad Hawn
Planning Commission member	Chris Tyler
Airport Advisory Committee member	Kevin Young
Citizen members:	Ron Jeske
	Michael Brinton

Staff members: Jim Miguel, Nick Pinhey, Brent Sinclair, Julie Hannon, Rich Ulm, Bill Sandhu, Jeff Barnes, Amy Gedney and Vickey Dion

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

that it hereby approves the appointment of Brad Hawn, Chris Tyler, Kevin Young, Ron Jeske, Michael Brinton, Jim Miguel, Nick Pinhey, Brent Sinclair, Julie Hannon, Rich Ulm, Bill Sandhu, Jeff Barnes, Amy Gedney and Vickey Dion to the Capital Improvement Program Task Force.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of September, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-438

RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF ROCK, SAND AND GRAVEL FOR THE PUBLIC WORKS DEPARTMENT, TO CENTRAL VALLEY CONCRETE, INC., MERCED, CA, FOR A ONE YEAR AGREEMENT WITH FOUR (4) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF $306,314, AND FOR AN ESTIMATED COST OVER FIVE YEARS OF $1,531,570

WHEREAS, on May 26, 2009, the City Council, by Resolution No. 2009-218, authorized the Purchasing Manager to issue formal Request for Bids for the purchase of rock, sand and gravel for the Public Works Department, for a one year agreement with four (4) one-year extension options at the sole discretion of the City, and

WHEREAS, on June 23, 2009, the Purchasing Division issued Request for Bid (RFB) No. 0809-27 rock, sand and gravel to eighteen (18) companies, seven (7) of which were local companies, posted the bid on the City's website and formally advertised as required by law, and

WHEREAS, on August 11, 2009, RFB's were formally opened in the City Clerk's office. Of the eighteen (18) prospective bidders, five (5) companies chose to respond. The City received two (2) 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 of rock, sand and gravel for the Public Works Department, to Central Valley Concrete, Inc., Merced, CA. The purchase agreement shall be for a one year period with four (4) one-year extension options at the sole discretion of the City, for an estimated annual cost of $306,314, 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. The award of bid and contract for the purchase of rock, sand and gravel for the Public Works Department, to Central Valley Concrete, Merced, Inc., CA, conforms to the Modesto Municipal Code, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2009-10 in appropriation Unit: 7110-120-8311-0439,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase of rock, sand and gravel for the Public Works Department, to Central Valley Concrete, Inc., Merced, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase agreement for a one year period, with four (4) one-year extension options at the sole discretion of the City, for an estimated annual cost of $306,314.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of September, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None.
ABSENT:	Councilmembers:	None.

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)
APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-439

RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACTS FOR THE PURCHASE OF THREE (3) PICKUP TRUCKS AND ONE UTILITY TRUCK FOR THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, TO DOWNTOWN FORD, SACRAMENTO, CA, FOR AN ESTIMATED TOTAL COST OF $38,733, AND SERRAMONTE FORD, COLMA, CA, FOR AN ESTIMATED TOTAL COST OF $90,262; AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE PURCHASE ORDERS FOR A TOTAL ESTIMATED COST OF $128,995

WHEREAS, on October 28, 2008, the City Council, by Resolution No. 2008-592, authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment throughout FY 08/09 through various competitive processes, with the Purchasing Division coming back to Council for award authorization, and

WHEREAS, the three (3) pickup trucks and one utility truck are replacement vehicles for the Wastewater Division and Water Division, and were included in the FY 08/09 new vehicles and heavy equipment list authorized by Council, and

WHEREAS, on April 30, 2009, the Purchasing Division issued RFB No. 0809-24 for the purchase of three (3) pickup trucks and one utility truck to forty-two (42) prospective bidders, four of which were local companies, posted the bid on the City's web site and formally advertised as required by law, and

WHEREAS, based on providing the lowest responsive and responsible bids, City staff recommends the award of bid and contracts for the purchase of three (3) pickup trucks and one utility truck for the Public Works Department, Fleet Services Division, to Downtown Ford, Sacramento, CA, for an estimated total cost of $38,733, and Serramonte Ford, Colma, CA ,for an estimated total cost of $90,262, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contracts for the purchase of three (3) pickup trucks and one utility truck for the Public Works Department, Fleet Services Division, to Downtown Ford, Sacramento, CA, and Serramonte Ford, Colma, CA, conforms to the Modesto Municipal Code, and

WHEREAS, funds were originally budgeted in Fiscal Year 2008-09 and have rolled into Fiscal Year 2009-10, in the following Fleet Equipment Replacement Fund accounts: 7210-480-5814-5848, 7210-480-5814- 5850, 7210-480-5814-5847, 7210-480-5814-5844,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contracts for the purchase of three pickup trucks and one utility truck for the Public Works Department, Fleet Services Division, to Downtown Ford, Sacramento, CA, for a total estimated cost of $38,733, and Serramonte Ford, Colma, CA, for a total estimated cost of $90,262.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue purchase orders for a total estimated cost of $128,995.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of September, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None.
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-440

A RESOLUTION AUTHORIZING FIVE (5) 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 State Agency for Surplus Property (SASP), and

WHEREAS, surplus General Services Administration (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, Department of General Services, 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 five (5) City staff designated as screeners are: Mark L. Averell, Jim Richards, Lori Martinez, Jolene Gonzales, and Cindy Medley,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the following five (5) City staff to serve as General Services Administration surplus property screeners: Mark L. Averell, Jim Richards, Lori Martinez, Jolene Gonzales, and Cindy Medley.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of September, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-441

RESOLUTION AUTHORIZING THE AWARD OF BIDS AND CONTRACTS FOR THE PURCHASE AND INSTALLATION OF LABORATORY EQUIPMENT FOR THE PUBLIC WORKS DEPARTMENT, WATER QUALITY CONTROL DIVISION, TO SHIMADZU SCIENTIFIC INSTRUMENTS, PLEASANTON, CA AND VARIAN, INC, WALNUT CREEK, CA; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO ISSUE CONTRACTS FOR AN ESTIMATED TOTAL COST OF $256,402.95

WHEREAS, on April 8, 2008, the City Council, by Resolution No. 2008-212, rejected all bids for the purchase and installation of laboratory equipment for the Public Works Department, Water Quality Control Division, and authorized the Purchasing Manager to re-issue formal Request for Bids (RFB) for the purchase and installation of laboratory equipment at a future date, and

WHEREAS, on June 1, 2009, the Purchasing Division issued RFB No. 0809-25 Water Quality Control Laboratory Equipment to thirteen (13) prospective bidders, none of which were local companies, posted the bid on the City's website and formally advertised as required by law, and

WHEREAS, on June 23, 2009, RFB's were formally opened in the City Clerk's office. Of the thirteen (13) prospective bidders, two (2) companies chose to respond. Both companies provided responsive and responsible bids, and

WHEREAS, based on providing the lowest responsive and responsible bids, City staff recommends the award of bids and contracts for the purchase and installation of laboratory equipment for the Public Works Department, Water Quality Control Division, to Shimadzu Scientific Instruments, Pleasanton, CA and Varian, Inc., Walnut Creek, CA, for an estimated total cost of $256,402.95, 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 and contracts for the purchase and installation of laboratory equipment for the Public Works Department, to Shimadzu Scientific Instruments, Pleasanton, CA and Varian, Inc., Walnut Creek, CA, conforms to the Modesto Municipal Code, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2009-10 in appropriation Unit: 6210-480-B584-6070,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bids and contracts for the purchase and installation of laboratory equipment for the Public Works Department, Water Quality Control Division, to Shimadzu Scientific Instruments, Pleasanton, CA and Varian, Inc., Walnut Creek, CA.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to issue contracts for an estimated total cost of $256,402.95.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of September, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-442

RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF THREE (3) REPLACEMENT VERTICAL MIXED-FLOW PROPELLER PUMPS FOR THE PUBLIC WORKS DEPARTMENT, WASTEWATER DIVISION, TO JM SQUARED ASSOCIATES, INC., CONCORD, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR AN ESTIMATED TOTAL COST OF $196,291

WHEREAS, on October 28, 2008, the City Council, by Resolution No. 2008-604, authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of three (3) vertical mixed-flow propeller pumps, and

WHEREAS, on April 27, 2009, the Purchasing Division issued RFB No. 0809-20 for the purchase of three (3) vertical mixed-flow propeller pumps to twenty-nine (29) prospective bidders, none of which were local companies, posted the bid on the City's web site and formally advertised as required by law, and

WHEREAS, on June 30, 2009, RFB's were formally opened in the City Clerk's office. Of the twenty-nine (29) prospective bidders, one company chose to respond, and

WHEREAS, based on receiving a responsive and responsible bid, City staff recommends the award of bid and contract for the purchase of three (3) vertical mixed-flow propeller pumps to JM Squared Associates, Inc., Concord, CA, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contract for the purchase of three (3) vertical mixed-flow propeller pumps for the Public Works Department, Wastewater Division, to JM Squared Associates, Inc., Concord, CA, conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted in Fiscal Year 09/10, in the following Sewer Fund CIP Equipment replacement account, 6210-480-B103-6070,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase of three (3) vertical mixed-flow pumps for the Public Works Department, Wastewater Division, to JM Squared Associates, Inc., Concord, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase order an estimated total cost of $196,291.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of September, 2009, by Councilmember ?, who moved its adoption, which motion being duly seconded by Councilmember ?, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-443

A RESOLUTION APPROVING AN APPLICATION IN THE AMOUNT OF $350,000 TO THE RECREATIONAL TRAILS PROGRAM TO FUND THE CONSTRUCTION AND INSTALLATION OF THE ARROYO WILLOW AND COTTONWOOD TRAILS IN THE TUOLUMNE RIVER REGIONAL PARK GATEWAY PARCEL; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN ALL APPROPRIATE GRANT DOCUMENTS

WHEREAS, the "Safe, Accountable, Flexible, Efficient Transportation Equity Act. A Legacy for Users" provides funds to the State of California for Grants to federal, state, local and non-profit organizations to acquire, develop and/or maintain motorized and non-motorized trail projects , and

WHEREAS, the California Department of Parks and Recreation has been delegated the responsibility for the administration of the program within the State, setting up necessary procedures governing project application under the program, and

WHEREAS, said procedures established by the California Department of Parks and Recreation require the City of Modesto to certify by resolution the approval of the application before submission of said application to the State, and

WHEREAS, the City of Modesto will enter into a contract with the State of California to complete the project,

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

1. Approves the filing of an application for the Recreational Trails Program, and

2. Certifies that the project is consistent with the applicant's general plan or the equivalent planning document, and

3. Certifies that the City of Modesto has or will have available prior to commencement of any work on the project, included in this application, sufficient funds to operate and maintain the project, and

4. Certifies that the applicant has reviewed, understands, and agrees to the general provisions contained in the contract shown in the Procedural Guide, and

5. Appoints the City Manager, or his designee, as agent to conduct all negotiations, execute and submit all documents, including, but not limited to, applications, agreements, amendments, payment requests and so on, which may be necessary for the completion of the project.

6. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of September, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-444

RESOLUTION AMENDING THE CITY'S FINANCIAL POLICIES TO AUTHORIZE THE CITY MANAGER OR HIS DESIGNEE TO APPROVE THE ALLOCATION OF PRIVATE DONATIONS AND GRANTS OF UP TO $25,000 MADE THROUGH THE FUND DEVELOPMENT PROGRAM OF THE PARKS, RECREATION, & NEIGHBORHOODS DEPARTMENT FOR PROGRAMMING, FACILITY PRESERVATION, SPECIAL EVENTS AND PARK MAINTENANCE PER THE DONOR'S SPECIFIED REQUEST

WHEREAS, the Council of the City of Modesto has authorized a Fund Development Program for the Parks, Recreation and Neighborhoods Department, and

WHEREAS, the Parks, Recreation and Neighborhoods Department Fund Development Program authorizes staff to actively seek and receive donations and grants for Parks, Recreation and Neighborhoods Department programs, facility preservation, and park beautification, and

WHEREAS, grants and donations are considered new revenue, and

WHEREAS, the City's existing Financial Policies require Council to authorize the appropriation of all new revenue, and

WHEREAS, private donations and grants made through the Fund Development Program may only be used for the purpose specified by the donor, and

WHEREAS, the Parks, Recreation and Neighborhoods Department seeks to allocate said donations and grants to their appropriate revenue accounts as they are received so they may be utilized in a timely manner, and

WHEREAS, this will require an amendment to the City's Financial Policies,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends to the City's existing Financial Policies to authorize the City Manager or his designee to approve the allocation of private donations and grants of up to

$25,0000 to the appropriate revenue accounts and to modify the budget to recognize appropriate donations and expenditures to the Parks, Recreation and Neighborhoods Department per donor's specific request.

BE IT FURTHER RESOLVED that in accordance with the Fund Development Program, the Parks, Recreation and Neighborhoods Department will submit an annual Fund Development Report for Council approval.

The foregoing Resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of September, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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
Print
DEC - 1 2009
THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION No. 2009-563

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-445

A RESOLUTION APPROVING ADJUSTMENTS TO THE MAXIMUM RATE SCHEDULE FOR CITY RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL SOLID WASTE COLLECTION SERVICES, TO BECOME EFFECTIVE OCTOBER 1, 2009, INCLUDING FUEL COST, AND RESCINDING RESOLUTION NO. 2009-384

WHEREAS, with the adoption of Ordinance No. 3068-C.S. in November of 1997, the City no longer sets rates for the collection of garbage in Modesto, and instead performs a comprehensive review of cost information submitted by the contract garbage haulers, and

WHEREAS, the City sets a maximum rate that the haulers may charge for the various types of services provided under the contracts based on cost data provided by the lowest cost hauler, and

WHEREAS, Section f (2) of the City's Service Agreements with its solid waste collectors requires that when the City makes adjustments to the collection services provided under the Agreements, any additional costs should be covered by adjustments to the maximum rates, and

WHEREAS, in addition, maximum rates for solid waste collection services are reviewed annually as requested by the City's garbage collection companies, and

WHEREAS, the City conducted an analysis using the audited financial statements provided by the garbage haulers, supplemental data provided by the garbage haulers, and fuel price information and forecast prices developed by the United States Department of Energy, and

WHEREAS, new maximum rates were calculated, and a recommendation for a new maximum rate schedule was developed, which included a recommendation that quarterly adjustments to the fuel component of the maximum rates be made, and

WHEREAS, a report dated September 22, 2009, 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, it was found and determined by the Council of the City of Modesto that the existing schedules of rates and charges for garbage service in the City of Modesto should be revised as recommended, and that quarterly adjustments to the fuel component of the maximum rates should be made, and

WHEREAS, staff has adjusted the fuel component of the maximum rates and has incorporated the fuel component adjustment into the schedule of Maximum Charges for Garbage Service **attached** hereto, marked **Exhibit "1"** and incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the adjustments to 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 October 1, 2009, 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. 2009-384 is hereby rescinded, effective October 1, 2009.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of September, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
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/recyclables
- 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 **$22.45 per month** regardless of size of container. A fuel component of $0.79 per month is included in the maximum rate for the quarter beginning April 1, 2009 and ending June 30, 2009. The fuel component may be adjusted quarterly.
b. The maximum rate for each additional garbage container shall be **$16.73 per month, and $9.50 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 **$18.80 per month**. A fuel component of $0.79 per month is included in the maximum rate for the quarter beginning April 1, 2009 and ending June 30, 2009. The fuel component may be adjusted quarterly.
b. The maximum rate for each additional 60-gallon garbage container shall be **$16.30 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	$ 41.36	$ 72.23	$ 103.07	$ 133.92	$ 164.78	$ 195.64
2 CY	$ 72.23	$ 133.92	$ 195.64	$ 257.35	$ 319.05	$ 380.75
3 CY	$103.07	$ 195.64	$ 288.20	$ 380.75	$ 473.33	$ 565.88
4 CY	$133.92	$ 257.35	$ 380.75	$ 504.18	$ 627.59	$ 751.01
5 CY	$164.78	$ 319.05	$ 473.33	$ 627.59	$ 784.87	$ 936.14
6 CY	$195.64	$ 380.75	$ 565.88	$ 751.01	$ 936.14	$1,121.27

Container Size	FORK Participants Container Maximum Rates NUMBER OF COLLECTIONS PER WEEK					
	1	2	3	4	5	6
2 CY	$ 54.17	$ 100.44	$ 146.73	$ 193.01	$ 239.29	$ 285.56
3 CY	$ 77.30	$ 146.73	$ 216.15	$ 285.56	$ 355.00	$ 424.41
4 CY	$100.44	$ 193.01	$ 285.56	$ 378.14	$ 470.69	$ 563.26
5 CY	$123.59	$ 239.29	$ 355.00	$ 470.69	$ 588.65	$ 702.11
6 CY	$146.73	$ 285.56	$ 424.41	$ 563.26	$ 702.11	$ 840.95
90-gallon	$ 16.87	$ 33.74	$ 50.60	$ 67.47	$ 84.34	$ 101.21

* A detachable container rental rate of $10.00 per month is included in the above schedules.

1. **Weekly rental/Detachable Containers** - Shall not exceed the rate for 1 pickup per week for each size container.

2. **Fuel Component** - A fuel component of $0.69 per cubic yard per month ($0.16 per cubic yard) for a 1 cubic yard container collected once a week is included in the maximum rate for the quarter beginning April 1, 2009 and ending June 30, 2009. The fuel component shall be analyzed quarterly and adjustments shall be made as necessary. The adjustment shall be based on the average price of fuel for a preceding quarter as follows: July 1/January-March; October/April-June; January 1/July-September; April 1/October-December. Average prices shall be determined based on published prices for California from the Department of Energy.

DROP BOX CONTAINERS

1. **Pick up charge** - $210.95 per pick up
2. **Rental** - $0.85 per day up to 7 day maximum rental
   - $3.00 per day for boxes kept 7 or more days without servicing
   - $10.00 per day for boxes kept 21 or more days without servicing
3. **Disposal charge** - Actual charge to be paid by customer. Garbage company will provide up to 40 CY Drop Box containers for above stated charges subject only to load limit of transfer vehicle. An AB 939 Green Waste Diversion Fee of $8.40 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	$309.21	$ 586.92	$ 864.60	$1,142.25	$1,419.99	$1,697.64
4 CY	$401.76	$ 772.05	$1,142.25	$1,512.54	$1,882.77	$2,253.03
6 CY	$586.92	$1,142.25	$1,697.64	$2,253.03	$2,808.42	$3,363.81

Roll-Off Type:

1. 6 CY to 40 CY	$210.95 per pickup
2. Medical waste compactors	$265.00 per pickup
3. Washing compactor	$30.00
4. Disposal Charge:	Actual charge to be paid by customer
5. AB 939 Green Waste Diversion Fee	$8.40 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

1. 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.
2. The above residential maximum rates include a $1.33 per month per household AB 939 Green Waste Diversion Fee.
3. The above commercial bin and front-loader compactor maximum rates include an AB 939 Green Waste Diversion Fee of $2.36 per yard/month.
4. 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.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-446

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND MIWALL CORPORATION FOR THE REMOVAL AND PURCHASE OF EXPENDED BULK BRASS SHELL CASINGS FROM THE TACTICAL GUN FIRING RANGE; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Modesto Police Department has a Tactical Gun Firing Range at 3000 West Main Street, Turlock, California, and

WHEREAS, the Police Department would like to remove and recycle the expended bulk brass shell casings from the firing range, and

WHEREAS, the City of Modesto would like to enter into an Agreement with Miwall Corporation (Miwall), Grass Valley, California, to remove and weigh all expended bulk brass shell casings, and

WHEREAS, Miwall will credit the City of Modesto Police Department $1.25 per pound for all expended bulk brass shell casings collected, and

WHEREAS, the projected annual revenue will fluctuate depending on the amount of shell casings expended and the current market price of brass, and

WHEREAS, it is estimated that the brass currently on hand at $1.25 per pound will generate approximately $7,000 in revenue for FY 2009/2010, and

WHEREAS, credit for the expended bulk brass shell casings given to the Modesto Police Department by Miwall will be used by the Police Department for future purchases from Miwall for firing range equipment, and

WHEREAS, credit for expended brass shell casings will be posted in account 0100-0190-1961-8166, Brass/Lead Exchange, and

WHEREAS, expenses for future purchases by the Police Department of firing range equipment will be posted in account 0100-0190-1961-0356, Police Equipment, and

WHEREAS, the term of the contract will be for one year with four (4) one-year extension options, at the sole discretion of the City, for a total of five (5) years,

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 Miwall Corporation for the removal and purchase of expended bulk brass shell casings from the Tactical Gun Firing Range.

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 September, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-447

A RESOLUTION AMENDING THE FISCAL YEAR 2009/2010 OPERATING BUDGET TO APPROPRIATE REVENUES AND EXPENDITURES OF $7,000 FOR BRASS/LEAD EXCHANGE

WHEREAS, the Modesto Police Department has a Tactical Gun Firing Range at 3000 West Main Street, Turlock, California, and

WHEREAS, the Police Department would like to remove and recycle the expended bulk brass shell casings from the firing range, and

WHEREAS, the City of Modesto would like to enter into Agreement with Miwall Corporation (Miwall), Grass Valley, California, to remove and weigh all expended bulk brass shell casings, and

WHEREAS, Miwall will credit the City of Modesto Police Department $1.25 per pound for the expended brass shell casings, and

WHEREAS, it is estimated that the brass currently on hand at $1.25 per pound will generate approximately $7,000 in revenue for FY 2009/2010, and

WHEREAS, credit for the expended bulk brass shell casings given to the Modesto Police Department will be used by the Police Department for future purchases made to Miwall for firing range equipment, and

WHEREAS, the term of the Agreement shall be for one year, with four one-year extension options, at the sole discretion of City, for a total of five years, and

WHEREAS, credit for expended brass shell casings will be posted in account 0100-0190-1961-8166, Brass/Lead Exchange, and

WHEREAS, expenses for future purchases by the Police Department of firing range equipment will be posted in account 0100-0190-1961-0356, Police Equipment,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby amends the Fiscal Year 2009/2010 Operating Budget to appropriate revenues and expenditures of $7,000 for brass/lead exchange.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of September, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-448

A RESOLUTION APPROVING AN ON-CALL LIST FOR CLOSED CIRCUIT TELEVISION (CCTV) INSPECTION SERVICES FOR WASTEWATER COLLECTION SYSTEMS AND STORM WATER COLLECTION SYSTEMS CONSISTING OF THE FOLLOWING FIRMS: IPI, COASTLINE WATER RESOURCES, AND NOR CAL PIPELINE INSPECTION, FOR A PERIOD NOT TO EXCEED THREE YEARS

WHEREAS, the City of Modesto will be rehabilitating and constructing sanitary collection and storm drain collection systems over the next several years, and

WHEREAS, several of these systems consist of larger diameter pipelines, such as the Cannery Segregation Line, which ranges from 24 inches to 66 inches in diameter, and

WHEREAS, in order to assess and examine the conditions of existing and new pipelines, the City will require CCTV inspection services from firms with established experience in wastewater collection systems and storm water collection systems, and

WHEREAS, on May 27, 2009, in compliance with Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, a Request for Qualifications was sent to sixteen (16) firms, including one local firm, that specialize in CCTV Inspection Services, and

WHEREAS, the City received qualification statements from six (6) firms, and

WHEREAS, a selection committee, comprised of City staff, determined that three of the firms: IPI, Coastline Water Resources, and Nor Cal Pipeline Inspection, were the most qualified as they demonstrated a thorough understanding of the issues involving wastewater and storm water collection systems, and

WHEREAS, the staff Selection Committee recommends that all three firms be included on the list,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the on-call list for Closed Circuit Television (CCTV) Inspection Services for wastewater collection systems and storm water collection systems consisting of the following firms: IPI, Coastline Water Resources, and Nor Cal Pipeline Inspection, 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 22nd day of September, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-449

RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING WITH THE CITY OF RIPON FOR THE CITY OF MODESTO TO ACT AS THE RECIPIENT OF FEDERAL TRANSIT ADMINISTRATION SECTION 5307 FORMULA FUNDS ON BEHALF OF THE CITY OF RIPON; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE MEMORANDUM OF UNDERSTANDING

WHEREAS, Federal Transit Administration (FTA) Section 5307 funds are apportioned to the Modesto Urbanized Area (UZA) using a formula based on population and other factors, and

WHEREAS, the City of Modesto is designated by the FTA as the recipient of Section 5307 funds for the Modesto UZA, and

WHEREAS, Ripon is a part of the Modesto UZA and the amount of money received by the UZA is partially based on the population of the City of Ripon, and

WHEREAS, the City of Ripon and the FTA have asked the City of Modesto to act as a pass through for Section 5307 funds for the City of Ripon, and

WHEREAS, the City of Modesto is prepared to accept the responsibility as grant recipient of FTA Section 5307 funds on behalf of the City of Ripon subject to approval of an Memorandum Of Understanding (MOU) with the City of Ripon that describes the responsibilities of the cities of Ripon and Modesto,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an MOU with the City of Ripon for the City of Modesto to act as the recipient of FTA Section 5307 funds on behalf of the City of Ripon.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of September, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-450

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED, "2009 SANITARY SEWER COLLECTION SYSTEM REPLACEMENT," ACCEPTING THE BID AND APPROVING A CONTRACT WITH FERMIN SIERRA CONSTRUCTION, INC. IN THE AMOUNT OF $467,430, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the 2009 Sanitary Sewer Collection System Replacement project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the 2009 Sanitary Sewer Collection System Replacement project were opened at 11:00 a.m. on September 1, 2009, and later tabulated by the Director of Public Works for the consideration of the Council, and

WHEREAS, the Director of Public Works has recommended that the bid of $467,430 received from Fermin Sierra Construction, Inc. be accepted as the lowest responsible bid and the contract be awarded to Fermin Sierra 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 2009 Sanitary Sewer Collection System Replacement project, accepts the bid of Fermin Sierra Construction, Inc. in the amount of $467,430, and awards Fermin Sierra Construction, Inc. the contract for the 2009 Sanitary Sewer Collection System Replacement project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of September, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-451

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED, "PARK LIGHTING UPGRADE AT 6 SITES," ACCEPTING THE BID AND APPROVING A CONTRACT WITH MODESTO EXECUTIVE ELECTRIC, INC. IN THE AMOUNT OF $237,692.15, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Park Lighting Upgrade at 6 Sites project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Park Lighting Upgrade at 6 Sites project were opened at 11:00 a.m. on August 18, 2009, and later tabulated by the Director of Public Works for the consideration of the Council, and

WHEREAS, the Director of Public Works has recommended that the bid of $237,692.15 received from Modesto Executive Electric, Inc. be accepted as the lowest responsible bid and the contract be awarded to Modesto Executive Electric, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Park Lighting Upgrade at 6 Sites project, accepts the bid of Modesto Executive Electric, Inc. in the amount of $237,692.15, and awards Modesto Executive Electric, Inc. the contract for the Park Lighting Upgrade at 6 Sites 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 September, 2009, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-452

A RESOLUTION APPROVING A NEW CAPITAL IMPROVEMENT PROGRAM ACCOUNT FOR THE PROJECT TITLED, "DESIGN OF STREET OVERLAY AND ADA CURB RAMP IMPROVEMENTS", WHICH DID NOT APPEAR IN THE ADOPTED CAPITAL IMPROVEMENT PROGRAM FOR FISCAL YEAR 2009-2010

WHEREAS, in order to avoid co-mingling of American Recovery and Reinvestment Act (ARRA) funds with Local Transportation Funds (LTF) for grant reporting purposes, it has been determined that the design piece of this project should be programmed in a separate Capital Improvement Program (CIP) account from the construction account, and

WHEREAS, a list was quickly prepared to include overlay candidate streets and locations requiring Americans with Disabilities Act (ADA) curb ramp upgrades, and

WHEREAS, City staff utilized a list maintained by Public Works containing public requests for new or upgraded curb ramps, and

WHEREAS, in addition, the curb ramps adjacent to the streets that will be receiving an asphalt overlay will be required to be upgraded to current ADA standards, and

WHEREAS, City staff submitted the Request for Authorization for preliminary engineering to Caltrans on August 6, 2009, and

WHEREAS, there is an extremely short amount of time to prepare plans and specifications, and receive Authorization to Proceed with construction, and

WHEREAS, per ARRA funding guidelines, we must receive the Authorization to Proceed with construction no later than March 2, 2010, and

WHEREAS, this project was not included in the adopted CIP for Fiscal Year 2009-2010, and

WHEREAS, City staff will attempt to complete plans and specifications by mid-January, allowing ample time for Caltrans staff to review and obligate the funds by the March 2nd deadline, and

WHEREAS, the total amount of funding expected for both design and construction of this project is $3,269,225, and

WHEREAS, this project was not included in the adopted CIP for Fiscal Year 2009-2010, and

WHEREAS, City staff recommends approving a new CIP Account 0510-430-H015 for the project titled, "Design of Street Overlay and ADA Curb Ramp Improvements,"

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a new Capital Improvement Program Account 0510-430-H015 for the project titled, "Design of Street Overlay and ADA Curb Ramp Improvements."

BE IT FURTHER RESOLVED that the Finance Director, or his/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 September, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-453

A RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FUND THE DESIGN ACTIVITIES FOR THE DESIGN OF THE "STREET OVERLAY AND ADA CURB RAMP IMPROVEMENTS" PROJECT

WHEREAS, a budget adjustment in the amount of $200,000 is necessary to fund the design activities for the Design of the "Street Overlay and ADA Curb Ramp Improvements" project, along with engineering/design/administration support from City staff, and

WHEREAS, the Fiscal Year 2009-2010 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 2009-2010 Capital Improvement Program budget, as shown in **Exhibit A**.

BE IT FURTHER RESOLVED that the Finance Director, or his/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 September, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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

FUND:

Local Transportation (LTF) Funds-Streets & Roads

EXPENDITURES:		Increase/(Decrease)
LTF Streets & Roads Fund	0510-800-8000-8003	($200,000)
Design of Street Overlay & ADA Curb Ramp Imprv	0510-430-H015-6010	$200,000

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-454

A RESOLUTION APPROVING A PRIORITIZED STREET LIST FOR THE PROJECT TITLED, "STREET OVERLAY AND ADA CURB RAMP IMPROVEMENTS"

WHEREAS, the City proposes to utilize American Recovery and Reinvestment Act (ARRA) funds to design and construct a street overlay and Americans with Disabilities Act (ADA) curb ramp improvement project (Project), and

WHEREAS, on July 30, 2009, City staff was asked by StanCOG for a list of streets and curb ramp locations that would be included in the Project, and

WHEREAS, this list was needed as soon as possible so that StanCOG could prepare the required certification paperwork, and

WHEREAS, staff quickly prepared a list of overlay candidates and locations needing curb ramp upgrades, and

WHEREAS, staff utilized the City's Pavement Management System data to select the overlay candidates, and

WHEREAS, staff utilized a list maintained by Public Works containing public requests for new or upgraded curb ramps, and curb ramps adjacent to the streets that will be receiving an asphalt overlay will be required to be upgraded to current ADA standards, and

WHEREAS, the overlay candidates were prioritized based on the condition of the pavement, and the segments with the lowest pavement condition rating are given the highest priority on the list, and

WHEREAS, during the design process, staff may determine that the pavement condition is so poor that an overlay may not be the appropriate treatment, and

WHEREAS, it is expected that there will not be sufficient funds available to overlay all of the street segments on the list, and

WHEREAS, City staff recommends approving a prioritized street list for the "Street Overlay and ADA Curb Ramp Improvements" project, 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 a prioritized street list for the "Street Overlay and ADA Curb Ramp Improvements" project, 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 22nd day of September, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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

Street Overlay and ADA Curb Ramp Improvements (ARRA Project) City of Modesto

Overlays Candidates					
Priority	**Street**	**From**	**To**	**Average Pavement Condition Index**	**Length(miles)**
1	E. Roseburg Ave.	McHenry Ave.	Sunrise Ave.	10	0.50
2	Virginia Ave.	Needham St.	Roseburg Ave.	10	1.00
3	Sylvan Ave	Coffee Rd	Oakdale Rd	13	1.00
4	Orangeburg Ave.	McHenry Ave.	Coffee Rd.	19	1.00
5	Carver Rd.	Standiford Ave.	Snyder	20	0.50
6	Oakdale Rd.	Scenic Dr.	Mable Ave.	20	3.00
7	Neece Rd.	Tuolumne Rd.	Rouse Ave.	21	0.53
8	Tully Rd.	9th St.	Pelandale Ave.	22	3.60
9	Tuolumne Rd.	Paradise Rd.	9th St.	22	1.24
10	I St.	10th St.	Downey	24	0.59
11	Sisk Rd.	Standiford Ave.	Pelandale Ave.	34	1.53
12	Bowen Ave	McHenry Ave	Tully Rd	38	1.00
13	Sylvan Meadows Dr	Coffee Rd	Beyer Park Dr	44	0.28
14	W. Roseburg Ave.	Carver Rd.	McHenry Ave.	44	1.54
15	Mount Vernon Dr	Prescott Rd	Carver Rd	51	0.58
16	Scenic Dr.	Claus Rd.	Oakdale Rd.	57	2.06
				Total:	19.95

Curb Ramp Candidates		
Street	**From**	**To**
10th St.	H St.	I St.
11th St	I St	K St
12th St.	G St.	H St.
Alice St	Olive Ave	Magnolia Ave
Beyer Park Dr	Sylvan Meadows Dr	Forest Glenn Dr
Bowen Ave	McHenry Ave	Tully Rd
Forest Glenn Dr	Sylvan Meadows Dr	Sylvan Ave
Guinevere Ln	Charlemagne Way	King Arthur Way
H St.	10th St.	11th St.
Hackberry Ave	W. Morris Ave	Needham St
Kearney Ave	Coldwell Ave	Princeton Ave
King Arthur Way	Guinevere Ln	Prince Valiant Ln
Kodiak Dr	Litt Rd	Fine Ave
Lancelot Ln	King Arthur Way	E. Rumble Rd
Magnolia Ave	W. Morris Ave	Needham St
Mount Vernon Dr	Prescott Rd	Carver Rd
Muirswood Way	Wylie Dr	Landini Way
Park Ave	Stoddard Ave	Needham St
Poplar Ave	Stoddard Ave	Needham St
Prince Valiant Ln	Charlemagne Way	King Arthur Way
Scenic Dr.	Claus Rd.	Oakdale Rd.
Semple St	Maynell Ave	Downey Ave
Sharon Ave	Maid Mariane Ln	Fine Ave
Stoddard Ave	Orange Ave	Magnolia Ave
Sylvan Meadows Dr	Coffee Rd	Beyer Park Dr
W. Roseburg Ave.	Carver Rd.	McHenry Ave.
Wright St	Olive Ave	Magnolia Ave

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-455

A RESOLUTION APPROVING A PRIORITIZED STREET LIST FOR THE PROJECT TITLED, "STREET OVERLAY AND ADA CURB RAMP IMPROVEMENTS"

WHEREAS, the City proposes to utilize American Recovery and Reinvestment Act (ARRA) funds to design and construct a street overlay and Americans with Disabilities Act (ADA) curb ramp improvement project (Project), and

WHEREAS, on July 30, 2009, City staff was asked by StanCOG for a list of streets and curb ramp locations that would be included in the Project, and

WHEREAS, this list was needed as soon as possible so that StanCOG could prepare the required certification paperwork, and

WHEREAS, staff quickly prepared a list of overlay candidates and locations needing curb ramp upgrades, and

WHEREAS, staff utilized the City's Pavement Management System data to select the overlay candidates, and

WHEREAS, staff utilized a list maintained by Public Works containing public requests for new or upgraded curb ramps, and curb ramps adjacent to the streets that will be receiving an asphalt overlay will be required to be upgraded to current ADA standards, and

WHEREAS, the overlay candidates were prioritized based on the condition of the pavement, and the segments with the lowest pavement condition rating are given the highest priority on the list, and

WHEREAS, during the design process, staff may determine that the pavement condition is so poor that an overlay may not be the appropriate treatment, and

WHEREAS, it is expected that there will not be sufficient funds available to overlay all of the street segments on the list, and

WHEREAS, City staff recommends approving a prioritized street list for the "Street Overlay and ADA Curb Ramp Improvements" project, 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 a prioritized street list for the "Street Overlay and ADA Curb Ramp Improvements" project, 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 22nd day of September 2009, by Councilmember ?, who moved its adoption, which motion being duly seconded by Councilmember ?, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit A

Street Overlay and ADA Curb Ramp Improvements (ARRA Project) City of Modesto

Overlays Candidates					
Priority	**Street**	**From**	**To**	**Average Pavement Condition Index**	**Length(miles)**
10	I St.	10th St.	Downey	24	0.59
				Total:	0.59

Curb Ramp Candidates		
Street	**From**	**To**
11th St	I St	K St
Hackberry Ave	W. Morris Ave	Needham St
Semple St	Maynell Ave	Downey Ave

Print

AMENDED
on 12-07-09
By Resolution 2009-506

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-456

A RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 OPERATING BUDGET TO APPROVE THE PROPOSED REORGANIZATION OF THE BUDGET DIVISION IN THE FINANCE DEPARTMENT INCLUDING CREATING THE POSITION OF BUDGET MANAGER, DELETING THE POSITIONS OF BUDGET OFFICER, AND BUDGET AND FINANCIAL ANALYSIS ADMINISTRATOR AND AMENDING THE NECESSARY BUDGETS TO IMPLEMENT THIS REORGANIZATION

WHEREAS, on June 2, 2009, the City Council, by Motion, authorized the City Manager to pursue a reorganization of the Finance Department, specifically, the reallocation of the Budget Division currently in the Finance Department to the City Manager's Office, and

WHEREAS, as a result of the reorganization amend the City's Classification Plan, and Position Allocation, adding a new classification of Budget Manager at salary range 2452, and deleting from the City's Classification Plan and Position Allocation the Budget and Financial Analysis Administrator at salary range 442, and Budget Officer at salary range 438, currently in the Finance Department,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the proposed reorganization of the Budget Division in the Finance Department and authorizes the City Manager to make the necessary budget adjustments to implement this reorganization by amending the Fiscal Year 2009-2010 Operating budgets.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of September, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-457

A RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 OPERATING BUDGET TO RECOGNIZE NEW GENERAL FUND REVENUE OF $38,653 IN THE HUMAN RESOURCES DEPARTMENT AND DECREASE THE SALARY AND BENEFIT ACCOUNTS IN THE HUMAN RESOURCES DEPARTMENT AND THE RISK MANAGEMENT DIVISION, EFFECTIVE OCTOBER 12, 2009

WHEREAS, as a result of the reorganization of the Human Resources Department there has been an elimination of an Administrative Office Assistant II allocation in the Risk Management Division, and

WHEREAS, the Human Resources Division will be providing administrative services for the Risk Management Division that were previously provided by the eliminated Administrative Office Assistant II, and

WHEREAS, the Risk Management Division will be entering into a Service Credit Agreement with the Human Resources Division for approximately $53,684 a fiscal year and $38,653 for nine months, to provide administrative services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2009-2010 Human Resources budget, as shown in the **attached Exhibit "A"**, which is hereby made part of this resolution by reference and recognizes new General Fund revenue of $38,653 in the Human Resources Division..

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of September, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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

Fund Name:
General Fund

	Revenue Account Adjustments	
0100-030-0301-4909	Inter-fund Labor Charges	$38,653
	Expense Account Adjustments	
0100-030-0301-0184	Salary Adjustment (Decrease)	-$86,541
0100-030-0301-0194	Benefit Adjustment (Decrease)	-$27,562
0100-030-0301-0182	Salary New Position	$36,929
0100-030-0301-0192	Benefits New Position	$15,827
0100-800-8000-8003	General Fund Reserve	**$100,000**

Risk Admin Fund

	Expense Account Adjustments	
7310-030-0372-0184	Salary Adjustment (Decrease)	-$27,809
7310-030-0372-0194	Benefit Adjustment (Decrease)	-$10,844
7310-030-0372-0255	Services City Forces	$38,653

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-458

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF DAN PARKS FROM THE HOUSING REHABILITATION LOAN COMMITTEE

WHEREAS, Dan Parks was appointed a member of the Housing Rehabilitation Loan Committee on September 23, 2008, and

WHEREAS, Dan Parks has tendered his resignation from the Housing Rehabilitation Loan Committee, and

NOW, THERFORE, BE IT RESOLVED that the resignation of Dan Parks from the Housing Rehabilitation Loan Committee be, and hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of the City, hereby expresses its sincere appreciation to Dan Parks 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 6th day of October, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O`Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)
APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-459

A RESOLUTION APPROVING A LICENSE AGREEMENT BETWEEN THE CITY OF MODESTO AND MODESTO IRRIGATION DISTRICT FOR THE PURPOSE OF OBTAINING PERMISSION TO MAKE IMPROVEMENTS WITHIN MODESTO IRRIGATION DISTRICT LATERAL NO. 3 FOR THE CITY'S WATER DISTRIBUTION SYSTEM TO USE CERTAIN REAL PROPERTY, AS DESCRIBED IN EXHIBITS A AND B OF THE LICENSE AGREEMENT; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto (Licensee) desires to construct improvements for relocating a City water main within Modesto Irrigation District (MID) right-of-way, and

WHEREAS, MID ("District") has an interest in certain real property within the City of Modesto consisting of a portion of real property referred to as Lateral No 3, and

WHEREAS, District will grant to Licensee, at Licensee's expense, permission to make improvements within 505 square feet of Lateral No. 3, as described in **Exhibits A and B** of the License Agreement, as part of relocating a City water main, hereinafter referred to as the "Improvements," and

WHEREAS, the District requires a License Agreement prior to allowing construction within its right-of-way, and

WHEREAS, this will allow Licensee to use the District right-of-way for the Improvements at no cost,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a License Agreement between the City of Modesto and Modesto Irrigation District for the purpose of obtaining permission to make improvements within

Modesto Irrigation District Lateral No. 3 for the City's water distribution system to use certain real property, as described in **Exhibits A and B** of the License Agreement.

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 October, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

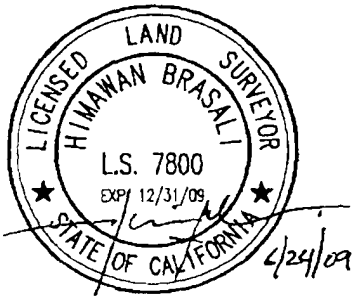
EXHIBIT "A"

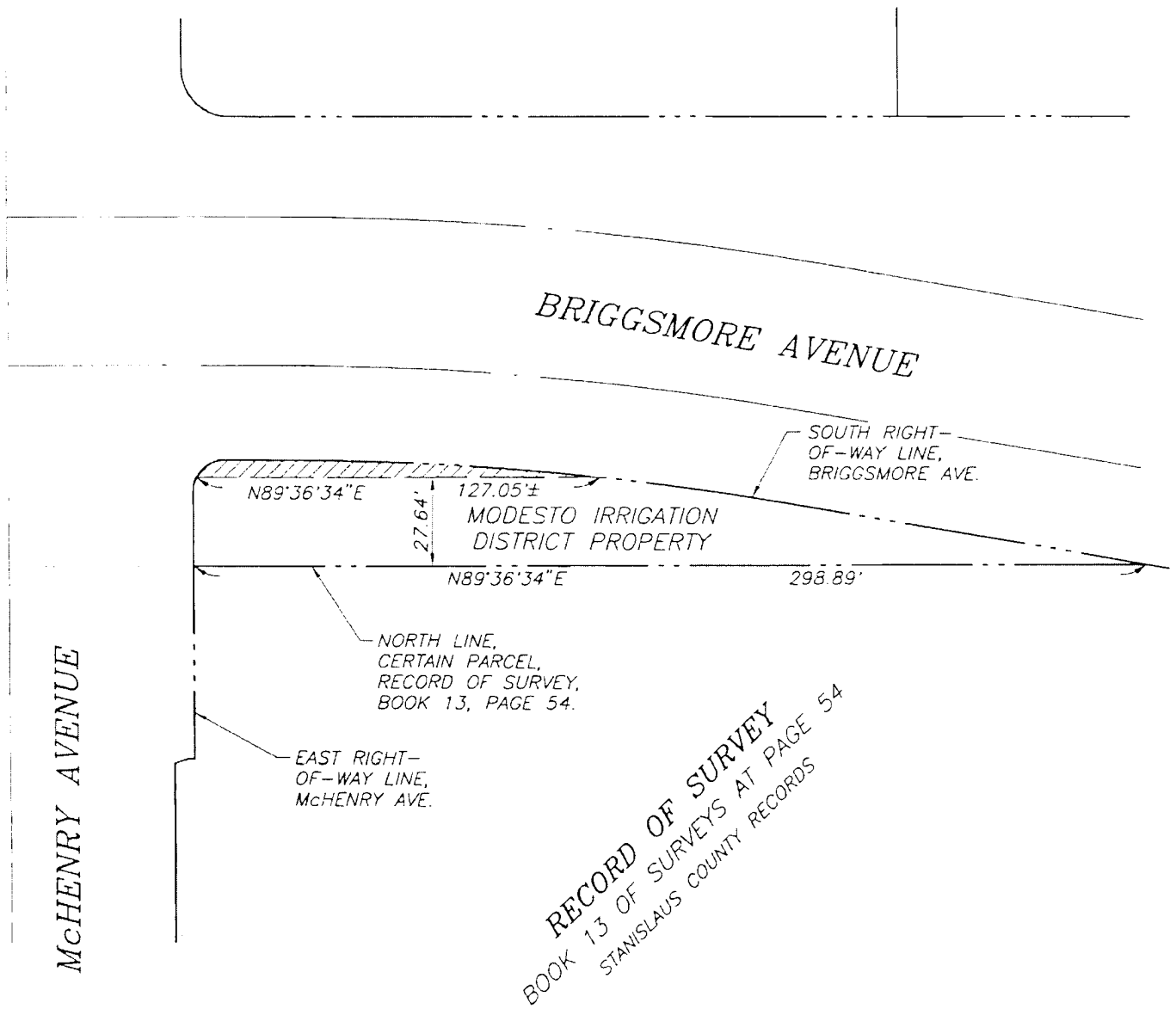
LEGAL DESCRIPTION

That portion of certain parcel own by Modesto Irrigation District, located south of the south right-of-way line of Briggsmore Avenue, east of the east right-of-way line of McHenry Avenue and north of that certain parcel of land as shown on the map thereof recorded in Book 13 of Surveys, at Page 54, Stanislaus County Records, situated in the Southwest quarter of Section 16, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, according to the official United States Government Township Plat thereof, in the City of Modesto, County of Stanislaus, State of California, more particularly described as follows:

That portion said certain parcel own by Modesto Irrigation District that lie north of a line which is parallel with and 27.64 feet north of, measured at right angles thereto, the north line of said certain parcel of land as shown on the map thereof recorded in Book 13 of Surveys, at Page 54, Stanislaus County Records.

Containing an area of 505 square feet, more or less.





LEGEND

- EXISTING RIGHT-OF-WAY LINE
- EXISTING SECTION OR CENTERLINE
- EXISTING PROPERTY LINE
- PROPOSED EASEMENT LINE
- EASEMENT AREA

SCALE: 1"=50'

0 10 25 50 75 100

SCALE IN FEET

LICENSED LAND SURVEYOR
HIMAWAN BRASALI
L.S. 7800
EXP. 12/31/09
STATE OF CALIFORNIA
6/24/09

EXHIBIT "B"

Blair, Church Flynn
CONSULTING ENGINEERS

CONSULTANT
Blair, Church & Flynn
Consulting Engineers
451 Clovis Avenue,
Suite 200
Clovis, California 93612
Tel (559) 326-1400
Fax (559) 326-1500

WATER LINE EASEMENT

CVS MODESTO

McHENRY AVE. AND BRIGGSMORE AVE.

SECTION 16, T.3 S., R.9 E., M.D.B. & M.

DR. BY HB
CH. BY TDW
DATE 06/18/09
SCALE: AS NOTED

SHEET NO 1
OF 1 SHEETS

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-460

RESOLUTION AUTHORIZING THE AWARD OF CONTRACT AND PURCHASE OF ONE SEWER INSPECTION TRUCK FOR THE WATER QUALITY CONTROL DIVISION THROUGH THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, TO ADVANCED INFRASTRUCTURE TECHNOLOGIES, GARDENA, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR AN ESTIMATED TOTAL COST OF $277,372

WHEREAS, on July 24, 2007, by Resolution No. 2007-460, Council approved the Wastewater Discharge Requirements (WDR) Gap Analysis. As part of the Gap Analysis, HDR Engineering made key recommendations for the City to comply with the new WDR, and

WHEREAS, one of those key recommendations is to "expand the CCTV operations equipment to include one additional sewer inspection truck to properly perform CCTV inspections of new, existing lines and warrant inspections of new subdivisions." The purchase of this CCTV sewer inspection truck will complete this key recommendation and allow the City to have an additional CCTV Crew in the field, and

WHEREAS, on March 19, 2009, the City of Lompoc went through a competitive bid process for the purchase of a sewer inspection truck. The most responsive and responsible bidder that met the bid specifications was Advanced Infrastructure Technologies, Gardena, CA, and

WHEREAS, Advanced Infrastructure Technologies was awarded the City of Lompoc bid and is extending the same bid pricing to the City of Modesto, and

WHEREAS, to take advantage of this process and award by "accessing the terms" of the City of Lompoc's competitive bid process is an efficient and effective way to

purchase this sewer inspection truck, by saving the time and expense to 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 for material, equipment or contractual services to be formally bid. However, there are exceptions to the rule set forth in the MMC, and

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. The purchase of a sewer inspection truck by "accessing the terms" of the City of Lompoc contract with Advanced Infrastructure Technologies, Gardena, CA, will conform to MMC Section 8-3.204(d), and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2009-10, in the following CIP Equipment Replacement account 6210-480-B128-6070,

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 one sewer inspection truck for the Water Quality Control Division through the Public Works Department, Fleet Services Division, to Advanced Infrastructure Technologies, Gardena, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase order for an estimated total cost of $277,372.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of October, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-461

A RESOLUTION AUTHORIZING THE AWARD OF BID AND AGREEMENT FOR THE REPAIR AND MAINTENANCE OF THE FIRE DEPARTMENT APPARATUS BAY DOOR SYSTEMS TO BARTON OVERHEAD DOOR, MODESTO, CA, FOR A TWO-YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF $25,000, AND POTENTIAL FIVE (5) YEAR COST OF $125,000; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, each Fire Station has at least one (1) and up to eight (8) bay doors, and

WHEREAS, the bay doors are large roll-up doors that are used to secure the fire apparatus, and

WHEREAS, the bay doors and remote opening systems are up to thirty (30) years old, and

WHEREAS, in the past these doors have been repaired under the blanket purchase order system, and

WHEREAS, due to their age the repairs of these doors are becoming more frequent and costly, and

WHEREAS, in order to meet the requirements of the Modesto Municipal Code, bids were solicited for the repair and maintenance of the Fire Department apparatus bay door system, and

WHEREAS, formal Request for Bids were issued to fifteen (15) vendors as well as posted on the City's website and legally advertised by the City Clerk's office, and

WHEREAS, one (1) vendor responded, providing a responsive and responsible bid for repair and maintenance of Fire Department apparatus bay door systems,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and Agreement for the repair and maintenance of the Fire Department apparatus bay door systems to Barton Overhead Door, Modesto, CA, for a two-year Agreement with three (3) one-year extension options, for an annual estimated cost of $25,000, and potential five (5) year cost of $125,000.

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 6th day of October, 2009, by Councilmember Hawn, 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: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-462

RESOLUTION APPROVING AN AMENDMENT TO THE CITY OF MODESTO HOME LOAN AGREEMENT HOME INVESTMENT PARTNERSHIPS PROGRAM BETWEEN THE CITY OF MODESTO AND STANISLAUS COUNTY AFFORDABLE HOUSING, INC., AN AMENDMENT TO THE REGULATORY AGREEMENT BETWEEN THE CITY OF MODESTO AND STANISLAUS COUNTY AFFORDABLE HOUSING, INC. AND AN AMENDMENT TO THE PROMISSORY NOTE BETWEEN THE CITY OF MODESTO AND STANISLAUS COUNTY AFFORDABLE HOUSING, INC. FOR THE DEVELOPMENT OF THE BENNET PLACE APARTMENTS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENTS AND ANY RELATED DOCUMENTS

WHEREAS, on June 24, 2008, City Council, by Resolution No. 2008-364, approved the allocation of HOME funds to STANCO for the Bennet Place Apartments (421 Lincoln Avenue) in the amount of $713,162, for the acquisition and development of 32 housing units for permanent supportive housing for individuals with mental health disabilities and their families, and

WHEREAS, STANCO, through their legal counsel, requested amendments to various HOME loan documents for the Bennet Place Apartment project, and

WHEREAS, STANCO is seeking State funds from the California Department of Housing and Community Development (HCD) Multifamily Housing Program (MHP), and from Mental Health Services Act (MHSA) funds allocated to County of Stanislaus, and

WHEREAS, STANCO requests the City accept the same repayment terms that HCD does on its MHP loans which allows any cash remaining after payment of the project's operating expenses to be paid to the lenders in an amount proportionate to the size of the lenders' loans, and

WHEREAS, STANCO is also requesting to modify the terms of the loan as follows:

- Interest rate on the City HOME Note to be zero (0%) percent.
- The term of the City HOME Note to commence on the date of execution of the original City HOME Note and to mature fifty-five (55) years after the date of issuance of the certificate of occupancy for the last unit in the Project to be completed.
- Repayment of the City HOME Note to be made from residual receipts, as may be determined annually following completion of a certified financial audit of the Project, as required by Section 8 of the City HOME Regulatory Agreement. The amount of such repayment to be in proportion to the amount of the City HOME Loan as a proportion of the total of (i) the City HOME Loan, (ii) the MHP loan, and (iii) the MHSA loan. For example, if the City HOME Loan constitutes 10.2% of the total debt on the Project, as anticipated, it would receive 10.2% of residual receipts for a particular year, and

WHEREAS, the Citizens Housing and Community Development Committee met on April 22, 2009, and approved amendments to the HOME loan documents for the Bennet Place Apartment project between the City of Modesto and STANCO,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to the City of Modesto Home Loan Agreement Home Investment Partnerships Program between the City of Modesto and Stanislaus County Affordable Housing, Inc., an Amendment to the Regulatory Agreement between the City of Modesto and Stanislaus County Affordable Housing, Inc. and an Amendment to the Promissory Note between the City of Modesto and Stanislaus County Affordable Housing, Inc. for the development of the Bennet Place Apartments.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Amendments and 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 October, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-463

RESOLUTION APPROVING AN AMENDMENT TO THE CITY OF MODESTO HOME LOAN AGREEMENT HOME INVESTMENT PARTNERSHIPS PROGRAM BETWEEN THE CITY OF MODESTO AND STANISLAUS COUNTY AFFORDABLE HOUSING, INC., AN AMENDMENT TO THE REGULATORY AGREEMENT BETWEEN THE CITY OF MODESTO AND STANISLAUS COUNTY AFFORDABLE HOUSING, INC. AND AN AMENDMENT TO THE PROMISSORY NOTE BETWEEN THE CITY OF MODESTO AND STANISLAUS COUNTY AFFORDABLE HOUSING, INC. FOR THE DEVELOPMENT OF MEADOW GLEN APARTMENTS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENTS AND ANY RELATED DOCUMENTS

WHEREAS, on June 24, 2008, City Council, by Resolution No. 2008-363, approved the allocation of HOME funds to STANCO for the Meadow Glen Apartments (605 East Coolidge Avenue) in the amount of $940,427, for the acquisition and development of 18 senior housing units for permanent supportive housing, and

WHEREAS, STANCO, through their legal counsel, requested an amendments to various HOME loan documents for the Meadow Glen Apartment project, and

WHEREAS, STANCO is seeking State funds from the California Department of Housing and Community Development (HCD) Multifamily Housing Program (MHP), and from Mental Health Services Act (MHSA) funds allocated to County of Stanislaus, and

WHEREAS, STANCO requests the City accept the same repayment terms that HCD does on its MHP loans which allows any cash remaining after payment of the project's operating expenses to be paid to the lenders in an amount proportionate to the size of the lenders' loans, and

WHEREAS, STANCO is also requesting to modify the terms of the loan as follows:

- Interest rate on the City HOME Note to be zero (0%) percent.

- The term of the City HOME Note to commence on the date of execution of the original City HOME Note and to mature fifty-five (55) years after the date of issuance of the certificate of occupancy for the last unit in the Project to be completed.

- Repayment of the City HOME Note to be made from residual receipts, as may be determined annually following completion of a certified financial audit of the Project, as required by Section 8 of the City HOME Regulatory Agreement. The amount of such repayment to be in proportion to the amount of the City HOME Loan as a proportion of the total of (i) the City HOME Loan, (ii) the MHP loan, and (iii) the MHSA loan. For example, if the City HOME Loan constitutes 10.2% of the total debt on the Project, as anticipated, it would receive 10.2% of residual receipts for a particular year.

WHEREAS, the Citizens Housing and Community Development Committee met on April 22, 2009, and approved an amendments to the HOME loan documents between the City of Modesto and STANCO for the Meadow Glen Apartment project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to the City of Modesto Home Loan Agreement Home Investment Partnerships Program between the City of Modesto and Stanislaus County Affordable Housing, Inc., an Amendment to the Regulatory Agreement between the City of Modesto and Stanislaus County Affordable Housing, Inc. and an Amendment to the Promissory Note between the City of Modesto and Stanislaus County Affordable Housing, Inc. for the development of the Meadow Glen Apartments.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Amendments 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 October, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-464

RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN MEMORANDUMS OF UNDERSTANDING WITH NEIGHBORHOOD STABILIZATION PROGRAM (NSP) PARTICIPANTS PER THE GUIDELINES PREVIOUSLY ADOPTED BY THE MODESTO CITY COUNCIL

WHEREAS, the City of Modesto has been allocated $8.1 million in a special allocation of Community Development Block Grant (CDBG) funds for the Neighborhood Stabilization Program (NSP), and

WHEREAS, on May 26, 2009, the City Council approved the NSP guidelines and authorized the Housing Rehabilitation Loan Committee (HRLC) to approve NSP down payment assistance loans which met these guidelines in amounts up to $125,000 per household, and

WHEREAS, the May 26, 2009 action did not clearly provide the City Manager with the authorization to sign Memorandums of Understanding (MOU) with program participants and the City of Modesto's City Attorney's Office has recommended seeking clarification regarding the City Council's intent,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to execute MOUs with NSP program participants that meet the guidelines previously adopted by the City Council on May 26, 2009.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of October, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-465

A RESOLUTION APPROVING A LEASE AGREEMENT BETWEEN THE CITY OF MODESTO AND ELIZABETH L. McELROY AND ROGER ALAN McELROY, AS TRUSTEES OF THE ARTHUR M. McELROY MARITAL TRUST, FOR THE PROPERTY LOCATED AT 1124 F STREET, MODESTO, CALIFORNIA; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE LEASE AGREEMENT

WHEREAS, the City of Modesto leases the building at 1124 F Street, Modesto for the Police Department's Evidence and Property Facility from Elizabeth L. McElroy and Roger Alan McElroy, as Trustees of the Arthur M. McElroy Marital Trust, and

WHEREAS, the present lease will expire on October 8, 2009, and

WHEREAS, the Police Department wishes to renew the lease as the facility is serving its purpose well, and

WHEREAS, the term of the new lease is for three years, from October 9, 2009 through October 8, 2012, and

WHEREAS, the lease payment will increase by 4%, from $28,740 annually to $30,000 annually, and

WHEREAS, police staff considers this reasonable and fund are budgeted,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Lease Agreement between the City of Modesto and Elizabeth L. McElroy and Roger Alan McElroy, as Trustees of the Arthur M. McElroy Marital Trust, for the property located at 1124 F Street, Modesto, California.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of October, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-466

A RESOLUTION ACCEPTING A MINI-GRANT IN THE AMOUNT OF $19,080 FROM THE CALIFORNIA OFFICE OF TRAFFIC SAFETY, THROUGH THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, FOR THE "CLICK IT OR TICKET MINI-GRANT PROGRAM" FOR OVERTIME SEAT BELT ENFORCEMENT OPERATIONS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY DOCUMENTS

WHEREAS, the Modesto Police Department submitted an application for a mini-grant to the California Office of Traffic and Safety, through the National Highway Traffic Safety Administration, for a "Click It or Ticket Mini-Grant Program", and

WHEREAS, the Program is for conducting seat belt enforcement operations in Modesto between October 1, 2009 and September 8, 2010, and

WHEREAS, the Modesto Police Department, in a combined effort with State and local law enforcement is in support of the national Click It or Ticket Project, and

WHEREAS, acceptance of this grant enhances Healthy and Safe Strategic Action Plan, H.1.B.8., which calls for obtaining public service grants, and

WHEREAS, the total amount of the mini-grant is $19,080, with no local match required of the City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts a mini-grant in the amount of $19,080 from the California Office of Traffic Safety, through the National Highway Traffic Safety Administration, for the "Click It or Ticket Mini-Grant Program" for overtime seat belt enforcement operations.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of October, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-467

A RESOLUTION AMENDING THE 2009/2010 MULTI-YEAR BUDGET TO APPROPRIATE $19,080 FOR REVENUE AND EXPENSES FROM THE CALIFORNIA OFFICE OF TRAFFIC SAFETY, THROUGH THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, FOR THE CALIFORNIA "CLICK IT OR TICKET MINI-GRANT PROGRAM" FOR OVERTIME SEAT BELT ENFORCEMENT OPERATIONS

WHEREAS, the City of Modesto Police Department was awarded funding in the sum of $19,080 from the California Office of Traffic Safety for the California "Click It or Ticket Mini-Grant Program", and

WHEREAS, the mini-grant funds were made available for overtime seat belt enforcement operations, and

WHEREAS, the total mini-grant will be $19,080, with no local match required of the City, and

WHEREAS, the Council of the City of Modesto authorized the City Manager, or his designee, to accept the California "Click It or Ticket Mini-Grant Program" funding.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the 2009/2010 Multi-Year Budget to appropriate revenues and expenditures of $19,080 for overtime seat belt enforcement operations, as listed in **Exhibit A**.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of October, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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 2009/2010 Multi-Year Budget will be amended as follows:

	Revenue		Description
To:	0410-190-2997-3490	$19,080	Click It or Ticket Mini-Grant
	Expense		
To:	0410-190-2997-0130	$19,080	Overtime

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-468

RESOLUTION APPROVING AN AMENDMENT TO LEASE AGREEMENT WITH PAHRUMP HEIFER RANCH FOR THE JENNINGS RANCH PROPERTY TO EXTEND THE LEASE EXPIRATION DATE TO DECEMBER 31, 2010, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO LEASE AGREEMENT

WHEREAS, on July 11, 2000, Council, by Resolution 2000-344, approved a Lease Agreement with Pahrump Heifer Ranch (Pahrump) for the Jennings Ranch property located at 7007 Jennings Road, and

WHEREAS, this Lease was effective for five years from June 1, 2000, through May 31, 2005, and

WHEREAS, the Lease also included five one-year extension options, which have all been executed, with the last extension being through May 31, 2010, and

WHEREAS, as part of the current Lease Agreement, Pahrump maintains and operates over 2,500 acres of pasture land on City property, and grazes a maximum of 900 head of cattle, and

WHEREAS, Pahrump is currently complying with the Lease Agreement by replanting 300 acres of pasture per year, utilizing treated effluent and cannery segregation water for irrigation, performing weed control, discing, and aerating pastures to meet the requirements of the Ranch Management Plan, and

WHEREAS, the City's Waste Discharge Requirement (WDR) permit requires that the crops be managed to provide the appropriate uptake of nutrients, plus the irrigation must be managed to meet the WDR limits of no standing water, and

WHEREAS, starting an agricultural lease effective June 1, 2010, does not provide enough time for a new tenant to plant fields and learn the irrigation system prior to utilization of the ranch land for treated effluent, and

WHEREAS, extending the existing Lease to December 31, 2010, will allow the City to meet these requirements, and

WHEREAS, in January 2007, Carollo Engineers performed a Ranch Lease Study that recommended planting 800 to 1,000 acres of alfalfa, and

WHEREAS, changing the Lease termination date from May to December allows the new tenant time to prepare and plan for the fields once river discharge has been completed in May 2010, and for cannery segregation land application in September 2010, and

WHEREAS, staff approached Pahrump regarding the timing of the expiration of the Lease, and both parties agreed on an extension to December 2010, and

WHEREAS, staff contacted RB Smith Consulting to provide a recommendation on termination of the Lease, and

WHEREAS, based on historic data, the irrigation of the recycled water and cannery segregation water regularly extends through November, and at times in December, and

WHEREAS, this coupled with the fact that the timing for crop harvest and the relocation of cattle and feed storage could be better accommodated by extending the Lease, and

WHEREAS, RB Smith Consulting confirmed staff's recommendation to extend the Lease to December 31, 2010, and

WHEREAS, prior to the December 31, 2010 date, staff will request Council authorization to submit a Request for Proposals for lease of the Jennings Ranch property,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Amendment to Lease Agreement with Pahrump Heifer Ranch for the Jennings Ranch property to extend the lease expiration date to December 31, 2010.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of October, 2009, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-469

A RESOLUTION APPROVING AN AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC. (KHA) FOR DESIGN SUPPORT DURING CONSTRUCTION FOR RUNWAY SAFETY AREA (RSA) ENHANCEMENT AND APRON REHABILITATION IN THE AMOUNT OF $48,873, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City has approved numerous Airport Capital Improvement Plan (ACIP) projects planned over approximately the next five years at Modesto City-County Airport, and

WHEREAS, skilled airport engineering, design, construction and inspection assistance will be required to move forward with those projects, and

WHEREAS, the City solicited professional services for an airport consulting engineer to provide airport engineering, design, construction and inspection, and

WHEREAS, Kimley-Horn and Associates, Inc. (KHA), proposed to provide said services for Modesto City-County Airport, and

WHEREAS, KHA was selected by the City as the best qualified applicant, and

WHEREAS, KHA has proposed an Agreement to provide design support during construction for Runway Safety Area (RSA) Enhancement and Apron Rehabilitation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Kimley-Horn Associates, Inc., to provide design support services during construction for Runway Safety Area (RSA) Enhancement and Apron Rehabilitation in an amount not to exceed $48,873.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of October, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carrier and the resolution adopted by the following vote:

AYES:	Councilmember:	Hawn, Keating, Lopez, Marsh, O'Brien, Olsen, Mayor Ridenour
NOES:	Councilmember:	None
ABSENT:	Councilmember:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-470

A RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FULLY FUND THE AGREEMENT FOR DESIGN SUPPORT DURING CONSTRUCTION FOR RUNWAY SAFETY AREA (RSA) ENHANCEMENT AND APRON REHABILITATION PROJECT

WHEREAS, a budget adjustment in the amount of $48,873 is necessary to fully fund the Agreement with Kimley-Horn and Associates, Inc. for design support during construction along with Engineering/Design/Administration support by City staff for Runway Safety Area (RSA) Enhancement and Apron Rehabilitation project, and

WHEREAS, the Fiscal Year 2009-2010 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 2009-2010 Capital Improvement Program budget as shown in **Exhibit A**.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of October 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Brien, Olsen, 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

FUNDS:

FAA Capital Grants & Airport Special Revenue Fund

This budget adjustment increases FAA Capital Grant revenues in Capital Improvement Project A004, Enhance Runway 10R Safety Area to transfer funding for the project titled, "RSA Enhancement and Apron Rehabilitation", and transfers funds from County Aircraft Tax Fund to Special Aviation Fund. This adjustment re-appropriates these funds to offset expenses in the Special Aviation Fund.

REVENUES:		Increase/(Decrease)
FROM:		
6320-440-A004-3613		$46,429
APPROPRIATIONS:		
TO:		
6320-440-A004-6010	Eng/Dsgn/Admin	$48,873
TRANSFERS BETWEEN FUNDS:		
FROM:		
6330-440-A004-7632	Transfer out to Fund 6320	$2,444
TO:		
6320-440-A004-9633	Transfer in from Fund 6330	$2,444

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-471

A RESOLUTION APPROVING A PURCHASE AGREEMENT WITH TONY D. ALAMO, DANIEL ALAMO, JOSEPH ALAMO, AND NELIA A. ALAMO, FOR THE (1) GRANT OF PERMANENT SEWER FACILITIES EASEMENT AND PERMANENT ACCESS EASEMENT, AND (2) GRANT OF TEMPORARY CONSTRUCTION EASEMENT FOR A PORTION OF REAL PROPERTY LOCATED AT QUISENBERRY ROAD, MODESTO, CALIFORNIA (APN: 017-062-029), IN THE AMOUNT OF $8,200 FOR THE PRIMARY OUTFALL REHABILITATION PROJECT PHASE 1, 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 owns and operates approximately 6.5 miles of 60-inch diameter pipeline that transports primary effluent from the Sutter Avenue Primary Water Quality Control Plant to the Jennings Road Secondary Plant, and

WHEREAS, the existing Primary Outfall Pipeline was constructed in 1969 across mainly agricultural land, and

WHEREAS, the City adopted a Wastewater Master Plan (WWMP) in 2007, which also identified insufficient capacity in this pipe and called for the rehabilitation of the Primary Outfall, and

WHEREAS, due to the length of the system and the complexity of the work, the project was divided in two phases, and

WHEREAS, this property acquisition is needed for access and construction of Phase 1 of the project, and

WHEREAS, the property is a residential parcel located at Quisenberry Road, Modesto, California (APN: 017-062-029), without any existing buildings, and

WHEREAS, the City Council directed staff to proceed with acquiring property to facilitate the rehabilitation of the Primary Outfall, and

WHEREAS, the property has been appraised and an offer to acquire the property rights at fair market value has been accepted by Tony D. Alamo, Daniel Alamo, Joseph Alamo, and Nelia A. Alamo,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Purchase Agreement with Tony D. Alamo, Daniel Alamo, Joseph Alamo, and Nelia A. Alamo, for the (1) Grant of Permanent Sewer Facilities Easement and Permanent Access Easement, and (2) Grant of Temporary Construction Easement for a portion of real property located at Quisenberry Road, Modesto, California (APN: 017-062-029), in the amount of $8,200 for the Primary Outfall Rehabilitation Project Phase 1.

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 October, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-472

A RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN ACCEPTANCE FORMS FOR THE (1) GRANT OF PERMANENT SEWER FACILITIES EASEMENT AND PERMANENT ACCESS EASEMENT, AND (2) GRANT OF TEMPORARY CONSTRUCTION EASEMENT FOR A PORTION OF REAL PROPERTY LOCATED AT QUISENBERRY ROAD, MODESTO, CALIFORNIA (APN: 017-062-029), TO BE PURCHASED BY THE CITY OF MODESTO FOR THE PRIMARY OUTFALL REHABILITATION PROJECT PHASE 1

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 portion of a parcel (APN: 017-062-029) for the Primary Outfall Rehabilitation Project Phase 1,

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 acceptance forms on behalf of the City of Modesto for the (1) Grant of Permanent Sewer Facilities Easement and Permanent Access Easement, and (2) Grant of Temporary Construction Easement for a portion of real property located at Quisenberry Road, Modesto, California (APN: 017-062-029), to be purchased by the City of Modesto for the Primary Outfall Rehabilitation Project Phase 1.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of October, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-473

A RESOLUTION APPROVING A TEMPORARY CONSTRUCTION EASEMENT AGREEMENT WITH THE ALDO AND DOROTHY BAVA FAMILY PARTNERSHIP, FOR THE GRANT OF TEMPORARY CONSTRUCTION EASEMENT FOR A PORTION OF REAL PROPERTY LOCATED AT CARPENTER ROAD, MODESTO, CALIFORNIA (APN: 056-028-010), IN THE AMOUNT OF $16,000 FOR THE PRIMARY OUTFALL REHABILITATION PROJECT PHASE 1, 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 owns and operates approximately 6.5 miles of 60-inch diameter pipeline that transports primary effluent from the Sutter Avenue Primary Water Quality Control Plant to the Jennings Road Secondary Plant, and

WHEREAS, the existing Primary Outfall Pipeline was constructed in 1969 across mainly agricultural land, and

WHEREAS, the City adopted a Wastewater Master Plan (WWMP) in 2007, which also identified insufficient capacity in this pipe and called for the rehabilitation of the Primary Outfall, and

WHEREAS, due to the length of the system and the complexity of the work, the project was divided in two phases, and

WHEREAS, this property acquisition is needed for access and construction of Phase 1 of the project, and

WHEREAS, the property is a residential parcel located at Carpenter Road, Modesto, California (APN: 056-028-010), without any existing buildings, and

WHEREAS, the City Council directed staff to proceed with acquiring property to facilitate the rehabilitation of the Primary Outfall, and

WHEREAS, the property has been appraised and an offer to acquire the property rights at fair market value has been accepted by The Aldo and Dorothy Bava Family Partnership,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Temporary Construction Easement Agreement with The Aldo and Dorothy Bava Family Partnership, for the Grant of Temporary Construction Easement for a portion of real property located at Carpenter Road, Modesto, California (APN: 056-028-010), in the amount of $16,000 for the Primary Outfall Rehabilitation Project Phase 1.

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 October, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)
APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-474

A RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN AN ACCEPTANCE FORM FOR GRANT OF TEMPORARY CONSTRUCTION EASEMENT FOR A PORTION OF REAL PROPERTY LOCATED AT CARPENTER ROAD, MODESTO, CALIFORNIA (APN: 056-028-010), TO BE PURCHASED BY THE CITY OF MODESTO FOR THE PRIMARY OUTFALL REHABILITATION PROJECT PHASE 1

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 portion of a parcel (APN: 056-028-010) for the Primary Outfall Rehabilitation Project Phase 1,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign an acceptance form on behalf of the City of Modesto for Grant of Temporary Construction Easement for a portion of real property located at Carpenter Road, Modesto, California (APN: 056-028-010), to be purchased by the City of Modesto for the Primary Outfall Rehabilitation Project Phase 1.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of October, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-475

A RESOLUTION APPROVING A PURCHASE AGREEMENT WITH NAGA SRIDHAR KATARU AND PADMAJA VEMULA, FOR THE (1) GRANT OF PERMANENT SEWER FACILITIES EASEMENT AND (2) GRANT OF TEMPORARY CONSTRUCTION EASEMENT FOR A PORTION OF REAL PROPERTY LOCATED AT 2381 S. CARPENTER ROAD, MODESTO, CALIFORNIA (APN: 017-042-003), IN THE AMOUNT OF $10,852 FOR THE PRIMARY OUTFALL REHABILITATION PROJECT PHASE 1, 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 owns and operates approximately 6.5 miles of 60-inch diameter pipeline that transports primary effluent from the Sutter Avenue Primary Water Quality Control Plant to the Jennings Road Secondary Plant, and

WHEREAS, the existing Primary Outfall Pipeline was constructed in 1969 across mainly agricultural land, and

WHEREAS, the City adopted a Wastewater Master Plan (WWMP) in 2007, which also identified insufficient capacity in this pipe and called for the rehabilitation of the Primary Outfall, and

WHEREAS, due to the length of the system and the complexity of the work, the project was divided in two phases, and

WHEREAS, this property acquisition is needed for access and construction of Phase 1 of the project, and

WHEREAS, the property is a residential parcel located at 2381 S. Carpenter Road, Modesto, California (APN: 017-042-003), without any existing buildings, and

WHEREAS, the City Council directed staff to proceed with acquiring property to facilitate the rehabilitation of the Primary Outfall, and

WHEREAS, the property has been appraised and an offer to acquire the property rights at fair market value has been accepted by Naga Sridhar Kataru and Padmaja Vemula,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Purchase Agreement with Naga Sridhar Kataru and Padmaja Vemula, for the (1) Grant of Permanent Sewer Facilities Easement and (2) Grant of Temporary Construction Easement for a portion of real property located at 2381 S. Carpenter Road, Modesto, California (APN: 017-042-003), in the amount of $10,852 for the Primary Outfall Rehabilitation Project Phase 1.

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 October, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-476

A RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN ACCEPTANCE FORMS FOR THE (1) GRANT OF PERMANENT SEWER FACILITIES EASEMENT AND (2) GRANT OF TEMPORARY CONSTRUCTION EASEMENT FOR A PORTION OF REAL PROPERTY LOCATED AT 2381 S. CARPENTER ROAD, MODESTO, CALIFORNIA (APN: 017-042-003), TO BE PURCHASED BY THE CITY OF MODESTO FOR THE PRIMARY OUTFALL REHABILITATION PROJECT PHASE 1

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 portion of a parcel (APN: 017-042-003) for the Primary Outfall Rehabilitation Project Phase 1,

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 acceptance forms on behalf of the City of Modesto for the (1) Grant of Permanent Sewer Facilities Easement and (2) Grant of Temporary Construction Easement for a portion of real property located at 2381 S. Carpenter Road, Modesto, California (APN: 017-042-003), to be purchased by the City of Modesto for the Primary Outfall Rehabilitation Project Phase 1.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of October, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-477

A RESOLUTION APPROVING A PURCHASE AGREEMENT WITH VELMA JOYCE BOZARTH, LOUIS MARTINHO AND BETTY ANN MARTINHO, FOR THE (1) GRANT OF PERMANENT SEWER FACILITIES EASEMENT AND A PERMANENT ACCESS EASEMENT, AND (2) GRANT OF TEMPORARY CONSTRUCTION EASEMENT FOR A PORTION OF REAL PROPERTY LOCATED AT 2501 W. HACKETT ROAD, MODESTO, CALIFORNIA (APN: 017-043-010), IN THE AMOUNT OF $36,000 FOR THE PRIMARY OUTFALL REHABILITATION PROJECT PHASE 1, 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 owns and operates approximately 6.5 miles of 60-inch diameter pipeline that transports primary effluent from the Sutter Avenue Primary Water Quality Control Plant to the Jennings Road Secondary Plant, and

WHEREAS, the existing Primary Outfall Pipeline was constructed in 1969 across mainly agricultural land, and

WHEREAS, the City adopted a Wastewater Master Plan (WWMP) in 2007, which also identified insufficient capacity in this pipe and called for the rehabilitation of the Primary Outfall, and

WHEREAS, due to the length of the system and the complexity of the work, the project was divided in two phases, and

WHEREAS, this property acquisition is needed for access and construction of Phase 1 of the project, and

WHEREAS, the property is a residential parcel located at 2501 W. Hackett Road, Modesto, California (APN: 017-043-010), without any existing buildings, and

WHEREAS, the City Council directed staff to proceed with acquiring property to facilitate the rehabilitation of the Primary Outfall, and

WHEREAS, the property has been appraised and an offer to acquire the property rights at fair market value has been accepted by Velma Joyce Bozarth, Louis Martinho and Betty Ann Martinho,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Purchase Agreement with Velma Joyce Bozarth, Louis Martinho and Betty Ann Martinho, for the (1) Grant of Permanent Sewer Facilities Easement and a Permanent Access Easement, and (2) Grant of Temporary Construction Easement for a portion of real property located at 2501 W. Hackett Road, Modesto, California (APN: 017-043-010), in the amount of $36,000 for the Primary Outfall Rehabilitation Project Phase 1.

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 October, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-478

A RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN ACCEPTANCE FORMS FOR THE (1) GRANT OF PERMANENT SEWER FACILITIES EASEMENT AND A PERMANENT ACCESS EASEMENT, AND (2) GRANT OF TEMPORARY CONSTRUCTION EASEMENT FOR A PORTION OF REAL PROPERTY LOCATED AT 2501 W. HACKETT ROAD, MODESTO, CALIFORNIA (APN: 017-043-010), TO BE PURCHASED BY THE CITY OF MODESTO FOR THE PRIMARY OUTFALL REHABILITATION PROJECT PHASE 1

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 portion of a parcel (APN 017-043-010) for the Primary Outfall Rehabilitation Project Phase 1,

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 acceptance forms on behalf of the City of Modesto for the (1) Grant of Permanent Sewer Facilities Easement and a Permanent Access Easement, and (2) Grant of Temporary Construction Easement for a portion of real property located at 2501 W. Hackett Road, Modesto, California (APN: 017-043-010), to be purchased by the City of Modesto for the Primary Outfall Rehabilitation Project Phase 1.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of October, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-479

A RESOLUTION APPROVING A TEMPORARY CONSTRUCTION EASEMENT AGREEMENT WITH JOE F. PINHEIRO AND GLORIA J. PINHEIRO, FOR THE GRANT OF TEMPORARY CONSTRUCTION EASEMENT FOR A PORTION OF REAL PROPERTY LOCATED AT 3230 VIVIAN ROAD, MODESTO, CALIFORNIA (APN: 017-043-023), IN THE AMOUNT OF $3,600 FOR THE PRIMARY OUTFALL REHABILITATION PROJECT PHASE 1, 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 owns and operates approximately 6.5 miles of 60-inch diameter pipeline that transports primary effluent from the Sutter Avenue Primary Water Quality Control Plant to the Jennings Road Secondary Plant, and

WHEREAS, the existing Primary Outfall Pipeline was constructed in 1969 across mainly agricultural land, and

WHEREAS, the City adopted a Wastewater Master Plan (WWMP) in 2007, which also identified insufficient capacity in this pipe and called for the rehabilitation of the Primary Outfall, and

WHEREAS, due to the length of the system and the complexity of the work, the project was divided in two phases, and

WHEREAS, this property acquisition is needed for access and construction of Phase 1 of the project, and

WHEREAS, the property is a residential parcel located at 3230 Vivian Road, Modesto, California (APN: 017-043-023), without any existing buildings, and

WHEREAS, the City Council directed staff to proceed with acquiring property to facilitate the rehabilitation of the Primary Outfall, and

WHEREAS, the property has been appraised and an offer to acquire the property rights at fair market value has been accepted by Joe F. Pinheiro and Gloria J. Pinheiro,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Temporary Construction Easement Agreement with Joe F. Pinheiro and Gloria J. Pinheiro, for the Grant of Temporary Construction Easement for a portion of real property located at 3230 Vivian Road, Modesto, California (APN: 017-043-023), in the amount of $3,600 for the Primary Outfall Rehabilitation Project Phase 1.

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 October, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Stephanie Lopez
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-480

A RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN AN ACCEPTANCE FORM FOR THE GRANT OF TEMPORARY CONSTRUCTION EASEMENT FOR A PORTION OF REAL PROPERTY LOCATED AT 3230 VIVIAN ROAD, MODESTO, CALIFORNIA (APN: 017-043-023), TO BE PURCHASED BY THE CITY OF MODESTO FOR THE PRIMARY OUTFALL REHABILITATION PROJECT PHASE 1

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 portion of a parcel (APN: 017-043-023) for the Primary Outfall Rehabilitation Project Phase 1,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign an Acceptance Form for the Grant of Temporary Construction Easement for a portion of real property located at 3230 Vivian Road, Modesto, California (APN: 017-043-023), to be purchased by the City of Modesto for the Primary Outfall Rehabilitation Project Phase 1.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of October, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-481

RESOLUTION CONCURRING WITH THE CITIZEN'S ADVISORY COMMITTEE ON RECYCLING'S RECOMMENDATION TO ELIMINATE THE BLUE BAG RECYCLING PROGRAM EFFECTIVE JANUARY 1, 2010 AND PURSUE THE ENHANCEMENT OF ORGANICS DIVERSION AND OTHER WASTE REDUCTION STRATEGIES

WHEREAS, the passage of Assembly Bill 939 required all cities and counties to reduce the amount of garbage going to the landfills by 50% by the year 2000 through the implementation of waste reduction and recycling programs, and

WHEREAS, the City of Modesto responded to this mandate by implementing a comprehensive waste reduction system including the collection of residential recyclables in bags, separate collection of green waste, food waste, and pruned refuse for composting, used motor oil recycling, CRT recycling, bulky item collection, waste tire recycling, and the operation of a waste-to-energy plant to further reduce disposal and generate electricity from materials which cannot be reduced, reused, recycled, or composted, and

WHEREAS, the City also actively promotes waste reuse, reduction, recycling, and composting through a wide array of educational programs and advertising campaigns, the annual Earth Day in the Park Festival and other community events, workshops on backyard composting, and by inviting citizen participation in the Citizen's Advisory Committee on Recycling (CACOR), and

WHEREAS, by virtue of these significant efforts, the City of Modesto has met the State's waste reduction mandates, and remains committed to attaining further waste reduction while keeping garbage rates as low as possible, and

WHEREAS, the California Integrated Waste Management Board reports that organics make up 30% of all waste still going to the landfills statewide and thus has targeted the increased diversion of organics as a priority for waste reduction programs, and

WHEREAS, in 2006, CACOR conducted an assessment of the blue bag program and evaluated both the cost and effectiveness of other potential methods of residential recycling, and

WHEREAS, after evaluating these other options, and considering the potential cost to the ratepayers, in 2007 CACOR recommended that the City continue the blue bag program, and

WHEREAS, CACOR also recommended that the City focus on diverting paper and other organics by having residents put these materials in their yard waste container, and

WHEREAS, paper and other organics comprise about 85% of the materials placed in blue bags for recycling, and

WHEREAS, once the "enhanced organics" diversion program was well under way, CACOR felt it appropriate to revisit the issue of whether the City should continue the blue bag program, and formed an ad hoc committee to assess whether it made sense to continue using blue bags, and

WHEREAS, after extensive discussions with staff and consideration of alternatives, the Committee and staff concur that with the enhanced organics program in place, the blue bags are no longer an effective diversion method due to the limited markets and low value of the remaining materials, the fact that many residents redeem

their CRV materials and use the blue bags for trash, and the loss of State funding to purchase bags, and

WHEREAS, at its August 10, 2009, meeting CACOR and City staff agreed to jointly recommend that the blue bag program be eliminated; that conservation and organics diversion be promoted; that an expanded Bottle Bill that includes additional container types be endorsed; that grocery stores be asked to switch from blue plastic bags to other colors; that community groups be encouraged to become more involved in recycling; and that the City pursue other opportunities to divert waste,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the elimination of the blue bag recycling program, and pursuing the enhancement of organics diversion and other waste reduction strategies.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of October, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-482

A RESOLUTION ACCEPTING THE PRELIMINARY DESIGN REPORT, DATED AUGUST 20, 2009, FOR THE CLAUS ROAD REHABILITATION FROM THE SOUTH SIDE OF THE CLAUS ROAD BRIDGE OVER DRY CREEK TO 1535' SOUTH OF CREEKWOOD DRIVE AS COMPLETE

WHEREAS, the rehabilitation of Claus Road from Scenic Drive to 2440' north of State Route 132 (Yosemite Avenue) is included in the 2009 Capital Improvement Budget effective July 9, 2009, under Ordinance 3516-C.S, and

WHEREAS, Nichols Consulting Engineers performed the pavement testing and analysis for Claus Road and their report states that reconstruction is necessary for Claus Road pavement to obtain the required structural adequacy, and

WHEREAS, the Preliminary Design Report (PDR) summarizes existing facilities, details proposed project elements and method of rehabilitation, and provides an estimated project cost of $2.1M, and

WHEREAS, the PDR has been successfully completed and will serve as the basis for the final design for rehabilitation of Claus Road from the south side of the Claus Road Bridge over Dry Creek to 1535' south of Creekwood Drive,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Preliminary Design Report for the Claus Road Rehabilitation from the south side of the Claus Road Bridge over Dry Creek to 1535' south of Creekwood Drive, dated August 20, 2009, as complete.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of October, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-483

RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE FURNISHING OF FUEL CARD-LOCK SERVICES FOR THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, TO BOYETT PETROLEUM, MODESTO, CA, FOR A TWO (2) YEAR PERIOD WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO ISSUE THE AGREEMENT FOR AN ESTIMATED ANNUAL COST OF $1,551,090

WHEREAS, on August 12, 2008, the City Council, by Resolution No. 2008-485, authorized extending the contract for fuel card-lock services for the Public Works Department, Fleet Services Division with Boyett Petroleum, Modesto, CA, for one year, and authorized the Purchasing Manager to issue a formal Request for Proposal (RFP) for fuel card-lock services, and

WHEREAS, on April 27, 2009, the Purchasing Division issued RFP No. 0809-21 Fuel Card-Lock Services to twenty-nine (29) prospective proposers, six (6) of which were local companies, posted the proposal on the City's website and formally advertised as required by law, and

WHEREAS, on June 2, 2009, RFP's were formally opened in the City Clerk's office. Of the twenty-nine (29) prospective proposers, two (2) companies chose to respond, one of which was a local company. Both companies provided responsive and responsible proposals, and

WHEREAS, on August 21, 2009, an evaluation committee comprised of two (2) City staff personnel from the Fleet Services Division and one representative from Stanislaus County 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 fuel card-lock services for the Public Works Department, Fleet Services Division, to Boyett Petroleum, Modesto, CA, for a two (2) year period with three (3) one-year extension options, at the sole discretion of the City, for an estimated annual cost of $1,551,090, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contract for the furnishing of fuel card-lock services for the Public Works Department, Fleet Services Division, to Boyett Petroleum, Modesto, CA, conforms to the Modesto Municipal Code, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2009-10 in appropriation Unit: 7200-480-5812-0330,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the furnishing of fuel card-lock services for the Public Works Department, Fleet Services Division, to Boyett Petroleum, Modesto, CA, for a two (2) year period with three (3) one-year extension options, at the sole discretion of the City.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to issue the agreement for an estimated annual cost of $1,551,090.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of October, 2009, by Councilmember Marsh, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-484

A RESOLUTION APPOINTING BRAD PITTS TO THE CITY OF MODESTO HOUSING REHABILITATION LOAN COMMITTEE

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

WHEREAS, the Economic Development Committee met on October 12, 2009, and recommended appointment of Brad Pitts to the 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 appointed to the Housing Rehabilitation Loan Committee with a term expiration of January 1, 2012.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of October, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-485

RESOLUTION ACCEPTING THE FISCAL YEAR 2008-2009 PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT FUND DEVELOPMENT REPORT

WHEREAS, the Council of the City of Modesto has authorized a Fund Development Plan for the Parks, Recreation and Neighborhoods Department, and

WHEREAS, the Parks, Recreation and Neighborhoods Department Fund Development Plan allows staff to actively seek and receive donations and grants for Parks, Recreation and Neighborhoods Department programs, facility preservation, and park beautification, and

WHEREAS, and Fund Development Plan requires that an annual report be given to the City Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Fiscal Year 2008-2009 Parks, Recreation and Neighborhoods Department's Fund Development Report.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of October, 2009 by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-486

A RESOLUTION APPROVING A POLICY REVISION FOR CITIZEN ADVISORY GROUP APPOINTMENTS, EXCLUSING THE ENTERTAINMENT COMMISSION

WHEREAS, it is the duty of the City Council to appoint persons to the various Citizen Advisory Groups of the City of Modesto, and

WHEREAS, the current policy was last revised in 1987 and establishes the procedures for appointing persons to the City's Citizen Advisory Groups, and

WHEREAS, the Economic Development Committee Chair asked that the policy be revised to require interviews for the Planning Commission and Board of Zoning Adjustment applicants only, including both new applicants and those seeking reappointment, and

WHEREAS, appointments to other Citizen Advisory Groups will be made without formal interviews in most cases,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the policy revision for Citizen Advisory Group appointments, excluding the Entertainment Commission.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of October, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-487

RESOLUTION APPROVING A CONSENT TO COMMON USE AGREEMENT BETWEEN THE MODESTO IRRIGATION DISTRICT AND THE CITY OF MODESTO REGARDING THE INSTALLATION OF STREET IMPROVEMENTS ON THE WEST SIDE OF CONANT AVENUE BETWEEN RUMBLE ROAD AND EICHER AVENUE ALONG THE GOLDSWORTHY RIGHT OF WAY FOR THE PURPOSE OF PROVIDING SIDEWALK, CURB, GUTTER, AND STREET LIGHTING; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, in June, 2005, City staff submitted a grant application for the Safe Routes to School Grant Program to install sidewalk, curb, gutter, and street lighting on the west side of Conant Avenue between Rumble Road and Eicher Avenue, near Chrysler Elementary School, and

WHEREAS, on November 14, 2006, by Resolution No. 2006-718, the City Council accepted the grant and established a Capital Improvement Program project titled "Safe Routes to School-Conant Avenue Improvements," in the amount of $427,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Consent to Common Use Agreement between the Modesto Irrigation District and the City of Modesto regarding the installation of street improvements on the west side of Conant Avenue between Rumble Road and Eicher Avenue along the Goldsworthy Right of Way for the purpose of providing sidewalk, curb, gutter, and street lighting.

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 13th day of October, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: Stephanie Lopez
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-488

RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 ANNUAL BUDGET

WHEREAS, a monthly financial analysis has been completed and it has been determined that certain adjustments are required to the Annual Budget of the City of Modesto for Fiscal Year 2009-2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the Fiscal Year 2009-2010 budget have been adjusted as shown in **Exhibit A**, which is 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.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of October, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following votes:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

FINANCE DEVELOPMENT

The City of Modesto received a State Transportation Improvement Program (STIP) Grant for the Virginia Corridor project. The full amount of the grant was budgeted; however, the total grant will not be recognized. This budget adjustment reduces the revenue and construction expense related to the Virginia Corridor project STIP Grant.

REVENUE

FROM:	
Virginia Corridor STIP Grant Revenues 2300-310-A087-3133	(500,000)

APPROPRIATIONS

FROM:	
Virginia Corridor CIP Construction Expense 2300-310-A087-6040	(500,000)

This budget adjustment transfers funds from the Virginia Corridor Primary account to the Secondary account to fully fund Phase V of the Virginia Corridor project. This adjustment also provides the transfer of the FHWA Grant match funding from the Parks Capital Facility Fund.

TRANSFERS BETWEEN FUNDS

FROM:	
Transfer from Parks Capital Facility Fund 1350-700-A087-7230	(250,450)
Transfer from Parks Capital Facility Fund 1350-700-P365-7230	250,450
TO:	
Capital Grants – Virginia Corridor 2300-700-A087-9135	(250,450)
Capital Grants – Virginia Corridor 2300-700-P365-9135	250,450

PARKS, RECREATION AND NEIGHBORHOODS

This budget adjustment recognizes American Recovery and Reinvestment Act (ARRA) funding to be used in the Homeless Prevention SCAP Program, and reallocating these funds to provide financial assistance and services to prevent individuals and families from becoming homeless.

REVENUES

TO:	
ARRA Reimbursable Grant 1100-320-3201-3650-40	458,856

APPROPRIATIONS

TO:
Homeless Prevention SCAP Program Direct Grants 458,856
1100-320-3201-0496

This budget adjustment recognizes American Recovery and Reinvestment Act (ARRA) funding to be used in the Rapid Re-Housing CHSS Program, and reallocating these funds to provide financial assistance and services to prevent individuals and families from becoming homeless.

REVENUES

TO:
ARRA Reimbursable Grant 458,856
1100-320-3202-3650-40

APPROPRIATIONS

TO:
Rapid Re-Housing CHSS Program Direct Grants 458,856
1100-320-3202-0496

This budget adjustment recognizes American Recovery and Reinvestment Act (ARRA) funding for the administration and oversight of agencies assisting the City of Modesto with homeless prevention, and reallocating these funds for interfund service credit expenses.

REVENUES

TO:
ARRA Reimbursable Grant 48,300
1100-320-3200-3650-40

APPROPRIATIONS

TO:
Service Credit Expense 48,300
1100-320-3200-0255

This budget adjustment recognizes American Recovery and Reinvestment Act (ARRA) funding to be used in the Community Development Block Grant (CDBG) Program, and reallocate these funds in the form of Direct Grants for Energy Efficient Improvements to low income residents.

REVENUES

TO:
ARRA Reimbursable Grant - CDBG 200,000
1100-320-3208-3650-40

APPROPRIATIONS

TO:

Energy Efficient Improvement Direct Grants 1100-320-3208-0496	200,000

This budget adjustment recognizes American Recovery and Reinvestment Act (ARRA) funding to be used in the Community Development Block Grant (CDBG) Program, and reallocate these funds to establish an operating budget for the Job Training function that assists citizens actively searching for employment opportunities.

REVENUES

TO:

ARRA Reimbursable Grant – CDBG 1100-320-3206-3650-40	94,762

APPROPRIATIONS

TO: Job Training (1100-320-3206)

Service Credit Expense - 0255	70,000
Copy Machine Charges - 0204	2,000
Printing and Binding - 0205	3,000
Advertising - 0230	3,500
PC Software and Supplies – 0306	2,500
Business Expenses – 0208	2,000
Training – 0209	1,000
Office Supplies – 0301	5,000
Misc Supplies – 0370	5,762

This budget adjustment recognizes American Recovery and Reinvestment Act (ARRA) funding to be used in the Community Development Block Grant (CDBG) Program, and reallocates these funds to establish an operating budget for the administration, planning and oversight of the CDBGR activities included in the Recovery Act.

REVENUES

TO:

ARRA Reimbursable Grant – CDBG 1100-320-3205-3650-40	63,173

APPROPRIATIONS

TO: CDBGR Administration (1100-320-3205)

Postage – 0201	500
Service Credit Expense - 0255	45,000
Printing and Binding - 0205	4,273
Advertising - 0230	1,500
Conference Expenses – 0207	5,000

Business Expenses – 0208	1,500
Training – 0209	400
Office Supplies – 0301	5,000

This budget adjustment is needed to budget for remaining McHenry Museum artifact replacement and other expenses related to the fire at 800 E. Morris Avenue in October, 2007 and will appropriate from insurance settlement monies received in FY2008-09 in reserves

APPROPRIATIONS

FROM:	
General Fund Reserves	(17,300)
0100-800-8000-8003	
TO: 800 E. Morris Demolition (0100-300-3020)	
Services Professional & Other – 0235	1,500
Service Credit Expense – 0255	2,000
Service Credit Expense – 0259	500
Tools, Shop & Field Supplies - 0308	300
Non CIP Other – 5900	13,000

POLICE

On September 1, 2009, the City Council, by Resolution No. 2009-404, approved a budget adjustment amending the respective Operating Budget lines, in the amount of $55,564, to recognize Service Credit revenue and expense between the Water and Sewer Funds and the Police Department for the costs of a police officer to be stationed in the Customer Services Lobby of TSP. This budget adjustment is necessary to reallocate the revenue and expense associated with this Service Credit Agreement to the appropriate organizations.

REVENUES

FROM:	
Service Credit Revenue	(45,564)
0100-190-1961-4909	
TO:	
Service Credit Revenue	45,564
0100-190-1921-4909	

APPROPRIATIONS

TO:	
Increase Part-Time Expense Budget	45,564
0100-190-1921-0140	
Increase Part-Time Expense Budget	10,000
0100-190-1961-0140	

PULBIC WORKS

This budget adjustment recognizes unbudgeted revenue in Capital Improvement Project H461, Pelandale 6-Lanes Dale to McHenry, for the reimbursement of escrow fees, and appropriates these revenues for Land/ROW Acquisition.

REVENUES

TO:	
Refund of Escrow Fees 1410-430-H461-8122	44

APPROPRIATIONS

TO:	
Land/ROW Acquisition 1410-430-H461-6030	44

This budget adjustment recognizes savings to Capital Improvement Project (CIP) number H930, Dale/Kiernan Intersection Improvements, in the amount of $42,401. The realized savings reduces the transfer of Gas Tax matching revenues and decreases project expenditures.

TRANSFER BETWEEN FUNDS

Transfer from Gas Tax Fund 0700-700-H930-7237	(42,401)
Transfer into Capital Grants – Gas 2370-700-H930-9070	(42,401)

APPROPRIATIONS

Reduce Dale Kiernan Intersection Improvement Construction Expense 2370-430-H930-6040	(42,401)

This budget adjustment reduces the $3 million Federal Highway Administration (FHWA) Grant budgeted revenue in the Primary Virginia Corridor (A087) Capital Improvement Program (CIP) to $2.6 million, and moves the revenue budget to the Secondary CIP, Virginia Corridor Phase V (P365). This budget adjustment also reallocates the $2.6 million appropriation in P365 to Finance Contingency in until the grant agency authorizes expenditures, and aligns the appropriation with the available funding.

REVENUES

FROM:	
Virginia Corridor Primary FHWA Grant Revenue 2300-310-A087-3197	(3,000,000)

TO:	
Virginia Corridor Secondary - Phase V Revenue 2300-310-P365-3197	3,000,000

APPROPRIATIONS

FROM:	
Virginia Corridor Phase V Construction Expense 2300-310-P365-6040	(3,039,550)
TO:	
Virginia Corridor Phase V Finance Contingency 2300-310-P365-6052	2,600,000
Capital Grant Reserves 2300-800-8000-8003	439,550

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-489

RESOLUTION APPROVING AN ADDENDUM TO THE AGREEMENT BETWEEN THE CITY OF MODESTO AND VALLEYCREST GOLF COURSE MAINTENANCE; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE ADDENDUM

WHEREAS, the City owns, operates and manages the Municipal Golf Course, Dryden Park Municipal Golf Course, and Creekside Municipal Golf Course, and

WHEREAS, on April 28, 2009, the City Council, by Resolution No. 2009-184, approved a five-year Agreement between the City of Modesto and ValleyCrest Golf Course Maintenance to provide maintenance services at the City's three golf courses, and

WHEREAS, golf course revenues, based on the first two months of Fiscal Year 2009/2010, are not projected to cover golf expenditures, thus requiring a general fund subsidy, and

WHEREAS, Council has requested the golf fund not require a general fund subsidy, and

WHEREAS, City staff and ValleyCrest Golf Course Maintenance have negotiated cost-saving reductions in Year 1 of the contract totaling $102,715 with adjusted staffing levels and pay, reduced Not To Exceed expenditures, deferred capital equipment purchases, reduced capital project expenditures, and eliminating the performance bond payment for the remainder of the 2009/2010 contract year,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Addendum to the Agreement between the City of Modesto and ValleyCrest Golf Course Maintenance.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of October, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-490

A RESOLUTION APPROVING THE FINAL AMENDMENT TO THE ON-CALL ENGINEERING SERVICES AGREEMENT WITH CAROLLO ENGINEERS IN THE AMOUNT OF $8,338, FOR A TOTAL AMOUNT NOT TO EXCEED $52,338 FOR FY 2009-10, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE FINAL AMENDMENT TO THE AGREEMENT

WHEREAS, on January 3, 2006, by Resolution No. 2006-012, the City Council approved an on-call engineering services agreement with Carollo Engineers (Carollo) in the amount of $44,000 annually for wastewater-specific services, and

WHEREAS, on January 2, 2007, by Resolution No. 2007-034, the City Council approved the First Amendment to the Agreement in the amount of $70,000 to pay for additional engineering services, increasing the amount to $114,00 for FY 2006-07, and

WHEREAS, Modesto's Wastewater Treatment Plant is rated as a Class V Facility and is required by the State to have a Chief Plant Operator (CPO) with a Class V certification on staff, and

WHEREAS, due to staffing changes in 2007, it was necessary to contract with Carollo to provide CPO services under the on-call engineering agreement to ensure that the City was in compliance with the Grade V operator requirement, and

WHEREAS, on November 27, 2007, by Resolution No. 2007-705, the City Council approved the Second Amendment to the Agreement in the amount of $78,000 for CPO services, increasing the amount to $122,000 for FY 2007-08, and

WHEREAS, on May 27, 2008, by Resolution No. 2008-308, Council approved the Third Amendment to the Agreement in the amount of $75,000 for continued CPO services, increasing the amount to $197,000 for FY 2007-08, and

WHEREAS, on January 27, 2009 by Resolution No. 2009-050, Council approved the Fourth Amendment to the Agreement in the amount of $30,000 for continued CPO services, increasing the amount to $74,000 for FY 2008-09, and

WHEREAS, in March, 2008, Public Works hired a new Water Quality Control (WQC) Plant Manager who held a Grade IV certification, with a requirement for this position to possess a Grade V Certificate within 18 months of appointment, and

WHEREAS, the current WQC Plant Manager and Deputy Director took the Grade V Certification test in April 2009, and in June, 2009, were notified they both passed their Grade V Certification, and

WHEREAS, until the certificate is in hand, Carollo needed to provide CPO services, and

WHEREAS, in August, 2009, the WQC Plant Manager and Deputy Director both received their certificates and the City was able to release Carollo from its CPO obligations, and

WHEREAS, the amount of $8,338 represents the final billing from Carollo for CPO services, and

WHEREAS, funds are budgeted in Account Numbers 6210-480-5213-0235 and 6210-480-5214-0235 for this expenditure,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Final Amendment to the On-Call Engineering Services Agreement with Carollo Engineers in the amount of $8,338, for a total amount not to exceed $52,338 for Fiscal Year 2009-10.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute the Final Amendment to 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 October, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-491

A RESOLUTION APPROVING A LICENSE AGREEMENT BETWEEN THE CITY OF MODESTO AND MODESTO IRRIGATION DISTRICT FOR THE PURPOSE OF INGRESS, EGRESS, AND BASIN IMPROVEMENTS WITHIN MID LATERAL NO. 6 FOR THE SIX-LANE PELANDALE AVENUE WIDENING PROJECT TO USE CERTAIN REAL PROPERTY, AS DESCRIBED IN EXHIBITS A AND B OF THE LICENSE AGREEMENT; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto (Licensee) desires ingress, egress, and basin improvements for the Pelandale Storm Water Basin Facility, and

WHEREAS, Modesto Irrigation District ("District") has an interest in certain real property within the City of Modesto commonly referred to as Lateral No. 6 (Pelandale Avenue), and

WHEREAS, District will grant to Licensee, at no expense to Licensee, permission to make improvements within 2,876 square feet of Lateral No. 6, as described in **Exhibits A and B** of the License Agreement, as part of Modesto's Six-Lane Pelandale Avenue Widening project consisting of roadway widening from two to six lanes from Dale Road to McHenry Avenue, hereinafter referred to as the "Basin Improvements," and

WHEREAS, District requires a License Agreement prior to allowing construction within its right-of-way, and

WHEREAS, this will allow Licensee to use the District right-of-way for the Basin Improvements at no cost,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a License Agreement between the City of Modesto and Modesto Irrigation District for the purpose of ingress, egress, and basin improvements within MID

Lateral No. 6 for the Six-Lane Pelandale Avenue Widening project to use certain real property, as described in **Exhibits A and B** of the License Agreement.

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 October, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

8106.001
9/23/2009
MEL

EXHIBIT A

DESCRIPTION OF LICENSING AREA
APN 046-004-011 & 021

All that certain real property being a portion of the southeast quarter of Section 5, T.3S., R.9E., M.D.B.& M., in the unincorporated area, County of Stanislaus, State of California, being described as follows:

COMMENCING at a point which is the southerly most corner of Lot 30, as said Lot is shown on the map entitled "Parcel Map of The Summit Corporate Center, Unit No. 2", recorded in Book 52 of Parcel Maps, at Page 59, in said County, said point also being the intersection of the northerly right-of-way line of Pelandale Avenue with the northwesterly right-of-way of the Modesto Irrigation District Lateral No. 6, as shown on said Parcel Map; thence along said northwesterly right-of-way, South 65°55'00" West, 264.39 feet to the **TRUE POINT OF BEGINNING**, said point also being a point of intersection of the future southerly right-of-way of Pelandale Avenue, a 135 foot wide public road, said point also being the westerly most corner of that parcel of land as described within Exhibit "A", and as shown on Exhibit "B" of that certain "Agreement Consenting To Common Use", dated April 7, 1998, by and between the Modesto Irrigation District and the City of Modesto; thence along the southerly line of said "Agreement Consenting To Common Use", from a radial line which bears North 05°18'33" East, 0.45 feet along the arc of a non-tangent 4932.50 foot radius curve to the right, through a central angle of 00°00'19"; thence leaving said southerly line and entering into said Lateral No. 6, the following five (5) courses and distances:

1. South 13°23'57" West, a distance of 19.06 feet;
2. North 88°52'40" West, a distance of 26.67 feet;
3. South 66°00'11" West, a distance of 274.52 feet;
4. South 65°57'19" West, a distance of 210.76 feet;
5. South 65°53'11" West, a distance of 16.53 feet to a point on the easterly line of the property transferred to the City of Modesto January 23, 2003 by Quitclaim Deed recorded as Instrument Number 2003-0009562, in said County;

THENCE along said easterly line, North 01°10'32" West, a distance of 13.74 feet to a point on the aforementioned northwesterly right-of-way; THENCE along said

northwesterly right-of-way, the following two (2) courses and distances:

1. North 68°40'00" East, a distance of 192.14 feet;

2. North 65°55'00" East, a distance of 339.88 feet to the **TRUE POINT OF BEGINNING**.

Containing 3,056 square feet or 0.07 acres, more or less.

The Basis of Bearings for this description being North 87°34'42" West between GPS Monuments 2722 and 2723, as shown in Book 22 of Surveys at Page 51, Stanislaus County Records.

See Exhibit "B", plat to accompany description, attached hereto and made a part hereof.

September 14, 2009

END OF DESCRIPTION

PREPARED BY WOOD RODGERS, INC.
SACRAMENTO, CALIFORNIA

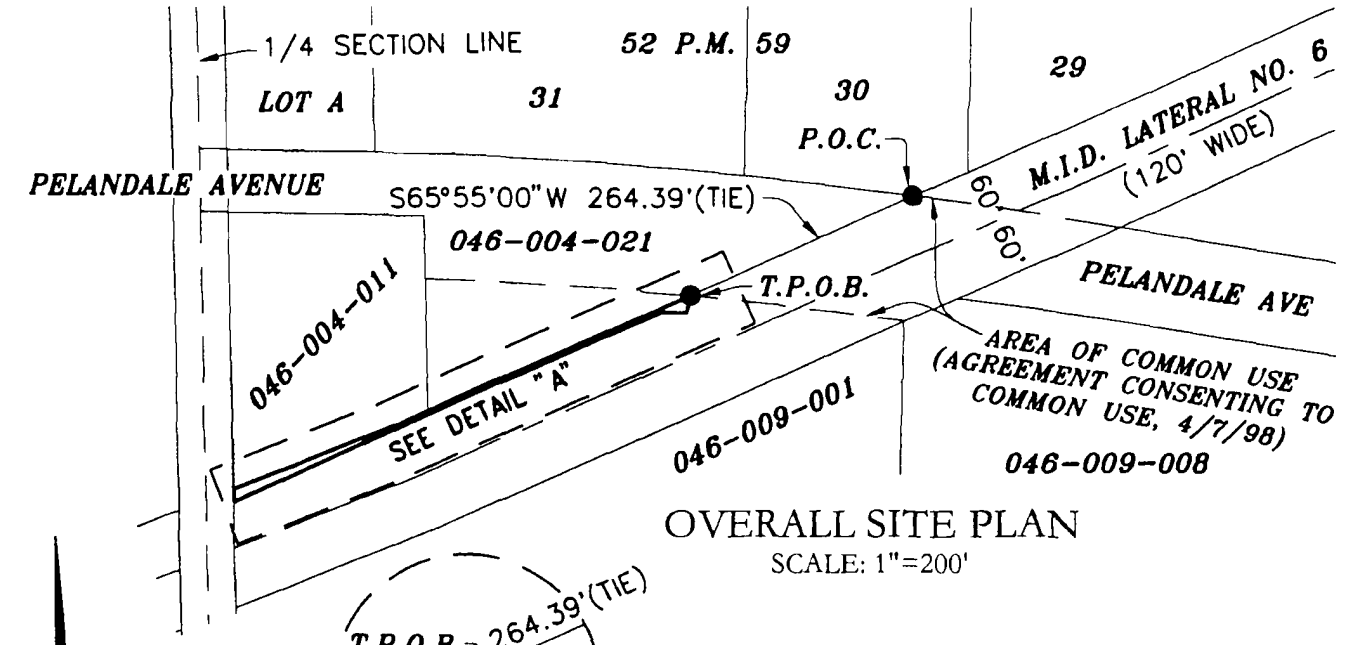
9/23/09

EXHIBIT B

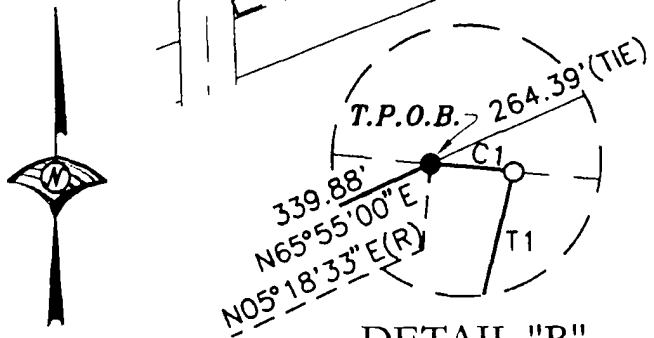
PLAT TO ACCOMPANY
DESCRIPTION

Pelandale Ave. Detention Basin
Licensing Area

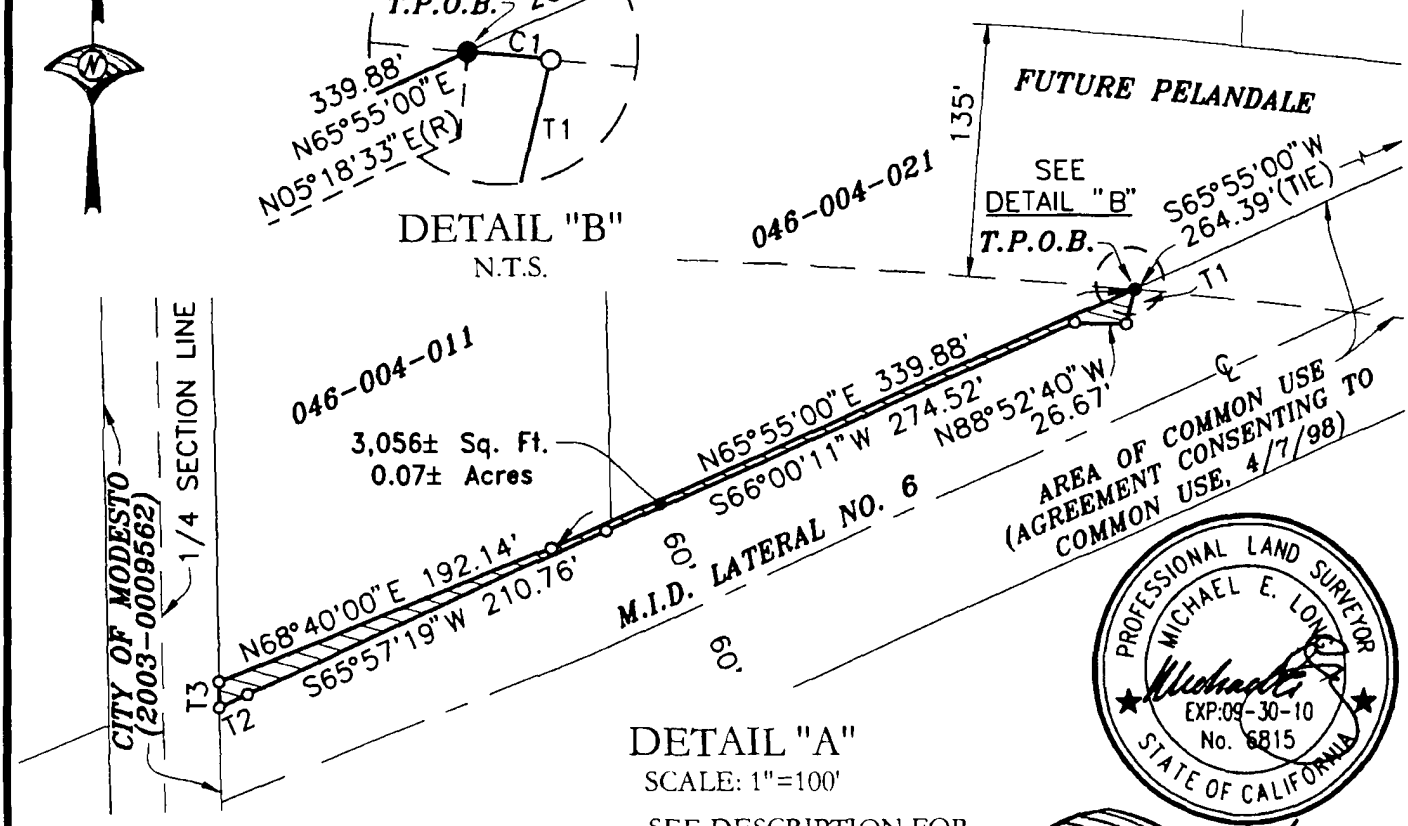
APN 046-004-011 & 021
COUNTY OF STANISLAUS, STATE OF CALIFORNIA



OVERALL SITE PLAN
SCALE: 1"=200'



DETAIL "B"
N.T.S.



DETAIL "A"
SCALE: 1"=100'

SEE DESCRIPTION FOR
COURSE INFORMATION

LINE	BEARING	DISTANCE
T1	S13°23'57"W	19.06'
T2	S65°53'11"W	16.53'
T3	N01°10'32"W	13.74'

CURVE	RADIUS	DELTA	LENGTH
C1	R=4932.50'	00°00'19"	L=0.45'

PROFESSIONAL LAND SURVEYOR
MICHAEL E. LONG
EXP:09-30-10
No. 6815
STATE OF CALIFORNIA

9/23/09

WOOD RODGERS
ENGINEERING • MAPPING • PLANNING • SURVEYING
3301 C St., Bldg. 100-B Tel 916.341.7760
Sacramento, CA 95816 Fax 916.341.7767

SEPTEMBER 14, 2009 8106.001 SHEET 1 OF 1

L:\Jobs\8106-Pelandale\Pelandale-DA\Geomatics\plats to accompany\Basin_MID\MID_basin-fence.dwg 09/14/2009 12:51:11 PM PDT

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MODESTO CITY COUNCIL
RESOLUTION NO. 2009-492

A RESOLUTION AUTHORIZING THE PUBLIC WORKS DEPARTMENT TO CONTRIBUTE $25,000 TO THE CENTRAL VALLEY SALINITY COALITION INC., AND APPROVING NICK PINHEY'S NOMINATION AS THE CITY'S DESIGNEE FOR THE CENTRAL VALLEY SALINITY COALITION INC. BOARD

WHEREAS, the accumulation of salts in the Central Valley water environment is a serious problem that is threatening the environment, industry, and agriculture, and

WHEREAS, current estimates indicate that 15.5 million tons of salt are brought into Central Valley waters each year, and

WHEREAS, the continued accumulation of these salts will limit water supplies, destroy productive crop land, and impact the economic vitality of the Central Valley, and

WHEREAS, the current regulatory system for salts in the water environment is broken and does not work for cities, industry, agriculture, the State Water Resources Control Board, or the Regional Water Quality Control Board, and

WHEREAS, comprehensive salinity management is needed to address near and long-term water supply sustainability and to avoid increased costs for municipal wastewater treatment, and

WHEREAS, a new basin plan needs to be developed and implemented to provide cost effective compliance with salinity and nutrients management goals, and

WHEREAS, the Central Valley Salinity Coalition Inc. (CVSC) is a non-profit formed in cooperation with the State Water Resources Control Board to organize, facilitate, and fund efforts needed to develop the efficient management of salinity and nutrients in the Central Valley water environment, and

WHEREAS, CVSC represents public agencies and other entities that are focused on the advancement of research, education planning, and management of salinity and nitrate impacts to water environment in the Central Valley region of California, and

WHEREAS, CVSC's mission is to advance salinity and nutrient management for the region to protect water quality and water supplies, as well as providing an efficient and effective mechanism to develop funding and resources for this effort, and

WHEREAS, by combining resources, participating organizations can leverage their funding through economies of scale for studies and research that can form the basis of a new basin plan, and

WHEREAS, membership and participation in the CVSC satisfies a requirement of the City of Modesto's National Pollutant Discharge Elimination (NPDES) permit, Water Boards Order No. R5-2008-0059, as issued by the California Regional Water Quality Control Board which states "The Discharger shall also participate financially in the development of the Central Valley Salinity Management Plan at a level commensurate with its contributions to the salinity to the Delta," and

WHEREAS, Public Works requested authorization to contribute $25,000 to the CVSC and approval of Nick Pinhey's nomination to the Board of Directors, which makes the City of Modesto a partner in the development of the science, planning, and implementation of solutions to salinity and nutrients to protect water resources in the Central Valley, and

WHEREAS, funds are available in Account No. 6210-480-5217-0235 for this expenditure,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Public Works Department to contribute $25,000 to the Central Valley Salinity Coalition Inc.

BE IT FURTHER RESOLVED that the Council also approves Nick Pinhey's nomination as the City's designee for the Central Valley Salinity Coalition Inc. Board.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of October, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-493

A RESOLUTION APPROVING AN AGREEMENT WITH VBN ARCHITECTS TO PREPARE THE FINAL DESIGN OF THE BUS MAINTENANCE FACILITY PROJECT IN AN AMOUNT NOT TO EXCEED $651,011 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $65,101 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $716,112, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on March 28, 2000, by Resolution No. 2000-144, the City Council approved the design concept of the new Bus Maintenance Facility, and

WHEREAS, on July 2, 2002, by Resolution No. 2002-321, the City Council approved an agreement with Parsons Brinckerhoff Quade and Douglas, Inc. (PB) for the negotiated price of $590,751 (including fixed fee) to design, prepare construction documents, and provide support services during bidding and construction specifically for the new Bus Maintenance Facility, and

WHEREAS, on August 4, 2004, by Resolution No. 2004-404, the City Council approved an Amendment to Agreement in the amount of $96,958.11 which increased the total agreement amount specifically for the new Bus Maintenance Facility to $687,709.11, and

WHEREAS, the amendment included the design of a canopy to cover eight of the 65 bus parking spaces, a land survey of the site, oversight of the demolition of the buildings on the property purchased for the project, and phasing of the project for construction in two segments, and

WHEREAS, the Transportation Policy Committee reviewed the preliminary design proposal in February 2003, to ensure that the maintenance building met the City's aesthetic requirements, and

WHEREAS, PB proposed horizontal deep rib siding to achieve the desired look, and the Committee approved this design attribute, and

WHEREAS, in 2005, City staff conveyed concerns of late notification of change in project scope and increase in fees with PB, and

WHEREAS, these discussions resulted in PB agreeing to an agreement cost reduction, but still required a $350,000 Second Amendment to Agreement to complete design, and

WHEREAS, in February 2006, Council decided that it was not in the City's best interest to complete the design with PB, and did not approve the Second Amendment to Agreement, and

WHEREAS, in February 2007, a Request for Qualifications and Proposals was initiated to assist with project management, and

WHEREAS, on January 27, 2009, by Resolution No. 2009-052, the City Council approved an Agreement with RBF Consulting (RBF) for Program Management Services for the Bus Maintenance Facility in the amount of $136,265, to assist in the completion of design documents for the project, and

WHEREAS, in compliance with Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, RBF with assistance of City staff wrote a Request for Qualifications which was sent to over two hundred (200) engineering and architectural firms, and

WHEREAS, there were twenty-five (25) firms that provided Qualification Statements and all were ranked with their experience in bus maintenance design, and

WHEREAS, on April 27, 2009 the Finance Committee approved short-listing the top four (4) qualified firms, and

WHEREAS, in May 2009 a Request for Proposals was sent to the top four (4) qualified firms, and

WHEREAS, each of the top four (4) qualified firms responded and were interviewed, and

WHEREAS, AECOM was selected as the most qualified, and

WHEREAS, after contract negotiations, the fee from AECOM was determined excessive, and City staff moved to the second most qualified firm VBN Architects (VBN), and

WHEREAS, VBN has completed the design of similar bus maintenance facility projects in the area, and

WHEREAS, VBN is needed for their expertise in bus maintenance facility design and construction, Federal Transit Administration guidelines, and the latest building code adjustments, and

WHEREAS, after contract negotiations, City staff felt the VBN design fee was acceptable, and

WHEREAS, on August 13, 2009 the Finance Committee approved the selection, fee, Agreement with VBN and recommended to forward to full City Council, and

WHEREAS, City staff recommends an agreement with VBN Architects as the City does not have the staffing level or subject matter expertise to complete the design of the new Bus Maintenance Facility, and current workload levels do not provide for timely in-house engineering,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with VBN Architects to prepare the final design of the Bus Maintenance Facility Project in an amount not to exceed $651,011 for the identified scope of services, plus $65,101 for additional services (if needed), for a maximum total amount of $716,112, to complete the design documents for the project titled, "New Bus Maintenance Facility."

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 October, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	O'Bryant

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-494

Print

RESOLUTION APPOINTING JENNIFER ALLSUP TO THE CITY OF MODESTO ENTERTAINMENT 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 Safety & Communities Committee met on August 5, 2009, and recommended appointment of Jennifer Allsup to the Entertainment Commission.

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

SECTION 1. Jennifer Allsup is hereby appointed to the Entertainment Commission with a term expiration of January 1, 2012.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of October, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-495

A RESOLUTION APPROVING THE 2010 CITY COUNCIL MEETING CALENDAR AND REVISING THE 2009 CITY COUNCIL MEETING CALENDAR

BE IT HEREBY RESOLVED by the Council of the City of Modesto that 2010 City Council Meeting Calendar, **attached** hereto as **Exhibit "A"**, and the Revised 2009 City Council Meeting Calendar, **attached** hereto as **Exhibit "B"**, are hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of October, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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 Council Calendar
2010

January 2010

5th	CANCELLED*
12th	Council Meeting (regular)
19th	NO MEETING
26th	Council Meeting (regular)

February 2010

2nd	Council Meeting (regular)
9th	Council Meeting (regular)
16th	NO MEETING
23rd	Council Meeting (regular)

March 2010

2nd	Council Meeting (regular)
9th	Council Meeting (regular)
16th	NO MEETING
23rd	Council Meeting (regular)
30th	NO MEETING – 5th Tuesday

April 2010

6th	CANCELLED**
13th	Council Meeting (regular)
20th	NO MEETING
27th	Council Meeting (regular)

May 2010

4th	Council Meeting (regular)
11th	Council Meeting (regular)
18th	NO MEETING
25th	Council Meeting (regular)

June 2010

1st	Council Meeting (regular)
8th	Council Meeting (regular)
15th	NO MEETING
22nd	Council Meeting (regular)
29th	NO MEETING – 5th Tuesday

July 2010

6th	Council Meeting (regular)
13th	Council Meeting (regular)
20th	NO MEETING
27th	NO MEETING

August 2010

4th	Council Meeting (special)***
10th	Council Meeting (regular)
17th	NO MEETING
24th	NO MEETING
31st	NO MEETING – 5th Tuesday

September 2010

7th	Council Meeting (regular)
14th	Council Meeting (regular)
21st	NO MEETING
28th	Council Meeting (regular)

October 2010

5th	Council Meeting (regular)
12th	Council Meeting (regular)
19th	NO MEETING
26th	Council Meeting (regular)

November 2010

3rd	Council Meeting (special)****
9th	Council Meeting (regular)
16th	NO MEETING
23rd	Council Meeting (regular)
30th	NO MEETING – 5th Tuesday

December 2010

7th	Council Meeting (regular)
14th	Council Meeting (regular)
21st	CANCELLED per MMC 2-1.01
28th	CANCELLED per MMC 2-1.01

*January 5th due to Winter Break
**April 6th due to Spring Break
***August 4th Wednesday Meeting due to National Night Out on August 3rd
****November 3rd Wednesday Meeting due to Election Day on November 2nd

Exhibit B

City Council Calendar
2009 (Revised 10/07/2009)

January 2009

6th	Council Meeting (regular)
13th	Council Meeting (regular)
20th	NO MEETING
27th	Council Meeting (regular)

February 2009

3rd	Council Meeting (regular)
10th	Council Meeting (regular)
17th	NO MEETING
24th	Council Meeting (regular)

March 2009

3rd	Council Meeting (regular)
10th	Council Meeting (regular)
17th	NO MEETING
24th	Council Meeting (regular)
31st	NO MEETING – 5th Tuesday

April 2009

7th	Council Meeting (regular)
14th	CANCELLED*
21st	NO MEETING
28th	Council Meeting (regular)

May 2009

5th	Council Meeting (regular)
12th	Council Meeting (regular)
19th	NO MEETING
26th	Council Meeting (regular)

June 2009

2nd	Council Meeting (regular)
9th	Council Meeting (regular)
16th	NO MEETING
23rd	Council Meeting (regular)
30th	NO MEETING – 5th Tuesday

July 2009

7th	Council Meeting (regular)
14th	Council Meeting (regular)
21st	NO MEETING
28th	NO MEETING

August 2009

5th	Council Meeting (special)**
11th	Council Meeting (regular)
18th	NO MEETING
25th	NO MEETING

September 2009

1st	Council Meeting (regular)
8th	Council Meeting (regular)
15th	NO MEETING
22nd	Council Meeting (regular)
29th	NO MEETING – 5th Tuesday

October 2009

6th	Council Meeting (regular)
13th	Council Meeting (regular)
20th	NO MEETING
27th	Council Meeting (regular)

November 2009

4th	Council Meeting (special)***
10th	Council Meeting (regular)
17th	NO MEETING
24th	Council Meeting (regular)

December 2009

1st	Council Meeting (regular)
9th	Council Meeting (special)****
15th	Council Meeting (special)*****
22nd	CANCELLED per MMC 2-1.01
29th	CANCELLED per MMC 2-1.01

*April 14th due to Spring Break
**August 5th Wednesday Meeting due to National Night Out on August 4th
***November 4th Wednesday Meeting due to Election Day on November 3rd
****December 9th Wednesday Meeting due to Run-Off Election on December 8th
*****December 15th Tuesday Meeting due to Winter Break (12/25/09-1/3/10) and cancelled 1/5/10 meeting

Print

RESOLUTION NO. 2009-496

CITY COUNCIL
OF THE
CITY OF MODESTO

A RESOLUTION APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF A PURCHASE AND SALE AGREEMENT AND RELATED DOCUMENTS WITH RESPECT TO THE SALE OF THE SELLER'S PROPOSITION 1A RECEIVABLE FROM THE STATE; AND DIRECTING AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH

WHEREAS, pursuant to Section 25.5 of Article XIII of the California Constitution and Chapter 14XXXX of the California Statutes of 2009 (Assembly Bill No. 15), as amended (the "Act"), certain local agencies within the State of California (the "State") are entitled to receive certain payments to be made by the State on or before June 30, 2013, as reimbursement for reductions in the percentage of the total amount of ad valorem property tax revenues allocated to such local agencies during the State's 2009-10 fiscal year (the "Reimbursement Payments"), which reductions have been authorized pursuant to Sections 100.05 and 100.06 of the California Revenue and Taxation Code;

WHEREAS, the City of Modesto, a local agency within the meaning of Section 6585(f) of the California Government Code (the "Seller"), is entitled to and has determined to sell all right, title and interest of the Seller in and to its "Proposition 1A receivable", as defined in Section 6585(g) of the California Government Code (the "Proposition 1A Receivable"), namely, the right to payment of moneys due or to become due to the Seller pursuant to Section 25.5(a)(1)(B)(iii) of Article XIII of the California Constitution and Section 100.06 of the California Revenue and Taxation Code, in order to obtain money to fund public capital improvements or working capital;

WHEREAS, the Seller is authorized to sell or otherwise dispose of its property as the interests of its residents require;

WHEREAS, the California Statewide Communities Development Authority, a joint exercise of powers authority organized and existing under the laws of the State (the "Purchaser"), has been authorized pursuant to Section 6588(x) of the California Government Code to purchase the Proposition 1A Receivable;

WHEREAS, the Purchaser desires to purchase the Proposition 1A Receivable and the Seller desires to sell the Proposition 1A Receivable pursuant to a purchase and sale agreement by and between the Seller and the Purchaser in the form presented to this City Council (the "Sale Agreement") for the purposes set forth herein;

WHEREAS, in order to finance the purchase price of the Proposition 1A Receivable from the Seller and the purchase price of other Proposition 1A Receivables from other local agencies, the Purchaser will issue its bonds (the "Bonds") pursuant to Section 6590 of the California Government Code and an Indenture (the "Indenture"), by and between the Purchaser and Wells Fargo Bank, National Association, as trustee (the "Trustee"), which Bonds will be payable solely

from the proceeds of the Seller's Proposition 1A Receivable and other Proposition 1A Receivables sold to the Purchaser by local agencies in connection with the issuance of the Bonds;

WHEREAS, the Seller acknowledges that (i) any transfer of its Proposition 1A Receivable to the Purchaser pursuant to the Sale Agreement shall be treated as an absolute sale and transfer of the property so transferred and not as a pledge or grant of a security interest by City of Modesto to secure a borrowing, (ii) any such sale of its Proposition 1A Receivable to the Purchaser shall automatically be perfected without the need for physical delivery, recordation, filing or further act, (iii) the provisions of Division 9 (commencing with Section 9101) of the California Commercial Code and Sections 954.5 to 955.1 of the California Civil Code, inclusive, shall not apply to the sale of its Proposition 1A Receivable, and (iv) after such transfer, the Seller shall have no right, title, or interest in or to the Proposition 1A Receivable sold to the Purchaser and the Proposition 1A Receivable will thereafter be owned, received, held and disbursed only by the Purchaser or a trustee or agent appointed by the Purchaser;

WHEREAS, the Seller acknowledges that the Purchaser will grant a security interest in the Proposition 1A Receivable to the Trustee and any credit enhancer to secure payment of the Bonds;

WHEREAS, a portion of the proceeds of the Bonds will be used by the Purchaser to, among other things, pay the purchase price of the Proposition 1A Receivable;

WHEREAS, the Seller will use the proceeds received from the sale of the Proposition 1A Receivable for any lawful purpose as permitted under the applicable laws of the State;

NOW THEREFORE, the City Council of the City of Modesto hereby resolves as follows:

Section 1. All of the recitals set forth above are true and correct, and this City Council hereby so finds and determines.

Section 2. The Seller hereby authorizes the sale of the Proposition 1A Receivable to the Purchaser for a price equal to the amount certified as the Initial Amount (as defined in the Sale Agreement) by the County auditor pursuant to the Act. The form of Sale Agreement presented to the City Council is hereby approved. An Authorized Officer (as set forth in Appendix A of this Resolution, attached hereto and by this reference incorporated herein) is hereby authorized and directed to execute and deliver the Sale Agreement on behalf of the Seller, which shall be in the form presented at this meeting.

Section 3. Any Authorized Officer is hereby authorized and directed to send, or to cause to be sent, an irrevocable written instruction to the State Controller (the "Irrevocable Written Instruction") notifying the State of the sale of the Proposition 1A Receivable and instructing the disbursement pursuant to Section 6588.6(c) of California Government Code of the Proposition 1A Receivable to the Trustee, on behalf of the Purchaser, which Irrevocable Written Instruction shall be in the form presented at this meeting.

Section 4. The Authorized Officers and such other Seller officers, as appropriate, are hereby authorized and directed, jointly and severally, to do any and all things and to execute

and deliver any and all documents, including but not limited to, if required, appropriate escrow instructions relating to the delivery into escrow of executed documents prior to the closing of the Bonds, and such other documents mentioned in the Sale Agreement or the Indenture, which any of them may deem necessary or desirable in order to implement the Sale Agreement and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution; and all such actions heretofore taken by such officers are hereby ratified, confirmed and approved.

Section 5. All consents, approvals, notices, orders, requests and other actions permitted or required by any of the documents authorized by this Resolution, whether before or after the sale of the Proposition 1A Receivable or the issuance of the Bonds, including without limitation any of the foregoing that may be necessary or desirable in connection with any default under or amendment of such documents, may be given or taken by an Authorized Officer without further authorization by this City Council, and each Authorized Officer is hereby authorized and directed to give any such consent, approval, notice, order or request, to execute any necessary or appropriate documents or amendments, and to take any such action that such Authorized Officer may deem necessary or desirable to further the purposes of this Resolution.

Section 6. The City Council acknowledges that, upon execution and delivery of the Sale Agreement, the Seller is contractually obligated to sell the Proposition 1A Receivable to the Purchaser pursuant to the Sale Agreement and the Seller shall not have any option to revoke its approval of the Sale Agreement or to determine not to perform its obligations thereunder.

Section 7. This Resolution shall take effect from and after its adoption and approval.

PASSED AND ADOPTED by the City Council of the City of Modesto, State of California, this 27th day of October, 2009, by the following vote:

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

City Manager

Attest:

City Clerk

Approved as to form :

SELLER'S COUNSEL

By_____

Dated: _____

APPENDIX A

CITY OF MODESTO

Authorized Officers: Greg Nyhoff, City Manager

James Miguel, Acting Deputy City Manager

any designee of any of them, as appointed in a written certificate of such Authorized Officer delivered to the Trustee.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-497

RESOLUTION AUTHORIZING THE AWARD OF BID AND APPROVING AN AGREEMENT FOR LINEN SERVICES FOR THE MODESTO FIRE DEPARTMENT WITH MISSION LINEN FOR TWO (2) YEARS, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, FOR AN ESTIMATED ANNUAL COST OF $26,140, AND POTENTIAL FIVE (5) YEAR COST OF $130,700; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, each of the City's eleven fire stations receive linen services, and

WHEREAS, these services include the weekly rental of bed linens, pillow cases, bath towels and dish towels, and

WHEREAS, linen services are provided at a cost much less that it would cost to purchase and provide these services in-house, and

WHEREAS, although each station has cleaning equipment for clothing, the machines are currently used to wash truck towels and turnouts, and

WHEREAS, this leaves a less that desirable level of oil and other contaminates in the cleaning equipment, and

WHEREAS, this equipment would not adequately clean items used for bathing, sleeping and dish cleaning, and

WHEREAS, on November 5, 2008, the City Council, by Resolution No. 2008-616, authorized the issuance of formal Request for Bids for linen services for the Modesto Fire Department, and

WHEREAS, in order to meet the requirements of the Modesto Municipal Code, bids were solicited for linen services for the Modesto Fire Department, and

WHEREAS, formal Request for Bids were issued to seventeen (17) vendors as well as posted on the City's website and legally advertised by the City Clerk's office, and

WHEREAS, two (2) vendors responded with bids for linen services for the Modesto Fire Department, and

WHEREAS, Mission Linen provided the most responsive and responsible bid for linen services for the Modesto Fire Department,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and Agreement for linen services for the Modesto Fire Department to Mission Linen for a two (2) year agreement, with three (3) one-year extension options for an estimated annual cost of $26,140, and potential five (5) year cost of $130,700.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of October, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-498

RESOLUTION AUTHORIZING THE AWARD OF BID AND APPROVING A TWO (2) YEAR AGREEMENT WITH CASCADE FIRE FOR PERSONAL PROTECTIVE EQUIPMENT – GROUP 2 – FOR THE FIRE DEPARTMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, FOR AN ANNUAL ESTIMATED COST OF $10,000, AND A POTENTIAL FIVE YEAR COST OF $50,000; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, personal protective equipment (PPE) is paramount to the well-being of line personnel at the Modesto Fire Department, and

WHEREAS, PPE include turnout pants and jackets, structure boots, hoods, helmets, gloves, self-contained breather equipment, EMS gloves, etc., and

WHEREAS, the City provides PPE to line personnel at the time of hire, and

WHEREAS, PPE is replaced when it no longer meets safety standards, and

WHEREAS, in order to meet the requirements of the Modesto Municipal Code, bids were solicited for PPE for the Fire Department, and

WHEREAS, formal Request for Bids were issued to twenty-five (25) vendors as well as posted on the City's website and legally advertised by the City Clerk's office, and

WHEREAS, seven (7) vendors responded with bids for PPE for the Fire Department, and

WHEREAS, Cascade Fire provided the most responsive and responsible bid for Personal Protective Equipment – Group 2 – for the Fire Department,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and approves an agreement with Cascade Fire for Personal Protective Equipment – Group 2 – for the Fire Department for a two (2) year

agreement, with three (3) one-year extension options, for an estimated annual cost of $10,000, and a potential five year cost of $50,000.

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 27th day of October, 2009, by Councilmember Hawn, 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: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-499

RESOLUTION AUTHORIZING THE AWARD OF BID AND APPROVING A TWO (2) YEAR AGREEMENT WITH JAECO FIRE FOR PERSONAL PROTECTIVE EQUIPMENT – GROUPS 4 B; AND 5 – FOR THE FIRE DEPARTMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, FOR AN ANNUAL ESTIMATED COST OF $5,000, AND A POTENTIAL FIVE YEAR COST OF $25,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, personal protective equipment (PPE) is paramount to the well-being of line personnel at the Modesto Fire Department, and

WHEREAS, PPE include turnout pants and jackets, structure boots, hoods, helmets, gloves, self-contained breather equipment, EMS gloves, etc., and

WHEREAS, the City provides PPE to line personnel at the time of hire, and

WHEREAS, PPE is replaced when it no longer meets safety standards, and

WHEREAS, in order to meet the requirements of the Modesto Municipal Code, bids were solicited for PPE for the Fire Department, and

WHEREAS, formal Request for Bids were issued to twenty-five (25) vendors as well as posted on the City's website and legally advertised by the City Clerk's office, and

WHEREAS, seven (7) vendors responded with bids for PPE for the Fire Department, and

WHEREAS, Jaeco Fire provided the most responsive and responsible bid for Personal Protective Equipment – Groups 4 b; and 5 – for the Fire Department,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and approves an agreement with Jaeco Fire for Personal Protective Equipment – Groups 4 b; and 5 – for the Fire Department for a two

(2) year agreement, with three (3) one-year extension options for an estimated annual cost of $5,000, and potential five year cost of $25,000.

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 27th day of October, 2009, by Councilmember Hawn, 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: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-500

RESOLUTION AUTHORIZING THE AWARD OF BID AND APPROVING A TWO (2) YEAR AGREEMENT WITH L.N. CURTIS FOR PERSONAL PROTECTIVE EQUIPMENT – GROUPS 1; 3 A, B, D & E; 4 C; 7; 8 B AND C – FOR THE FIRE DEPARTMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, FOR AN ANNUAL ESTIMATED COST OF $59,000, AND A POTENTIAL FIVE YEAR COST OF $295,000; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, personal protective equipment (PPE) is paramount to the well-being of line personnel at the Modesto Fire Department, and

WHEREAS, PPE include turnout pants and jackets, structure boots, hoods, helmets, gloves, self-contained breather equipment, EMS gloves, etc., and

WHEREAS, the City provides PPE to line personnel at the time of hire, and

WHEREAS, PPE is replaced when it no longer meets safety standards, and

WHEREAS, in order to meet the requirements of the Modesto Municipal Code, bids were solicited for PPE for the Fire Department, and

WHEREAS, formal Request for Bids were issued to twenty-five (25) vendors as well as posted on the City's website and legally advertised by the City Clerk's office, and

WHEREAS, seven (7) vendors responded with bids for PPE for the Fire Department, and

WHEREAS, L.N. Curtis provided the most responsive and responsible bid for Personal Protective Equipment – Groups 1; 3 a, b, d & e; 4 c; 7; 8 b and c – for the Fire Department,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and approves an agreement with L. N. Curtis for Personal Protective Equipment – Groups 1; 3 a, b, d & e; 4 c; 7; 8 b and c – for the

Fire Department for a two (2) year agreement, with three (3) one-year extension options, for an estimated annual cost of $59,000, and potential five year cost of $295,000.

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 27th day of October, 2009, by Councilmember Hawn, 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: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-501

RESOLUTION AUTHORIZING THE AWARD OF BID AND APPROVING A TWO (2) YEAR AGREEMENT WITH THE MALLORY COMPANY FOR PERSONAL PROTECTIVE EQUIPMENT – GROUPS 3 C; 4A; 7; 8 A – FOR THE FIRE DEPARTMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, FOR AN ANNUAL ESTIMATED COST OF $2,000, AND A POTENTIAL FIVE YEAR COST OF $10,000; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, personal protective equipment (PPE) is paramount to the well-being of line personnel at the Modesto Fire Department, and

WHEREAS, PPE include turnout pants and jackets, structure boots, hoods, helmets, gloves, self-contained breather equipment, EMS gloves, etc., and

WHEREAS, the City provides PPE to line personnel at the time of hire, and

WHEREAS, PPE is replaced when it no longer meets safety standards, and

WHEREAS, in order to meet the requirements of the Modesto Municipal Code, bids were solicited for PPE for the Fire Department, and

WHEREAS, formal Request for Bids were issued to twenty-five (25) vendors as well as posted on the City's website and legally advertised by the City Clerk's office, and

WHEREAS, seven (7) vendors responded with bids for PPE for the Fire Department, and

WHEREAS, The Mallory Company provided the most responsive and responsible bid for Personal Protective Equipment – Groups 3 c; 4a; 7; 8 a – for the Fire Department,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and approves an agreement with The Mallory Company for Personal Protective Equipment – Groups 3 c; 4a; 7; 8 a – for the Fire

Department for a two (2) year agreement, with three (3) one-year extension options for an estimated annual cost of $2,000, and potential five year cost of $10,000.

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 27th day of October, 2009, by Councilmember Hawn, 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: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-502

RESOLUTION AUTHORIZING THE AWARD OF BID AND APPROVING A TWO (2) YEAR AGREEMENT WITH WITMER PUBLIC SAFETY FOR PERSONAL PROTECTIVE EQUIPMENT – GROUP 5 – FOR THE FIRE DEPARTMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, FOR AN ANNUAL ESTIMATED COST OF $5,000, AND A POTENTIAL FIVE YEAR COST OF $25,000; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, personal protective equipment (PPE) is paramount to the well-being of line personnel at the Modesto Fire Department, and

WHEREAS, PPE include turnout pants and jackets, structure boots, hoods, helmets, gloves, self-contained breather equipment, EMS gloves, etc., and

WHEREAS, the City provides PPE to line personnel at the time of hire, and

WHEREAS, PPE is replaced when it no longer meets safety standards, and

WHEREAS, in order to meet the requirements of the Modesto Municipal Code, bids were solicited for PPE for the Fire Department, and

WHEREAS, formal Request for Bids were issued to twenty-five (25) vendors as well as posted on the City's website and legally advertised by the City Clerk's office, and

WHEREAS, seven (7) vendors responded with bids for PPE for the Fire Department, and

WHEREAS, Witmer Public Safety provided the most responsive and responsible bid for Personal Protective Equipment – Group 5 – for the Fire Department,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the aware of bid and approves an agreement with Witmer Public Safety for Personal Protective Equipment – Group 5 – for the Fire Department for a two

(2) year agreement, with three (3) one-year extension options, for an estimated annual cost of $5,000, and potential five year cost of $25,000.

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 27th day of October, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-503

RESOLUTION APPROVING AN AGREEMENT WITH AEG CYCLING, LLC FOR THE CITY OF MODESTO TO BE A HOST CITY FOR A STAGE FOUR FINISH FOR THE 2010 AMGEN TOUR OF CALIFORNIA; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS for the past three years the Amgen Tour of California has traveled through the State of California generating over $100 million of economic impact to the Host Cities and over one billion marketing impressions created worldwide, and

WHEREAS, on June 2, 2009, the Council, by Resolution No. 2009-232, approved a Request for Proposal (RFP) application for the City of Modesto to apply to become a "Host City" for the 4th Annual Amgen Tour of California, and

WHEREAS, on October 22, 2009, the City of Modesto was notified that it had been selected to host a stage four finish for the 2010 Amgen Tour of California to be held on May 19, 2010, and

WHEREAS, an agreement between the City of Modesto and AEG Cycling, LLC is required,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with AEG Cycling, LLC for Modesto to be a Host City for a stage four finish for the 2010 Am6gen Tour of California., to be held on May 19, 2010..

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 October, 2009 by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-504

RESOLUTION APPROVING AN AMENDMENT TO THE HOUSING AUTHORITY OF STANISLAUS COUNTY HOME LOAN AGREEMENT WITH THE CITY OF MODESTO FOR THE ACQUISITION OF PALM VALLEY APARTMENTS TO INCLUDE A PROJECT BUDGET AND TIMELINE; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT AND RELATED DOCUMENTS

WHEREAS, on April 22, 2008, the City Council, by Resolution No. 2008-230, approved the allocation of HOME funds in the amount of $1,000,000 to the Housing Authority of Stanislaus County for the acquisition of the Palm Valley Apartments (201 E. Coolidge Avenue, Modesto) , and

WHEREAS, the Housing Authority's intention is to rent the units to low and very low-income households to help preserve the affordable housing stock in Modesto, and

WHEREAS, staff is recommending the Housing Authority of Stanislaus County HOME Loan Agreement be amended to incorporate the Project Budget (**Exhibit "B"**) and the Project Timeline (**Exhibit "C"**) to the HOME Loan Agreement, in accordance with HOME Regulations 24 CFR 92 Subpart K (1)(i),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an amendment to the Housing Authority of Stanislaus County HOME Loan Agreement with the City of Modesto for the acquisition of Palm Valley Apartments.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Amendment 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 October, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

PALM VALLEY PROJECT
BUDGET COMPARISON
2009 VS. 2010
0910BUDGET\SMALLPROGRAMS\PVALLEYCOMP

08:43 AM	BUDGET	BUDGET	BUDGET VS.	
10/14/2009	2008-2009	2009-2010	BUDGET	
	PALM VALLEY	PALM VALLEY	DIFF.	DIFF. %
ITEM				
OPERATING RECEIPTS				
DWELLING RENTALS	$295,480	$286,049	-$9,431	-3.19%
INTEREST	$0	$150	$150	0.00%
OTHER RECEIPTS	$1,000	$1,000	$0	0.00%
TOTAL OPERATING REC.	$296,480	$287,199	-$9,281	-3.13%
ADMIN. FEE				
MONITORING FEE				
TOTAL RECEIPTS	$296,480	$287,199	-$9,281	-3.13%
OPERATING EXPENDITURES				
ADMINISTRATION:				
SALARIES	$35,990	$35,990	$0	0.00%
OTHER ADMIN. EXP.	$7,210	$5,500	-$1,710	-23.72%
TOTAL ADMIN. EXP.	$43,200	$41,490	-$1,710	-3.96%
TENANT SERVICES:				
SALARIES	$0	$0	$0	0.00%
OTHER EXPENSES	$0	$0	$0	0.00%
TOTAL TENANT SERVICES	$0	$0	$0	0.00%
UTILITIES:				
LABOR				
UTILITIES	$36,000	$36,000	$0	0.00%
TOTAL UTILITIES EXP.	$36,000	$36,000	$0	0.00%
ORDINARY MAINTENANCE:				
LABOR	$3,100	$4,620	$1,520	49.03%
MATERIALS	$4,100	$7,500	$3,400	82.93%
CONTRACT COSTS	$8,800	$23,300	$14,500	164.77%
TOTAL ORDINARY MAINT.	$16,000	$35,420	$19,420	121.38%
PROTECTIVE SERVICES :				
CONTRACT COSTS	$0	$0	$0	0.00%
TOTAL SERVICES	$0	$0	$0	0.00%
GENERAL EXPENSE:				
INSURANCE	$2,910	$3,410	$500	17.18%
P.I.L.O.T.	$0	$0	$0	0.00%
TERMINAL LEAVE PAY	$0	$0	$0	0.00%
EMPLOYEE BENEFIT CONT.	$2,090	$2,090	$0	0.00%
COLLECTION LOSSES	$0	$0	$0	0.00%
PAYMENTS ON NOTES	$149,095	$149,095	$0	0.00%
OTHER GENERAL EXPENSES	$0	$0	$0	0.00%
TOTAL GENERAL EXPENSES	$154,095	$154,595	$500	0.32%
TOTAL ROUTINE EXPENSES	$249,295	$267,505	$18,210	7.30%
NONROUTINE MAINTENANCE:				
EXTRAORDINARY MAINT.	$0	$0	$0	0.00%
CAPITAL EXPENDITURES				
REPLACEMENT EQUIPMENT	$0	$0	$0	0.00%
PROPERTY BETTERMENTS	$0	$0	$0	0.00%
TOTAL CAPITAL EXPEND.	$0	$0	$0	0.00%
TOTAL EXPENDITURES	$249,295	$267,505	$18,210	7.30%
GAIN OR LOSS	$47,185	$19,694	-$27,491	-58.26%
REPLACEMENT RESERVES	$18,000	$18,000	$0	0.00%
NET INCOME (LOSS)	$29,185	$1,694		

EXHIBIT 'B'

UPDATED PROJECT TIME LINE 210 EAST COOLIDGE

Sep-09

1. Units were acquired on July 17, 2009

2. Rehabilitation of the Handicap Conversion unit should be completed in October 2009

3. The installation of the Security Gate
    a. Out to bid in September - October 2009
    b. Award of bid in October- November 2009
    c. Work to be completed January 2010

EXHIBIT "C"

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-505

A RESOLUTION APPROVING ADDENDUM NO. 1 TO THE "AGREEMENT BETWEEN THE CITY OF MODESTO AND THE COUNTY OF STANISLAUS RELATING TO THE ADMINISTRATION, DEVELOPMENT, AND OPERATION OF A SANITARY LANDFILL"; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE ADDENDUM

WHEREAS, On August 17, 1970, the City and County entered into the "Agreement Between the City of Modesto and the County of Stanislaus Relating to the Administration, Development, and Operation of A Sanitary Landfill", an agreement which governed the operation of the Geer Road Sanitary Landfill, which was jointly owned by the City and County, and

WHEREAS, under this Agreement, the County operated the 167 acre landfill, and the City and County were jointly responsible for the cost of the operations, and

WHEREAS, the landfill was closed in 1990, and post-closure mitigation and monitoring of the site began in 1993, and

WHEREAS, funding for post-closure work comes from two sources; the County collects $1.50 per ton on wastes that are disposed of at the Fink Road Landfill, and the City of Modesto and the County charge $4.00 per ton on ash produced by the Waste-to-Energy facility, and

WHEREAS, each year, the $450,000 generated by these charges is deposited in the Geer Road Landfill Enterprise Fund maintained by the County for post-closure maintenance, mitigation, and monitoring, and

WHEREAS, the County is proposing to issue a Request For Quotations for the potential construction and operation of a solar farm on the closed Geer Road Landfill site, based on its discussions with interested firms, and

WHEREAS, the County has requested that the City execute an Addendum to the Agreement for the Geer Road landfill authorizing it to negotiate and approve, without further City consultation or approval, all necessary actions to establish, construct, and operate a privately owned solar energy farm at the landfill, and

WHEREAS, the proposed Addendum includes a provision holding the City free and harmless from any personal or property liability incurred as a result of the construction and operation of the solar farm, and

WHEREAS, the Addendum stipulates that any revenues from this project would be deposited into the Geer Road Enterprise Fund for use in post-closure,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Addendum No. 1 to the "Agreement Between the City of Modesto and the County of Stanislaus Relating to the Administration, Development, and Operation of A Sanitary Landfill".

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of October, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-506

A RESOLUTION AMENDING THE POSITION CLASSIFICATION PLAN FOR THE CITY OF MODESTO TO ESTABLISH THE CLASSIFICATION OF BUDGET MANAGER

WHEREAS, a Position Classification Plan for the City of Modesto was adopted by Modesto City Council Resolution No. 88-338 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 following classification:

Budget Manager

The job specification for this classification is being created to plan, organize, and direct the activities of the Budget and Financial Analysis Division within the City Manager's Office. The job specification for the classification of Budget Manager, as shown on the **attached Exhibit "A,"** which is hereby made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after October 27, 2009.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 27th day of October, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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
No: 3504

BUDGET 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, and direct the activities of the Budget and Financial Analysis Division within the City Manager's Office; to coordinate division activities with City departments; and to provide highly responsible technical support to the City Manager

SUPERVISION RECEIVED AND EXERCISED

Receives administrative direction from the City Manager.

Exercises direct supervision over assigned supervisory and professional, technical and administrative personnel.

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

Essential Functions:

Recommend and implement goals and objectives; establish performance standards and methods for budgeting and ensuring the long-range financial stability of the City; develop and implement policies and procedures.

Plan, oversee, and monitor the work of staff involved in the development, preparation and implementation of the City's annual budget with particular emphasis on balancing staff resources devoted to budget preparation and monitoring versus long-range financial planning.

Evaluate operations and activities of assigned section; implement improvements and modifications; prepare various reports on operations and activities.

Participate in the budget preparation and administration; prepare cost estimates for budget recommendations; submit justifications for staffing, equipment, materials and supplies; monitor and control expenditures.

Participate in the selection of staff; coordinate staff training; conduct performance evaluations; recommend discipline; implement discipline procedures as directed.

Essential Functions: (Continued)

Manage the development and implementation of the City Budget; develop revenue projections; recommend fiscal strategies including reserve fund levels; assure proper allocation of costs.

Conduct or direct special financial analyses requiring research, analysis, and interpretation in areas such as: long-range financial planning for the City's infrastructure, capital improvement program, and operating budget; land-use financial impact; utility rates; fee structures; redevelopment financing and analysis; and bond financing and analysis.

Integrate special financial analyses with the City budget; assist the City Manager and Mayor in assessing budget implications of various long-range projects, plans, and scenarios.

Answer questions and provide information to the public; investigate complaints and recommend corrective action as necessary to resolve complaints.

Build and maintain positive working relationships with Senior Executive Team, Mayor and 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 and practices of economic, financial, and statistical analysis.

Advanced financial modeling and software, particularly related to budgeting and financial analysis.

Principles and practices of municipal budget preparation and administration.

Pertinent local, State, Federal rules, regulations and laws.

Modern office procedures, methods and computer equipment.

Knowledge of: (Continued)

Principles and practices of research analysis and management.

Principles and practices of municipal budget development, preparation and administration.

Ability to:

Principles and practices of supervision, training, and performance evaluation.

Organize, implement and direct Budget and Financial Analysis Division operations and activities.

Conduct complex economic and financial analyses; to interpret data and draw sound conclusions.

Forecast economic conditions and the impact thereof on the City budget and operations.

Interpret and explain pertinent City and department policies and procedures.

Develop and recommend policies and procedures related to assigned operations.

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

Supervise, train and evaluate personnel.

Communicate clearly and concisely, both orally and in writing.

Experience and Training Guidelines

Any combination of education and/or experience which has provided the knowledge, skills, and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

Six years of increasingly responsible experience in professional finance budgeting, or economics; including one year providing technical and functional supervision over assigned personnel.

"Exhibit A"

Training:

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

A Master's degree with major course work in economics, business, finance, or a related field is highly desirable.

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. Positions require occasional overtime or weekend work and the ability to travel.

Class Spec History	
Adopted	10/09
Revised	
BU	Unrep

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MODESTO CITY COUNCIL
RESOLUTION NO. 2009-507

A RESOLUTION ACCEPTING THE COMMUNITY ORIENTED POLICING SERVICES 2009 TECHNOLOGY GRANT IN THE AMOUNT OF $500,000 FROM THE U.S. DEPARTMENT OF JUSTICE, OFFICE OF COMMUNITY ORIENTED POLICING SERVICES, TO PROVIDE PARTIAL FUNDING FOR THE CITY OF MODESTO AND STANISLAUS OPERATIONAL AREA REGIONAL RADIO INTEROPERABILITY PROJECT; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY GRANT DOCUMENTS

WHEREAS, on September 24, 2009, the Modesto Police Department received notification that the City of Modesto had been awarded $500,000 for the Community Oriented Policing Services (COPS) 2009 Technology grant from the U.S. Department of Justice, Office of Community Oriented Policing Services, to provide partial funding for the City of Modesto and Stanislaus Operational Area Regional Radio Interoperability Project, and

WHEREAS, this funding is not part of the American Recovery and Reinvestment Act of 2009, and

WHEREAS, the regional communications between public safety agencies within Stanislaus County are inadequate, and

WHEREAS, this funding will enhance the existing interoperability channel, expand radio coverage through difficult terrain, replace aging equipment, and continue progress towards a radio system that meets the national standard for interoperability, and

WHEREAS, this will support the City and County's joint efforts to respond to public safety incidents throughout California's Central Valley and be prepared for disaster situations.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Community Oriented Policing Services 2009 Technology grant in the amount of $500,000 from the U.S. Department of Justice, Office of Community Oriented Policing Services, to provide partial funding for the City of Modesto and Stanislaus Operational Area Regional Radio Interoperability Projects.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary grant documents, including any extentions, amendments, or subsequent contracts with the U.S. Department of Justice, Office of Community Oriented Policing Services, in relation thereto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of October, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-508

A RESOLUTION AMENDING THE FISCAL YEAR 2009/2010 MULTI-YEAR BUDGET, ESTIMATING REVENUE OF $500,000 FOR THE COMMUNITY ORIENTED POLICING SERVICES 2009 TECHNOLOGY GRANT TO PROVIDE PARTIAL FUNDING FOR THE CITY OF MODESTO AND STANISLAUS OPERATIONAL AREA REGIONAL RADIO INTEROPERABILITY PROJECT

WHEREAS, on September 24, 2009, the Modesto Police Department received notification that the City of Modesto had been awarded $500,000 for the Community Oriented Policing Services 2009 Technology grant from the U.S. Department of Justice, Office of Community Oriented Policing Services, to provide partial funding for the City of Modesto and Stanislaus Operational Area Regional Radio Interoperability Project, and

WHEREAS, this funding is not part of the American Recovery and Reinvestment Act of 2009, and

WHEREAS, the regional communications between public safety agencies and Stanislaus County are inadequate, and

WHEREAS, this funding will enhance the existing interoperability channel, expand radio coverage through difficult terrain, replace aging equipment, and continue progress towards a radio system that meets the national standard for interoperability, and

WHEREAS, this will support the City and County's joint efforts to respond to public safety incidents throughout California's Central Valley and be prepared for a disaster situations, 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 it hereby amends the Fiscal Year 2009/2010 Multi-Year Budget to appropriate

revenues and expenditures of $500,000, to provide partial funding for the City of Modesto and Stanislaus Operational Area Regional Radio interoperability project, as indicated below:

	Expense:		
To:	0410-190-2501-5000	$500,000	Technology Grant/Radio Interoperability
	Revenue:		
To:	0410-190-2501-3508	$500,000	Federal Police Grant

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of October, 2009 by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-509

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE FORMAL REQUEST FOR BIDS FOR THE PURCHASE AND INSTALLATION OF A REGIONAL RADIO INTEROPERABILITY SYSTEM, FOR THE CITY OF MODESTO AND STANISLAUS COUNTY, AT AN ESTIMATED TOTAL COST OF $500,000

WHEREAS, on September 24, 2009, the Modesto Police Department received notification that the City of Modesto had been awarded $500,000 for the Community Oriented Policing Services 2009 Technology grant from the U.S. Department of Justice, Office of Community Oriented Policing Services, to provide partial funding for the City of Modesto and Stanislaus Operational Area Regional Radio Interoperability Project, and

WHEREAS, the regional communications between public safety agencies and Stanislaus County are inadequate, and

WHEREAS, this funding will enhance the existing interoperability channel, expand radio coverage through difficult terrain, replace aging equipment, and continue progress towards a radio system that meets the national standard for interoperability, and

WHEREAS, this will support the City and County's joint efforts to respond to public safety incidents throughout California's Central Valley and be prepared for disaster situations,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager, or his designee, to issue formal Request for Bids for the purchase and installation of equipment and system engineering to begin the build out of a regional radio interoperability system, for the City of Modesto and Stanislaus County, at an estimated total cost of $500,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of October, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-510

A RESOLUTION ACCEPTING A MINI-GRANT IN THE AMOUNT OF $35,791.52 FROM THE OFFICE OF TRAFFIC SAFETY SOBRIETY CHECKPOINT MINI-GRANT PROGRAM, TO CONDUCT SOBRIETY CHECKPOINTS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY GRANT DOCUMENTS

WHEREAS, on July 2, 2009, the Modesto Police Department received an announcement for the solicitation of applications for the "Sobriety Checkpoint Mini-Grant Program" from the Office of Traffic Safety (OTS), through the National Highway Traffic Safety Administration (NHTSA), and

WHEREAS, the mini-grant is for personnel overtime costs to conduct sobriety checkpoints during the Winter Holiday Period, between December 16, 2009 and January 3, 2010, and the Labor Day period in August/September 2010, and

WHEREAS, four additional checkpoints may be conducted outside of those particular time frames at the Department's discretion, and

WHEREAS, a checkpoint cannot exceed $4,473.94 for overtime to conduct the checkpoint and includes funding for dispatchers and support personnel (Community Services Officer), and

WHEREAS, on September 25, 2009, the Modesto Police Department received notification that it was awarded $35,791.52 for the operation of up to eight sobriety checkpoints in Modesto, and

WHEREAS, the goal of the statewide sobriety checkpoint program is to reduce the number of people killed in alcohol-related collisions, and

WHEREAS, sobriety checkpoints have proven to be one of the most important DUI countermeasures available to law enforcement agencies, and

WHEREAS, this mini-grant will result in increased grant revenue of $35,791.52 to the City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts a mini-grant in the amount of $35,791.52 from the Office of Traffic Safety Sobriety Checkpoint Mini-Grant Program to conduct sobriety checkpoints.

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 27th day of October, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Stephanie Lopez
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-511

A RESOLUTION AMENDING THE FISCAL YEAR 2009/2010 MULTI-YEAR BUDGET TO APPROPRIATE REVENUES AND EXPENDITURES OF $35,791.52 TO CONDUCT SOBRIETY CHECKPOINTS

WHEREAS, on June 1, 2009, the Modesto Police Department received an announcement for the solicitation of applications for the "Sobriety Checkpoint Mini-Grant Program" from the Office of Traffic Safety (OTS), through the National Highway Traffic Safety Administration (NHTSA), and

WHEREAS, the mini-grant is for personnel overtime costs to conduct sobriety checkpoints during the Winter Holiday Period, between December 16, 2009 and January 3, 2010, and the Labor Day period in August/September 2010, and

WHEREAS, four additional checkpoints may be conducted outside of those particular time frames at the Department's discretion, and

WHEREAS, a checkpoint cannot exceed $4,473.94 for overtime to conduct the checkpoint and includes funding for dispatchers and support personnel (Community Services Officer), and

WHEREAS, on September 25, 2009, the Modesto Police Department received notification that it was awarded $35,791.52 for the operation of up to eight sobriety checkpoints in Modesto, and

WHEREAS, the goal of the statewide sobriety checkpoint program is to reduce the number of people killed in alcohol-related collisions, and

WHEREAS, sobriety checkpoints have proven to be one of the most important DUI countermeasures available to law enforcement agencies, and

WHEREAS, this mini-grant will result in increased grant revenue of $35,791.52 to the City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the Fiscal Year 2009/2010 Multi-Year Budget to appropriate revenues and expenditures of $35,791.52 for overtime to conduct sobriety checkpoints, as listed in **Exhibit A**.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of October, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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 Fiscal Year 2009/2010 Multi-Year Budget will be amended as follows:

	Revenue	Increase/(Decrease)	Description
To:	0410-190-2101-3490	$35,791.52	2009/10 OTS Sobriety Checkpoint Mini Grant
	Expense		
To:	0410-190-2101-0130	$35,791.52	Overtime

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-512

A RESOLUTION ACCEPTING AN AWARD OF $3,118 FROM THE U.S. DEPARTMENT OF JUSTICE, BULLETPROOF VEST PARTNERSHIP PROGRAM, FOR ARMOR VESTS

WHEREAS, on July 17, 2009, City staff submitted an application to the U.S. Department of Justice (DOJ) for reimbursement funding through the Bulletproof Vest Partnership (BVP) Program, and

WHEREAS, on October 6, 2009, City staff received notification of approval of the application to the DOJ for reimbursement funding through the BVP Program in the amount of $3,118, and

WHEREAS, through the BVP Program Federal reimbursements funds are made available for the purchase of bulletproof 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 City of Modesto Police Department desires to participate in the BVP Program from the DOJ, and

WHEREAS, the BVP Program helps protect the lives of law enforcement officers by assisting local government equip their officers with armor vests, and

WHEREAS, the BVP Program has awarded the City of Modesto funding in the amount of $3,118, to purchase armor vests for law enforcement officers in the Modesto Police Department.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts an award in the amount of $3,118 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 the necessary documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto, held on the 27th day of October, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-513

A RESOLUTION AMENDING THE 2009/10 MULTI-YEAR BUDGET TO ESTIMATE REVENUE OF $3,118 FROM THE U.S. DEPARTMENT OF JUSTICE (DOJ), 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 sum of $3,118 from the U.S. Department of Justice (DOJ), Bulletproof Vest Partnership Program, and

WHEREAS, the federal award 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 BVP program funding,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2009/10 Multi-Year Budget is hereby amended as follows:

Special Revenue Fund-0410:

Revenue:			
To:	0410-190-2502-3508	$3,118	Federal Police Grant
Expense:			
To:	0410-190-2502-0308	$6,236	Tools, Shop and Field Supplies

Transfer between Funds:

Expense:			
To:	0100-700-2502-7041	$3,118	Transfer Out From Fund 0100 (Match Funding)
Revenue:			
To:	0410-700-2502-9010	$3,118	Transfer In to Fund 0410

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of October, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-514

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE 3200 NIGHTINGALE DRIVE - BUILDING DEMOLITION PROJECT, ACCEPTING THE BID, AND APPROVING A CONTRACT WITH DELTA OILFIELD SERVICES, INC. IN THE AMOUNT OF $15,750 FOR THE 3200 NIGHTINGALE DRIVE - BUILDING DEMOLITION PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the 3200 Nightingale Drive - Building Demolition project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the 3200 Nightingale Drive - Building Demolition project were opened at 11:00 a.m. on September 22, 2009, and later tabulated by the Director of Public Works for the consideration of the Council, and

WHEREAS, the Director of Public Works has recommended that the bid of $15,750 received from Delta Oilfield Services, Inc. be accepted as the lowest responsible bid and the contract be awarded to Delta Oilfield 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 3200 Nightingale Drive - Building Demolition project, accepts the bid of Delta Oilfield Services, Inc. in the amount of $15,750, and awards Delta Oilfield Services, Inc. the contract for the 3200 Nightingale Drive - Building Demolition project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of October, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-515

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO WASTEWATER MASTER PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 2006052076): HAHN LIFT STATION RELOCATION / RECONSTRUCTION

WHEREAS, on May 27, 1997, the City Council, by Resolution No. 97-290, certified the Master Environmental Impact Report ("EIR") for the Modesto Wastewater Master Plan (SCH No. 2006052076), and

WHEREAS, the City of Modesto proposes to relocate/reconstruct the Hahn Lift Station as identified on the adopted Wastewater Collection System Master Plan and in the Wastewater Master Plan Master EIR, and

WHEREAS, Section 15177 of the CEQA Guidelines, relating to reviewing subsequent projects within the scope of a Master EIR, states that the lead agency shall prepare an initial study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR, whether any new additional mitigation measures or alternatives will be required in conjunction with the project, and whether the subsequent project was described in the Master EIR as being within the scope of the project, and

WHEREAS, the City's Public Works Department by Environmental Assessment Initial Study EA/PW 2008-21 reviewed the proposed Hahn Lift Station Relocation/Reconstruction to determine whether the project is within the scope of the project covered by the Wastewater Master Plan Master EIR, and made the determination that the proposed project will have no additional significant effect on the environment that was not identified in the Master EIR and, further, that no new or additional

mitigation measures or alternatives are required, and that therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines on November 17, 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 27, 2009, 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:

1. The type of Project under consideration is described in the Master EIR (MEIR).

2. All applicable policies, regulations, and mitigation measures identified in the MEIR have been applied to the project.

3. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR. It has been determined that the project was described in the MEIR and is within the scope of the MEIR (SCH No. 2006052076), which analyzed the potential impacts of build out of the Wastewater Master Plan.

4. Based on the Initial Study, the City of Modesto finds and determines:

    a. That the proposed subsequent project will have no additional significant effect that was not identified in the MEIR.
    b. That no new or additional mitigation measures or alternatives are required.

5. The Initial Study, Environmental Assessment No. EA/PW 2008-21, provides the substantial evidence to support findings 1 through 4, above.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of October, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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/PW 2008-21

City of Modesto

Finding of Conformance to Wastewater Master Plan Update Master EIR

Initial Study Environmental Checklist EA/PW No. 2008-21

For the proposed:

Hahn Lift Station Relocation/Reconstruction

Prepared by:
City of Modesto
Public Works Department
Capital Improvement Services/Engineering Design Division

November 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: Hahn Lift Station Relocation/Reconstruction

B. Address or Location:

Project: Intersection of Nightingale Dr. and Honey Creek Rd., Modesto, Stanislaus County, CA, southeast and southwest corner parcels (3808 Honey Creek Road/APN 076-001-042 and 3200 Nightingale Drive/APN 076-001-037)

Applicant: Capital Improvement Services Division
Public Works Department
1010 Tenth Street, Suite 4600
P. O. Box 642
Modesto, CA 95353

D. City Contact Person: Rich Ulm, Public Works 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: single family residential

H. Project Description:

The purpose of the project is to relocate and upgrade the Hahn Lift Station to move from the current location on the corner of a lot which also contains a single family home to the lot currently containing a vacant single family home across the street. The currently existing lift station is at the southeast corner of the intersection of Nightingale Dr. and Honey Creek Rd., the project would re-locate this facility to the southwest corner. The project includes acquisition of the new site and is expected to include demolition or relocation of the vacant home. The project will also increase pump capacity as well as capacity of associated pipe work in conformance with capacity planned for in the WWMP MEIR. This increased capacity will provide for the peak flow at build out of the planned tributary area for this lift station. This project will also reduce/remove stormwater inflows and eliminate flooding of the pump station and concomitant maintenance issues. Associated site work will include construction of ornamental iron fencing in the front of the site, masonry block wall to the side and rear of the facility, concrete flatwork, site lighting, and front landscaping. The project includes the demolition/removal of the existing lift station and associated equipment at the southeast corner, and also includes installation of all appurtenant piping to effect the relocation.

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.

William Wong, Project Manager	Senior Civil Engineer Title	11/14/08 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.	☒	☐
(2)	City policies which reduce, avoid or mitigate environmental effects, will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template.	☒	☐
(3)	Federal, State, Regional and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).	☒	☐
(4)	No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	☒	☐
(5)	The project will occur within the boundaries of the planning area as established in the Wastewater Master Plan.	☒	☐
(6)	Development within the project will comply with all mitigation measures identified in the Wastewater Master Plan Master EIR.	☒	☐

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed sections 1 through 20 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any no response must be discussed.

		YES	NO
(1)	Certification of the Wastewater Master Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.	☒	☐
(2)	This project was described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings.	☒	☐
(3)	No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.	☒	☐
(4)	No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available.	☒	☐

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.	☐	☒
(2)	The project would have a substantial adverse effect on a scenic vista or scenic resources.	☐	☒
(3)	The project would substantially degrade the existing visual character or quality of the project site and its surroundings.	☐	☒
(4)	The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area.	☐	☒

Discussion:

(1) The project is specifically provided for in the Modesto Wastewater Master Plan.

(2) No scenic vistas or scenic resources are affected by the proposed project.

(3) The existing visual character is of a single-family residential neighborhood. The proposed lift station will be within a vault below grade, overlain by concrete flatwork. The frontage of the site will be landscaped, and the site will be enclosed with fencing consisting of decorative iron fence toward the street frontages and masonry block wall toward the side lot lines. The area within the fenced enclosure will include concrete flatwork and equipment enclosures.

(4) Task lighting will be installed within the fenced area. Lighting will be shielded and directed to avoid off-site light and glare.

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.	☐	☒
(2)	The project will directly result in the development of land outside the Modesto Urban Area General Plan planning area boundaries.	☐	☒
(3)	The project will conflict with existing zoning for agricultural use, or a Williamson Act contract.	☐	☒
(4)	The project will involve other changes in the existing environment which, due to their location or nature, could result in additional conversion of Farmland to non-agricultural use.	☐	☒

Discussion:

(1) The project is relocation/reconstruction of an existing lift station, as provided for in the Modesto Wastewater Master Plan. The site is designated Residential on the Modesto Urban Area General Plan, this use is consistent with the designation and zoning of the site.

(2) The project is relocation/reconstruction of an existing lift station, on a site not used for agricultural use.

(3) The project is relocation/reconstruction of a lift station, on a site not zoned for agricultural use.

(4) The project is relocation/reconstruction of a lift station, as provided for in the Modesto Wastewater Master Plan, and will not result in additional conversion of farmland to non-agricultural use beyond that contemplated by the Mater Plan EIR.

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 PM_{10} 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.	☐	☒
(2)	The project does not comply with the air quality policies of the Modesto Urban Area General Plan.	☐	☒
(3)	The project would expose sensitive receptors to substantial pollutant concentrations.	☐	☒
(4)	The project would create objectionable odors affecting a substantial number of people.	☐	☒

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 relocation/reconstruction of an existing lift station, and will not increase air pollutant emissions when in operation. The project will comply with the air quality policies of the Modesto Urban Area General Plan.

(3) The project is relocation/reconstruction of an existing lift station, and will not increase air pollutant emissions when in operation.

(4) The project is relocation/reconstruction of an existing lift station, and will not increase air pollutant emissions/odors 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.	☐	☒
(2)	Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species.	☐	☒
(3)	The project would conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	☐	☒

Discussion:

(1) The project is relocation/reconstruction of an existing lift station, as provided for in the Modesto Wastewater Master Plan.

(2) The project is relocation/reconstruction of an existing lift station, and will not have any new effects on wildlife. All work will be confined to an already-developed, urbanized site.

(3) The project is relocation/reconstruction 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. Note that policies of the Modesto Urban Area General Plan as related to preservation of archeological and paleontological resources are applicable to any project involving excavation. These policies are expressed in Policy VII.F.2 of the General Plan.

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.	☐	☒
(2)	The project would adversely affect a cultural (historical or archaeological) resource pursuant to § 15064.5.	☐	☒
(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.	☐	☒

Discussion:

(1) The project is relocation/reconstruction of an existing lift station, as provided for in the Modesto Wastewater Master Plan.

(2) The project is relocation/reconstruction of an existing lift station on an already-developed site, outside the area of potential concern identified in the Modesto Urban Area General Plan, and will not have any new effects on cultural resources. The project site is outside the area identified in the Modesto Urban Area General Plan as potentially sensitive for this resource.

(3) The project is relocation/reconstruction of an existing lift station on an already-developed site, and will not have any new effects on paleontological resources or human remains. The project site is outside the area identified in the Modesto Urban Area General Plan as potentially sensitive for this resource.

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.	☐	☒
(2)	The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.	☐	☒

Discussion:

(1) The project is relocation/reconstruction of an existing lift station, as provided for in the Modesto Wastewater Master Plan.

(2) The project is relocation/reconstruction of an existing lift station, and will not have any new effects in relation to unstable soils. The site vicinity is not mapped for any type of instability.

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.	☐	☒
(2)	The project does not comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.	☐	☒
(3)	The project contains a contaminated site not identified as of December 2006.	☐	☒
(4)	The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	☐	☒
(5)	The project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	☐	☒

Discussion:

(1) The project is relocation/reconstruction of an existing lift station, as provided for in the Modesto Wastewater Master Plan.

(2) The project is relocation/reconstruction of an existing lift station. No hazardous materials will be used or stored on site.

(3) The proposed site is a developed residential lot and is not known to be a contaminated site.

(4) The project is relocation/reconstruction of an existing lift station. There will be no hazardous emissions or materials, substances or wastes.

(5) The project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5

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.	☐	☒
(2)	The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	☐	☒
(3)	The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures.	☐	☒
(4)	The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	☒

Discussion:

(1) The project is relocation/reconstruction of an existing lift station to a nearby lot, 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 relocation/reconstruction of an existing lift station to a nearby lot. The project will not substantially increase the rate or amount of surface runoff.

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.	☐	☒
(2)	The project includes a substantive amendment to the Modesto Urban Area General Plan or any Specific Plan.	☐	☒
(3)	The project would physically divide an established community	☐	☒

Discussion:

(1) The project is relocation/reconstruction 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 relocation/reconstruction 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.	☐	☒
(2)	The project would result in the loss of availability of a known mineral resource, either locally important or of regional/statewide significance.	☐	☒

Discussion:

(1) The project is relocation/reconstruction of an existing lift station, as provided for in the Modesto Wastewater Master Plan.

(2) The project is relocation/reconstruction 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.	☐	☒
(2)	The project will exceed the noise policies of the Modesto Urban Area General Plan.	☐	☒
(3)	The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☒
(4)	The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.	☐	☒

Discussion:

(1) The project is relocation/reconstruction 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 relocation/reconstruction 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 relocation/reconstruction of an existing lift station and will not result in any permanent increase in ambient noise levels.

(4) The project is relocation/reconstruction 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.	☐	☒

Discussion:

(1) The project is relocation/reconstruction 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. The project will provide for minor expansion of the facility, accommodating build out as planned for and accommodated by the City's General Plan and as anticipated in the Wastewater Master Plan and its EIR.

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 relocation/reconstruction 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.	☐	☒
(2)	Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).	☐	☒
(3)	Result in inadequate emergency access.	☐	☒

Discussion:

(1) The project is relocation/reconstruction 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 relocation/reconstruction of an existing lift station, and will have no effect on traffic design.

(3) The project is relocation/reconstruction 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.	☐	☒

Discussion:

(1) The project is relocation/reconstruction 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.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-516

RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR PURCHASE AND INSTALLATION OF CLEAIRE LONGVIEW DIESEL ENGINE PARTICULATE FILTERS TO A-Z BUS SALES, INC., SACRAMENTO CA, FOR AN ESTIMATED TOTAL COST OF $26,475 AND TO CUMMINS WEST, INC., SAN LEANDRO, CA, FOR AN ESTIMATED TOTAL COST OF $127,913; AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE PURCHASE ORDERS FOR A TOTAL ESTIMATED COST OF $154,388

WHEREAS, the City Council authorized the purchase of seven buses in Capital Improvement Project (6510-165-A131), and

WHERAS, the California Air Resources Board (CARB) requires that for each new bus placed in service an older diesel powered bus be retrofitted with a CARB compliant particulate filter, and

WHEREAS, only the Cleaire Longview diesel engine particulate filter is certified by the CARB for use in California, and

WHEREAS, City staff requested quotes from firms that could furnish and install the Cleaire Longview diesel engine particulate filters on one 1999 MCI bus and six 1998 Gillig buses, and

WHEREAS, Cummins West, Inc. and A-Z Bus Sales, Inc. submitted bids to furnish and install the Cleaire Longview diesel engine particulate filters on said buses, and

WHEREAS, A-Z Bus Sales, Inc. submitted the lowest bid to furnish and install said filter on the 1999 MCI, and

WHEREAS, Cummins West, Inc. submitted the lowest bid to furnish and install said filters on the six 1998 Gillig buses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it authorizes the award of bid and contract for the purchase and installation of seven Cleaire Longview diesel engine particulate filters for Modesto Area Express buses, to A-Z Bus Sales, Inc., Sacramento, CA, for a total estimated cost of $26,475 and Cummins West, Inc., San Leandro, CA, for a total estimated cost of $127,913.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue purchase orders for a total estimated cost of $154,388.

The forgoing resolution was introduced at a regular meeting of the Council of the City of Modesto on the 27th day of October, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and this resolution adopted by the following vote:

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

ATTEST: _____
STEPHENIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM

By: _____
SUSANNA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-517

RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 BUDGET TO MOVE $74,032 FROM REVENUE ACCOUNT NO. 6540-165-1600-3218 (FIXED-ROUTE BUS OPERATIONS) TO ACCOUNT NO. 6510-165-A131-6070 (FIXED-ROUTE BUS PURCHASES)

WHEREAS, the City Council authorized the purchase of seven buses in Capital Improvement Project (6510-165-A131), and

WHEREAS, the California Air Resources Board requires that for each new bus placed in service an older diesel powered bus be retrofitted with a CARB compliant particulate filter, and

WHEREAS, a budget adjustment in the amount of $74,032 is necessary to fully fund the purchase of the seven new buses and the installation of particulate filters in seven older buses.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2009-2010 budget to move $74,032 from Account No. 6540-165-1600-3218 (Fixed-Route Bus Operations) to Account No. 6510-165-A131-6070 (Fixed-Route Bus Purchases).

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

The forgoing resolution was introduced at a regular meeting of the Council of the City of Modesto on the 27th day of October, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Lopez, was upon roll call carried and this resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHENIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM

By: _____
SUSANNA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-518

RESOLUTION ESTABLISHING A NEW CAPITAL IMPROVEMENT PROGRAM PROJECT TITLED "AGRICULTURAL WELLS – COMMUNITY PARKS" AND APPROVING AN INTER-FUND LOAN BETWEEN THE CITY'S WATER FUND AND THE GENERAL FUND TO FUND THE PROJECT TO BE REPAID BY THE GENERAL FUND THROUGH AN ANNUAL TRANSFER IN THE AMOUNT OF $50,000

WHEREAS, one of the largest expenses in the parks maintenance budget is for irrigation water, with an annual cost of approximately $800,000 when optimal watering is done, and

WHEREAS, this is recognized as a substantial and on-going expense which could be reduced by the installation of shallow agricultural wells used solely for irrigation purposes, and

WHEREAS, staff from both Parks, Recreation, and Neighborhoods and Public Works recognize and agree that this is the correct approach which could also result in better water system pressure during peak times for other water customers, and

WHEREAS, the installation of agricultural wells in the City's seven community parks requires the establishment of a Capital Improvement Program project and the allocation of funds, and

WHEREAS, project funding is estimated at $350,000 and is available through an inter-fund loan between the Water Fund and the General Fund,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves establishing a Capital Improvement Project titled "Agricultural Wells – Community Parks".

BE IT FURTHER RESOLVED that the Council also approves an inter-fund loan between the City's Water Fund and the General Fund in the amount of $350,000 to fund the project.

BE IT FURTHER RESOLVED that said inter-fund loan shall be repaid by the General Fund to the City's Water Fund in seven annual payments of $50,000, plus interest, at a rate of one-percent (1%) based on the City's current portfolio yield.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of October, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-519

RESOLUTION APPROVING A REORGANIZATION OF THE PUBLIC WORKS DEPARTMENT INTO TWO SEPARATE DEPARTMENTS: THE PUBLIC WORKS DEPARTMENT AND THE UTILITY PLANNING AND PROJECTS DEPARTMENT, EFFECTIVE NOVEMBER 10, 2009

WHEREAS, the City of Modesto's Public Works Department was created by a 2004 reorganization that combined the former Operations and Maintenance Department (O & M) and the former Engineering and Transportation Department (E & T), and

WHEREAS, this reorganization was primarily done as a cost reduction measure and to strengthen the linkage between E & T and O & M, and

WHEREAS, recent developments in the water and wastewater utility marketplace, and the broad nature of the challenges in the delivery of essential services to the public have generated discussion about how Public Works can best position itself to meet the future needs of the City, and

WHEREAS, this discussion generated the proposal to divide Public Works into two departments: Public Works (PW) and Utility Planning and Projects (UP & P), and

WHEREAS, the proposed reorganization is designed around a "current planning" and "advance planning" model where the day-to-day operations will be addressed by PW, and the strategic initiatives, master planning, financing, and project implementation related to water resources will be addressed by UP & P, and

WHEREAS, the UP & P Department will consist of the following divisions:

- Utility Master Planning
- Utility CIP Design
- Capital Improvement Program
- Utility Rates/Grants
- Construction Administration
- Regional Initiatives/Strategic Planning
- Streets CIP Design

WHEREAS, the PW Department will consist of the following divisions:

- Water Services
- Water Quality Control Services
- Street Maintenance
- Graffiti Abatement
- Curb, Gutter, Sidewalks
- Street Sweeping
- Airport
- Fleet Services
- Parking Garage Maintenance

WHEREAS, the PW and UP & P Departments will need to have a high degree of coordination in a variety of areas and tasks such as capital improvements, master planning, rates and regional initiatives, and

WHEREAS, a Utilities Coordination team will be created to ensure ongoing coordination and collaboration between the two new departments, and

WHEREAS, additional staffing needs include an additional department head (funding partially offset by moving a Deputy Director of Public Works into the Interim Director of PW position and leaving the Deputy Director position vacant), and an Administrative Office Assistant II position,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the reorganization of the Public Works Department into two departments: the Public Works Department and the Utility Planning and Projects Department, effective November 10, 2009.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of October, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-520

A RESOLUTION AMENDING FISCAL YEAR 2009/10 OPERATING BUDGET TO TRANSFER $62,225 FROM WATER FUND RESERVES (6100-800-8000-8003) AND $67,194 FROM WASTEWATER FUND RESERVES (6210-800-8000-8003) TO MEET ADDITIONAL FUNDING REQUIREMENTS FOR THE NEW UTILITY PLANNING AND PROJECTS DEPARTMENT (6100-440-5001)

WHEREAS, the City of Modesto's Public Works Department was created by a 2004 reorganization that combined the former Operations and Maintenance Department (O & M) and the former Engineering and Transportation Department (E & T), and

WHEREAS, this reorganization was primarily done as a cost reduction measure and to strengthen the linkage between E & T and O & M, and

WHEREAS, recent developments in the water and wastewater utility marketplace, and the broad nature of the challenges in the delivery of essential services to the public have generated discussion about how Public Works can best position itself to meet the future needs of the City, and

WHEREAS, this discussion generated the proposal to divide Public Works into two departments: Public Works (PW) and Utility Planning and Projects (UP & P), and

WHEREAS, the proposed reorganization is designed around a "current planning" and "advance planning" model where the day-to-day operations will be addressed by PW, and the strategic initiatives, master planning, financing, and project implementation related to water resources will be addressed by UP & P, and

WHEREAS, funding for the additional Department Head will be partially offset by leaving one existing Deputy Director of Public Works position vacant, and

WHEREAS, in addition, approximately $130,000 is necessary to meet the additional funding requirements for the new UP & P Department for Fiscal Year 2009/10, and

WHEREAS, staff requested the transfer of $62,225 from Water Fund Reserves (6100-800-8000-8003) and $67,194 from Wastewater Fund (6210-800-8000-8003 to meet the additional funding requirements, as shown in "**Exhibit A**" **attached**.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending Fiscal Year 2009/10 Budget to transfer of $62,225 from Water Fund Reserves (6100-800-8000-8003) and $67,194 from Wastewater Fund Reserves (6210-800-8000-8003) to meet the additional funding requirements for the new Utility Planning and Projects Department (6100-440-5001).

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of October, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Fund Name:

Water Fund

	Revenue Account Adjustments	
6100-440-5001-4909	Interfund Labor Charges	$167,837
		$167,837
	Expense Account Adjustments	
6100-440-Various-0255	Interfund Labor Charges	-$80,132
6100-440-5001-0182	Salary for new position (Director)	$88,000
6100-440-5001-0192	Benefits for new position (Director)	$33,000
6100-440-5001-0181	Salary Adjustment (Increase)	$92,000
6100-440-5001-0191	Benefit Adjustment (Increase)	$57,000
6100-440-5001-0218	Equipment Pool Maintenance	$36
6100-440-5001-0225	Equipment Pool Replacement	$3
6100-440-5001-0252	Infrastructure Tech and Info Charges	$2,952
6100-440-5001-0253	Replacement Tech and Info Charges	$2,614
6100-440-5001-0254	Operations Tech and Info Charges	$7,533
6100-440-5001-0256	Phones Tech and Info Charges	$1,008
6100-440-5001-0257	Building Services - City Forces	$11,952
6100-440-5001-0413	Property Insurance	$24
6100-440-5001-0415	Liability Insurance	$7,560
6100-440-5001-0207	Conferences	$1,400
6100-440-5001-0208	Business Expenses	$72
6100-440-5001-0209	Training Expenses	$720
6100-440-5001-0210	Utilities	$720
6100-440-5001-0217	Photocopy	$864
6100-440-5001-0301	Office supplies	$2,160
6100-440-5001-0302	Books and Periodicals	$144
6100-440-5001-0317	Microfilm	$72
6100-440-5001-0401	Memberships and Dues	$360
		$230,062
6100-800-8000-8003	Water Fund Contingency Reserve	-$62,225

Wastewater Fund

	Revenue Account Adjustments	
6210-440-5203-4909	Interfund Labor Charges	-$129,861
		-$129,861
	Expense Account Adjustments	
6210-440-5203-0184	Salary Adjustment (Decrease)	-$92,000
6210-440-5203-0194	Benefit Adjustment (Decrease)	-$57,000
6210-430-5200-0255	Interfund Labor Charges	$119,976
6210-440-5203-0252	Infrastructure Tech and Info Charges (decrease)	-$2,952
6210-440-5203-0253	Replacement Tech and Info Charges (decrease)	-$2,614
6210-440-5203-0254	Operations Tech and Info Charges (decrease)	-$7,533
6210-440-5203-0256	Phones Tech and Info Charges (decrease)	-$1,008
6210-440-5203-0257	Building Services - City Forces (decrease)	-$11,952
6210-440-5203-0413	Property Insurance (decrease)	-$24
6210-440-5203-0415	Liability Insurance (decrease)	-$7,560
		-$62,667
6210-800-8000-8003	Sewer Fund Contingency Reserve	-$67,194

Capital Improvement Fund

	Revenue Account Adjustments	
0300-420-4112-4909	Interfund Labor Charges	$29,900
	Expense Account Adjustments	
0300-420-4112-0182	Salary for new position (AOA II)	$23,000
0300-420-4112-0192	Benefits for new position (AOA II)	$6,900

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-521

Print

A RESOLUTION AMENDING THE POSITION CLASSIFICATION PLAN FOR THE CITY OF MODESTO TO ESTABLISH THE CLASSIFICATION OF DIRECTOR OF UTILITY PLANNING AND PROJECTS, DEPUTY DIRECTOR OF UTILITY PLANNING AND PROJECTS, AMEND THE CLASSIFICATION OF DIRECTOR OF PUBLIC WORKS, AND DELETE THE CLASSIFICATION OF DEPUTY DIRECTOR OF PUBLIC WORKS - ENGINEERING

WHEREAS, a Position Classification Plan for the City of Modesto was adopted by Modesto City Council Resolution No. 2008-681 pursuant to Rule 2 of the Personnel Rules and Regulations of the City of Modesto, and

WHEREAS, the City Manager has recommended to the Council amendments to the Position Classification Plan, and

WHEREAS, Rule 2.2 of the City of Modesto Personnel Rules provides that revisions to the Classification Plan shall be effective upon adoption of resolution of the City Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION I. CLASSIFICATION CREATED. The Position Classification Plan of the City of Modesto is hereby amended to create the job classifications of Director of Utility Planning and Projects and Deputy Director of Utility Planning and Projects. The job classifications are being created as a result of the reorganization of the Public Works Department into two departments: Public Works and Utility Planning and Projects. The specifications for the classifications of Director of Utility Planning and Projects and Deputy Director of Utility Planning and Projects, as shown on the attached **Exhibit "A**

and B," which are hereby made a part of this resolution by reference, are hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION II. CLASSIFICATION AMENDED. The Position Classification Plan of the City of Modesto is hereby amended to amend the job specification of Director of Public Works. The job specification is being amended as a result of the reorganization of the Public Works Department into two departments: Public Works and Utility Planning and Projects. The job specification for Director of Public Works, as shown on the attached **Exhibit "C,"** which is hereby made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION III. CLASSIFICATION DELETED. The Position Classification Plan of the City of Modesto is hereby amended to delete Deputy Director of Public Works – Engineering. Said classification is being deleted, as it is no longer needed.

SECTION IV. EFFECTIVE DATE. This resolution shall become effective on and after November 10, 2009.

CITY OF MODESTO
NO. 1785

DIRECTOR OF UTILITY PLANNING AND PROJECTS

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 functions of the Utility Planning and Projects Department including but not limited to: utility master planning, utility CIP design, utility rates/grants, construction administration, streets CIP design and regional water resource initiatives/strategic planning; 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 and Deputy City Manager.

SUPERVISION RECEIVED AND EXERCISED

Receives policy direction from the City Manager and/or Deputy City Manager.

Exercises direct supervision over assigned management, supervisory, professional, technical, maintenance, and administrative support staff.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS - *Essential and other important responsibilities and duties may include, but are not limited to the following:*

Essential Functions:

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 Deputy City Manager, 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 annual 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 Utility Planning and Projects Department budget; direct the forecast of additional funds needed for staffing, equipment, materials, and supplies; monitor and approve expenditures; implement mid-year adjustments.

Essential Functions: (Continued)

Select, train, motivate, and evaluate personnel; provide a high level of leadership; provide or coordinate staff training; conduct performance evaluations; implement discipline procedures; maintain discipline and high standards as necessary for efficient and professional operations of the Department.

Develop and implement long and short-term strategic plans in support of department and City-wide goals and objectives.

Plan, organize, direct, and evaluate all operations relating to utility master planning, utility CIP design, utility rates/grants, construction administration, streets CIP design, and regional initiatives/strategic planning, including the design, operation, construction, maintenance, and repair of utility facilities.

Prepare and implement long-range master planning and strategic planning for public works systems and improvements; prepare public works conditions to be placed on new and redeveloped parcels.

Direct the development, implementation, and administration of the City's capital improvement program as it relates to City-owned utility facilities.

Provide leadership in the development and implementation of strategies, programs, and ordinances.

Initiate and oversee the development, administration, and improvement of programs and strategies for protecting the City's water resources and wastewater treatment capacity, ensuring a reliable supply of high quality water to meet future needs and ensuring the availability of adequate physical facilities to meet future needs.

Advise on problems related to the operation, construction, and maintenance of City utility facilities.

Review plans, engineering reports, and budget estimates prepared by subordinates, outside consultants, and other City departments.

Perform utility rate structure analysis and make recommendations on utility rates.

Evaluate, recommend, and administer professional engineering consultants and contracts.

Represent the Department to outside groups and organizations; participate in outside community and professional groups and committees; provide technical assistance as necessary.

Essential Functions: (Continued)

Research and prepare technical and administrative reports and studies; prepare written correspondence as necessary.

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.

QUALIFICATIONS

Knowledge of:

Principles, practices, methods, materials, techniques, and equipment used in the construction, operation, and maintenance of water, sewer, and streets systems.

Principles and practices of civil engineering administration.

Principles and practices of leadership, motivation, team building, and conflict resolution.

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 human resource management.

Principles and practices of budget preparation and administration.

Plan, direct, and control the administration and operations of the Utility Planning and Projects Department.

Ability to:

Prepare and administer department budgets.

Ability to: (Continued)

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.

Represent the City's interests before boards and commissions of local agencies and special water and sewer districts as directed by the City Manager.

Identify and respond to public and City Council issues and concerns.

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

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 increasingly responsible public sector, water and wastewater industry, public utility, or related experience; including three years of administrative and management responsibility.

Training:

Equivalent to a Bachelor's degree from an accredited college or university with major course work in civil engineering, public or business administration, or a related field.

Training: (Continued)

A Master's degree from an accredited college or university in civil engineering, public, or business administration is highly desirable.

License or Certificate:

Possession of, or ability to obtain, an appropriate, valid California driver's license.

Possession of a Certificate of Registration as a professional civil engineer in the State of California is highly 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 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 are in the Unclassified Service and serve at the will of the City Manager.

Class Spec History	
Adopted	10/09
Revised	
BU	Exec Mgt

CITY OF MODESTO
No. 2024

DEPUTY DIRECTOR OF UTILITY PLANNING AND PROJECTS

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.

DEFINITION

To assist the Director of Utility Planning and Projects in managing and directing the Utility Planning and Projects Department; to plan, organize, and direct the activities of the Capital Improvement Services Division; and to provide highly complex staff assistance to the Director of Utility Planning and Projects.

SUPERVISION RECEIVED AND EXERCISED

Receives administrative direction from the Director of Utility Planning and Projects.

Exercises direct supervision over management, 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:

Assist the Director of Utility Planning and Projects in managing and directing the Utility Planning and Projects Department.

Assist in developing department goals and objectives; assist in the development and implementation of policies and procedures.

Plan, organize, and direct the activities of assigned division as it relates to the planning, design, and construction management of City buildings, equipment, City streets, electrical, water, wastewater, and drainage systems.

Establish long-range plans and goals, including strategic planning for the utility enterprise funds, rate setting, and issues dealing with environmental regulations.

Prepare division budget; assist in budget implementation; participate in the forecast of additional funds needed for staffing, equipment, materials, and supplies; administer approved budget.

Essential Functions: (Continued)

Recommend 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.

Exercise responsible charge of assigned engineering and utility planning functions.

May be assigned special projects requiring engineering design calculations and using the judgment of a registered professional engineer.

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 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.

MNIMUM QUALIFICATIONS

Knowledge of:

Principles and practices as applied to the field of municipal public works, including planning, development, design, and construction.

Principles and practices of policy development and implementing.

Principles and practices of leadership, motivation, team building, and conflict resolution.

Principles and practices of business correspondence and report writing.

Principles and practices of contract management.

Pertinent local, state and federal rules, regulations, and laws.

Knowledge of: (Continued)

Principles and practices of budget development, implementation, and monitoring.

Principles and practices of organizational analysis and management.

Principles and practices of supervision, training, and personnel management.

Technical, legal, and financial issues related to the conduct of municipal public works program.

Principles and practices of municipal utility rate settings.

Strategic planning, rate setting, and environmental regulations for municipal utilities.

Methods of preparing designs, plans, specifications, estimates, reports, and recommendations relating to proposed public works projects.

Modern office procedures, methods, and computer equipment.

Ability to:

Organize, direct, and implement a comprehensive CIP and engineering program.

Prepare and administer a budget.

Supervise, train, and evaluate personnel.

Interpret and explain Department policies and procedures.

Analyze problems, identify alternative solutions, project consequences of proposed actions, and implement recommendations in support of goals.

Gain cooperation through discussion and persuasion.

Oversee and coordinate the activities of a number of sections within the Department.

Assist with the preparation of departmental operating and capital improvement budgets and control budget expenditures.

Review and interpret cost estimates.

Ability to: (Continued)

Perform a variety of technical and engineering research and prepare reports of findings.

Establish and maintain cooperative 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:

Six years of increasingly responsible experience as a professional civil engineer; including two years of management responsibility.

Training:

Equivalent to a Bachelor's degree from an accredited college or university with major course work in civil engineering or a related field.

License or Certificate:

Possession of, or ability to obtain, an appropriate, valid California driver's license.

Possession of a valid Certificate of Registration as a Civil Engineer issued by the California State Board of Registration for Professional Engineers. If licensed in another state, candidates will have six (6) months to obtain California Registration.

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 Director of Utility Planning and Projects.

Class	*Spec History*
Adopted	10/09
Revised	
BU	Unrep M/C NS

CITY OF MODESTO
NO. 1780

DIRECTOR OF PUBLIC WORKS

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 functions of the Public Works Department including but not limited to: fleet, parking, streets, water, wastewater collection and treatment, storm water, airport, and transit; 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 and Deputy City Manager.

SUPERVISION RECEIVED AND EXERCISED

Receives policy direction from the City Manager and/or Deputy City Manager.

Exercises direct supervision over assigned management, supervisory, professional, technical, maintenance, and administrative support staff.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS - *Essential and other important responsibilities and duties may include, but are not limited to the following:*

Essential Functions:

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 Deputy City Manager, 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 annual 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 Public Works Department budget; direct the forecast of additional funds needed for staffing, equipment, materials, and supplies; monitor and approve expenditures; implement mid-year adjustments.

Essential Functions: (Continued)

Select, train, motivate, and evaluate personnel; provide a high level of leadership; provide or coordinate staff training; conduct performance evaluations; implement discipline procedures; maintain discipline and high standards as necessary for efficient and professional operations of the Department.

Develop and implement long and short-term strategic plans in support of department and City-wide goals and objectives.

Plan, organize, direct, and evaluate all operations relating to fleet, parking, streets, water, wastewater collection and treatment, storm water, airport, and transit, including the operation, construction, maintenance, and repair of utility facilities

Participate in the development of the City's capital improvement program as it relates to City-owned utilities and transportation systems.

Advise on problems related to the operation, construction, and maintenance of City utility and transportation systems.

Review plans, engineering reports, and budget estimates prepared by subordinates, outside consultants and other City departments.

Participate in utility rate structure analysis and act as a key stakeholder.

Evaluate, recommend, and administer professional consultants and contracts.

Represent the Department to outside groups and organizations; participate in outside community and professional groups and committees; provide technical assistance as necessary.

Research and prepare technical and administrative reports and studies; prepare written correspondence as necessary.

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.

QUALIFICATIONS

Knowledge of:

Principles, practices, methods, materials, techniques, and equipment used in the construction, operation, and maintenance of fleet, water and sewer systems, wastewater facilities, and streets.

Principles and practices of leadership, motivation, team building, and conflict resolution.

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 human resource management.

Principles and practices of budget preparation and administration.

Ability to:

Plan, direct, and control the administration and operations of the Public Works 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.

Ability to: (Continued)

Represent the City's interests before boards and commissions of local agencies and special water and sewer districts as directed by the City Manager.

Identify and respond to public and City Council issues and concerns.

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

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 increasingly responsible public works experience; including three years of administrative and management responsibility.

Training:

Equivalent to a Bachelor's degree from an accredited college or university with major course work in civil engineering, 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 Certificate of Registration as a professional civil engineer in the State of California is highly 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 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 are in the Unclassified Service and serve at the will of the City Manager.

Class	*Spec History*
Adopted	7/04
Revised	12/08
Revised	10/09
BU	Exec Mgt

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 27th day of October, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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. 2009-522

Print

A RESOLUTION AMENDING EXHIBIT "I" OF RESOLUTION NO. 2007-384 TO AMEND THE CLASS RANGE TABLE FOR EXECUTIVE MANAGEMENT TO ESTABLISH THE DIRECTOR OF UTILITY PLANNING AND PROJECTS AT SALARY RANGE 1422

WHEREAS, the City Council desires to amend Exhibit "I" of Resolution No. 2007-384, which approved the Class Range Table for Executive Management Classes,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. AMENDMENT TO RESOLUTION NO. 2007-384. Exhibit "I" entitled, "City of Modesto Class Range Table Executive Management Effective June 26, 2007," attached to Resolution No. 2007-384, is hereby amended as shown on **Exhibit "A"** entitled, "City of Modesto Class Range Table Executive Management Effective November 10, 2009," which is **attached** hereto and made a part hereof as though set forth in full herein. Said amended **Exhibit "A"** establishes the salary range for Director of Utility Planning and Projects at range 1422.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after November 10, 2009.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on 27th day of October, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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
CLASS RANGE TABLE
EXECUTIVE MANAGEMENT
Effective **November 10, 2009**

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

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-523

A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2007-384 TO AMEND THE CLASS RANGE TABLE FOR UNREPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES TO DELETE DEPUTY DIRECTOR OF PUBLIC WORKS – ENGINEERING AND ESTABLISH THE CLASSIFICATION OF DEPUTY DIRECTOR OF UTILITY PLANNING AND PROJECTS AT SALARY RANGE 2455

WHEREAS, Council desires to amend Exhibit "A" of Resolution No. 2007-384, which approved the Class Range Table for Unrepresented Management and Confidential Non-Sworn Classes, Effective June 26, 2007,

WHEREAS, the Deputy Director of Public Works – Engineering is being deleted from salary range 2455,

WHEREAS, the Deputy Director of Utility Planning and Projects is being established at salary range 2455,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. AMENDMENT TO RESOLUTION NO. 2007-384 Exhibit "A" entitled, "City of Modesto Class Range Table, Unrepresented Management and Confidential Non-sworn Classes, Effective June 26, 2007," is hereby amended as shown on **Exhibit "A"** entitled, "City of Modesto Class Range Table Unrepresented Management and Confidential Non-Sworn Classes, Effective November 10, 2009," which is **attached** hereto and made part hereof as though set forth in full herein. Said amended **Exhibit "A"** deletes the Deputy Director of Public Works – Engineering and establishes the salary range for Deputy Director of Utility Planning and Projects at range 2455.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after November 10, 2009.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of October, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

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 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 Public Works – Engineering~~ **Deputy Director of Utility Planning and Projects**
2456	Senior Deputy City Attorney
2462	Assistant City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-524

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE DOWNSTREAM WATER SYSTEM IMPROVEMENTS-TIER 1, NORTH TANK WATER TRANSMISSION MAINS PROJECT, ACCEPTING THE BID, AND APPROVING A CONTRACT WITH A. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION IN THE AMOUNT OF $4,458,366 FOR THE DOWNSTREAM WATER SYSTEM IMPROVEMENTS-TIER 1, NORTH TANK WATER TRANSMISSION MAINS PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Downstream Water System Improvements-Tier 1, North Tank Water Transmission Mains project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Downstream Water System Improvements-Tier 1, North Tank Water Transmission Mains project were opened at 11:00 a.m. on September 15, 2009, and later tabulated by the Director of Public Works for the consideration of the Council, and

WHEREAS, the Director of Public Works has recommended that the bid of $4,458,366 received from A. Teichert & Son, Inc. dba Teichert Construction be accepted as the lowest responsible bid and the contract be awarded to A. Teichert & Son, Inc. dba Teichert Construction,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Downstream Water System Improvements-Tier 1, North Tank Water Transmission Mains project, accepts the bid of A. Teichert & Son, Inc. dba Teichert Construction in the amount of $4,458,366, and awards A. Teichert & Son, Inc. dba Teichert Construction the contract for the

Downstream Water System Improvements-Tier 1, North Tank Water Transmission Mains project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of October, 2009, by Councilmember Marsh, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-525

A RESOLUTION APPROVING THE KIERNAN BUSINESS PARK SPECIFIC PLAN AMENDMENT NO. 4 (KIERNAN BUSINESS PARK EAST) FACILITIES MASTER PLAN AND INFRASTRUCTURE FINANCE PLAN FOR THE INFRASTRUCTURE NECESSARY TO SUPPORT THE DEVELOPMENT OF APPROXIMATELY 153 ACRES LOCATED NORTH OF PELANDALE AVENUE, EAST OF DALE ROAD, WEST OF THE FUTURE EXPANSION OF AMERICAN AVENUE, AND SOUTH OF KIERNAN AVENUE

WHEREAS, Government Code Section 65450 et. seq. permits cities and counties to adopt Specific Plans for the systematic implementation of the General Plan and to provide for greater level of detail in planning sites or areas of special interest or value; and

WHEREAS, the Modesto Urban Area General Plan includes a policy that requires the preparation of a comprehensive plan for all Comprehensive Planning Districts; and

WHEREAS, the Modesto Urban Area General Plan allows the implementation of a comprehensive plan through Specific Plans, as defined by Government Code Section 65450 et. seq.; and

WHEREAS, the Kiernan Business Park East area is located in the western portion of the Kiernan/Carver Comprehensive Planning District that consists of a total of 1,380 acres; and

WHEREAS, the Kiernan Business Park Specific Plan Amendment No. 4 ("Project") application was filed by Aruna Chopra ("Applicant") of Chopra Development Enterprises to allow for the development of approximately 153 acres located north of Pelandale Avenue, east of Dale, west of the future expansion of American Avenue and south of Kiernan Avenue ("Property"); and

WHEREAS, Kiernan Business Park East area includes 16 acres of medium-high density residential, 23 acres of mixed used non-residential and 114 acres of business park development; and

WHEREAS, a Final Environmental Impact Report was prepared for the Kiernan Business Park Specific Plan Amendment No. 4 (SCH No. 2007062071) which analyzed the potential environmental effects of the proposed Project; and

WHEREAS, on September 1, 2009, the City Council approved the Kiernan Business Park Specific Plan Amendment No. 4 and certified the Kiernan Business Park Specific Plan Amendment No. 4 EIR; and

WHEREAS, the FMP and IFP are planning documents that will guide future infrastructure development and are required by the Kiernan Business Park Specific Plan Amendment No. 4; and

WHEREAS, The FMP and IFP are explicitly contemplated in the Kiernan Business Park Specific Plan Amendment No. 4 EIR; and

WHEREAS, on October 5, 2009, the Planning Commission held a duly noticed public hearing to consider the Kiernan Business Park East FMP and IFP in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing the Planning Commission recommended the Kiernan Business Park East FMP and IFP for City Council approval; and

WHEREAS, on October 27, 2009, the City Council held a duly noticed public hearing in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary relating to this proposed Kiernan Business Park East FMP and IFP was considered;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Modesto that it hereby finds as follows:

1. The proposed Kiernan Business Park Specific Plan Amendment No. 4 has been adopted by the Modesto City Council by Resolution 2009-420.

2. The companion Environmental Impact Report was also adopted by the Modesto City Council by Resolution 2009-418.

3. The proposed FMP and IFP supply the necessary information for the development of the infrastructure necessary to develop the needed backbone facilities for Kiernan Business Park East area.

4. The proposed Kiernan Business Park East FMP and IFP are consistent with the Final Program Environmental Impact Report for the Kiernan Business Park Specific Plan Amendment No. 4 Project (SCH No. 2007062071) and have been adequately analyzed by the EIR.

5. As per Sections 15168(c) and 15162 of the California Environmental Quality Act ("CEQA") Guidelines, this project is within the scope of the projects covered by the Program EIR and no new environmental document or findings are required by CEQA, and

6. There are no substantial changes proposed in the project which result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Kiernan Business Park Specific Plan Amendment No. 4 Program EIR.

7. No substantial changes have occurred with respect to the circumstances under which the project is undertaken which will result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Kiernan Business Park Specific Plan Amendment No. 4 Program EIR.

8. There is no new information of substantial importance which was not known and could not have been known with the exercise of reasonable diligence when the Kiernan Business Park Specific Plan Amendment No. 4 Program EIR, was adopted which shows any of the following:

   a. one or more significant effects which is not discussed in the Kiernan Business Park Specific Plan Amendment No. 4 Program EIR; or,

   b. significant effects which were previously examined will be substantially more severe than previously shown; or,

   c. previously infeasible mitigation measures or alternatives are now feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or,

d. mitigation measures or alternatives which are considerably different from those analyzed in the Kiernan Business Park Specific Plan Amendment No. 4 Program EIR, would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

9. The Initial Study, Environmental Assessment No. EA/C&ED 2009-20, provides the substantial evidence to support findings 4-6, above, and the City hereby determines that no further environmental documentation is required for the proposed project.

BE IT FURTHER RESOLVED by the City Council of the City of Modesto that the drainage basins or structure locations depicted in the FMP may be modified as required.

BE IT FURTHER RESOLVED by the City Council of the City of Modesto that it hereby adopts the Kiernan Business Park East Facilities Master Plan and Infrastructure Finance Plan on file in the office of the Community and Economic Development Department and incorporated herein by reference.

BE IT FURTHER RESOLVED that the project applicant shall indemnify, defend, and hold harmless the City of Modesto, its agents, officers, and employees from any and all claims, actions, or proceedings against the City of Modesto, its agents, officers, and employees to attack, set aside, void, or annul, any approval by the City of Modesto and its advisory agency, appeal board, or a legislative body concerning the Kiernan Business Park East FMP and IFP. The City of Modesto shall promptly notify the applicant of any claim, action, or proceeding and shall cooperate fully in the defense. If the City fails to do so, the applicant shall not thereafter be responsible to defend, indemnify, or hold City harmless.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of October, 2009, by Councilmember Hawn, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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. 2009-526

RESOLUTION AUTHORIZING THE AWARD OF PROPOSAL AND CONTRACT FOR THE PURCHASE AND INSTALLATION OF SEVEN (7) PAY-PER-SPACE PARKING MACHINES FOR THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, TO BAY CITIES AUTOMATIC GATES, SAN CARLOS, CA; AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE, TO ISSUE A PURCHASE ORDER FOR AN ESTIMATED TOTAL COST OF $131,669.48

WHEREAS, the City of Modesto operates three (3) parking garages and five (5) surface parking lots. The City's parking facilities are fully funded through hourly parking rates and monthly contractual charges to area businesses, and

WHEREAS, the City Council, on April 24, 2007, by Resolution No. 2007-231, authorized the Purchasing Manager to issue formal Request for Proposals (RFP) for the purchase of a parking automated attendant system (hardware/software) for the Parks, Recreation and Neighborhoods Department, Building and Parking Services Division, and

WHEREAS, the Purchasing Division issued RFP No. 0809-02 to twenty-four (24) prospective proposers, none of which were local companies, posted the proposal on the City's website and formally advertised as required by law, and

WHEREAS, RFP's were formally opened in the City Clerk's office. Of the twenty-four (24) prospective proposers, four (4) companies chose to respond. All four (4) companies provided responsive and responsible proposals, and

WHEREAS, an evaluation committee comprised of three (3) City staff and one representative from the City of Stockton evaluated and graded the proposals. Mayor Ridenour was invited to observe the evaluation process. The Purchasing Division facilitated the evaluation process. Neither Mayor Ridenour nor the Purchasing staff graded participants, and

WHEREAS, based on being ranked highest in total evaluation criteria the evaluation committee recommends the award of proposal and contract for the purchase and installation of seven (7) pay-per-space parking machines for the Public Works Department, Fleet Services Division, to Bay Cities Automatic Gates, San Carlos, CA, for an estimated total cost of $131,669.48, and

WHEREAS, the Public Works Department, Fleet Services Division anticipates the need for additional pay-per-space parking machines for expanded coverage of the current automated lots and for the possible automation of additional lots within the Parking Services Program, by accessing the terms of the award of this agreement. Any request for the purchase and installation of additional machines will come back before Council for authorization to award, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of proposal and contract for the purchase and installation of seven (7) pay-per-space parking machines for the Public Works Department, Fleet Services Division, to Bay Cities Automatic Gates, San Carlos, CA, conforms to the Modesto Municipal Code, and

WHEREAS, sufficient funds are budgeted in Fiscal Year 2009-10 in appropriation Unit: 6000-350-P597-6040,

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 seven (7) pay-per-space parking machines for the Public Works Department, Fleet Services Division, to Bay Cities Automatic Gates, San Carlos, 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 $131,669.48.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 4th day of November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-527

RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 ANNUAL BUDGET

WHEREAS, a monthly financial analysis has been completed and it has been determined that certain adjustments are required to the Annual Budget of the City of Modesto for Fiscal Year 2009-2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the Fiscal Year 2009-2010 budget have been adjusted as shown in **Exhibit A**, which is 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.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 4th day of November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following votes:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)
APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

PARKS, RECREATION AND NEIGHBORHOODS

This budget adjustment allocates $139,284 from the General Fund reserve to provide funding for: 1) the maintenance of park restrooms from August 2009 through Thanksgiving ($41,057); 2) the maintenance and watering of parkette properties ($49,098); and, 3) the maintenance, oversight, and watering of six public right of ways ($49,129). The public right of ways include the Kansas Overpass, Bowen Avenue roundabout, Briggsmore Overpass (3 areas) and the Encina median and roundabout. These adjustments may be partially or fully offset by the future sale of surplus park properties as discussed and recommended by the Finance Committee at their meeting of September 21, 2009.

APPROPRIATIONS

FROM:		
General Fund Reserves	0100-800-8000-8003	(139,284)
TO:		
Part Time Salary & Wages	0100-350-3522-0140	29,838
Temporary Agency (Labor)	0100-350-3522-0269	13,742
Services Professional & Other	0100-350-3522-0235	95,704

POLICE DEPARTMENT

The following budget adjustments transfer budgeted salary and benefit funding for Police Department positions that are grant funded out of the General Fund and into the Special Revenue Fund Operating Organizations where the grant funding for the position resides. This will provide for better accountability of grant funds. This adjustment also reverses the transfers-out of the Special Revenue Funds to the General Fund. A transfer from the General Fund will be made within each organization's existing appropriations to ensure that the positions are fully budgeted for each fiscal year.

STEP GRANT

APPROPRIATIONS

FROM:		
Salary Reduction	0100-190-1954-0184	(38,385)
Benefit Reduction	0100-190-1954-0194	(14,625)
TO:		
Salary Increase	0410-190-2100-0181	51,180
Benefit Increase	0410-190-2100-0191	19,500

TRANSFERS BETWEEN FUNDS

FROM:		
Transfer from Fund 0410	0100-700-1954-9041	(53,010)
Transfer to Fund 0100	0410-700-2100-7010	(53,010)

CALGRIP

APPROPRIATIONS

FROM:		
Salary Reduction	0100-190-1942-0184	(44,406)
Benefit Reduction	0100-190-1942-0194	(18,605)
TO:		
Salary Increase	0410-190-2911-0181	91,029
Benefit Increase	0410-190-2911-0191	38,298

TRANSFERS BETWEEN FUNDS

FROM:		
Transfer from Fund 0410	0100-700-1942-9041	(63,011)
Transfer to Fund 0100	0410-700-2911-7010	(63,011)

ARRA CHRP

APPROPRIATIONS

FROM:		
Salary Reduction	0100-190-1962-0184	(432,272)
Benefit Reduction	0100-190-1962-0194	(336,884)
TO:		
Salary Increase	0415-190-2800-0181	2,526,732
Benefit Increase	0415-190-2800-0191	1,948,050

TRANSFERS BETWEEN FUNDS

FROM:		
Transfer from Fund 0415	0100-700-1962-9041	(769,156)
Transfer to Fund 0100	0415-700-2800-7010	(769,156)

JAG

APPROPRIATIONS

FROM:		
Salary Reduction	0100-190-1960-0184	(181,451)
Benefit Reduction	0100-190-1960-0194	(96,513)
TO:		
Salary Increase	0420-190-2001-0181	402,038
Benefit Increase	0420-190-2001-0191	233,481

TRANSFERS BETWEEN FUNDS

FROM:		
Transfer from Fund 0420	0100-700-1960-9042	(304,173)
Transfer to Fund 0100	0420-700-2001-7010	(304,173)

TRAFFIC OFFENDER

APPROPRIATIONS

FROM:

Salary Reduction	0100-190-1952-0184	(280,836)
Benefit Reduction	0100-190-1952-0194	(166,894)

TO:

Salary Increase	0610-190-1908-0181	280,836
Benefit Increase	0610-190-1908-0191	166,894

TRANSFERS BETWEEN FUNDS

FROM:

Transfer from Fund 0610	0100-700-1952-9061	(443,266)
Transfer to Fund 0100	0610-700-1908-7010	(443,266)

PULBIC WORKS

In Fiscal Year 2006-07 the Storm Drain Fund received a General Fund transfer in the amount of $70,000 for the Storm Drain Master Plan (CIP Q231). In December 2007, Council approved the conversion of General Fund transfers to the Storm Drain Fund into loans. Inadvertently, a transfer from General Fund to the Storm Drain Fund occurred in Fiscal Year 2007-08. This budget adjustment returns the transfer back to the General Fund.

TRANSFERS BETWEEN FUNDS

FROM:

Transfer Out to Fund General Fund	6280-700-7000-7010	70,000

TO:

Transfer in from the Storm Drain Fund	0100-700-7000-9628	70,000

In conjunction with the establishment of Capital Improvement Project H018, 2010 Pavement Condition Survey (0700-430-H018), this budget adjustment recognizes Federal Grant revenues related to this project, and increases the Transfer In from Gas Tax Revenue, 0710, to the Special Gas Tax Fund, 0700, to offset City match funding for this project.

REVENUES

TO:

Federal TEA-21 RSTP	0700-430-H018-3532	200,000

APPROPRIATIONS

TO:

2010 Pavement Condition Survey Eng/Dsgn/Admin	0700-430-H018-6010	225,912

TRANSFERS BETWEEN FUNDS

FROM:

Transfer Out to Special Gas Tax Fund	0710-700-H018-7070	25,912

TO:		
Transfer In from Prop 1B Streets Fund	0700-700-H018-9071	25,912

In conjunction with the establishment of Capital Improvement Project H030, Oakdale Road from Scenic to Sylvan Pavement Rehabilitation, (0700-430-H030), this budget adjustment recognizes Federal Grant revenues related to this project, and increases the Transfer In from Gas Tax Revenue, 0710, to the Special Gas Tax Fund, 0700, to offset City match funding for this project.

REVENUES

TO:		
Federal TEA-21 RSTP	0700-430-H030-3532	285,000

APPROPRIATIONS

TO:		
Oakdale/Scenic-Sylvan Pvmt Rehab Eng/Dsgn/Admin	0700-430-H030-6010	321,925

TRANSFERS BETWEEN FUNDS

FROM:		
Transfer Out to Special Gas Tax Fund	0710-700-H030-7070	36,925
TO:		
Transfer In from Prop 1B Streets Fund	0700-700-H030-9071	36,925

In conjunction with the establishment of Capital Improvement Project H027, Sylvan Ave. from Coffee to Oakdale Pavement Rehabilitation (0700-430-H027), this budget adjustment recognizes Federal Grant revenues related to this project, and increases the Transfer In from Gas Tax Revenue, 0710, to the Special Gas Tax Fund, 0700, to offset City match funding for this project.

REVENUES

TO:		
Federal TEA-21 RSTP	0700-430-H027-3532	285,000

APPROPRIATIONS

TO:		
Sylvan/Coffee-Oakdale Pvmt Rehab Eng/Dsgn/Admin	0700-430-H027-6010	321,925

TRANSFERS BETWEEN FUNDS

FROM:		
Transfer Out to Special Gas Tax Fund	0710-700-H027-7070	36,925
TO:		
Transfer In from Prop 1B Streets Fund	0700-700-H027-9071	36,925

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-528

A RESOLUTION ACCEPTING THE REPORT ON XCLAMATION FEST 2009 HOSTED BY CHRIS RICCI PRESENTS, INC. IN DOWNTOWN MODESTO

WHEREAS, on April 25, 2000, by Resolution No. 2000-189, the City Council approved a license agreement with Chris Ricci Presents, Inc., to hold an annual Xclamation Fest in downtown Modesto, and

WHEREAS, the Safety and Communities Committee met on October 6, 2008, and supported approval of Xclamation Fest 2009 for July 18, 2009, and

WHEREAS, on November 5, 2008, by Resolution No. 2008-619, the City Council approved Xclamation Fest 2009, to be hosted by Chris Ricci Presents, Inc. in downtown Modesto on Saturday, July 18, 2009, and

WHEREAS, the ninth annual Xclamation Fest was held on Saturday, July 18, 2009, and

WHEREAS, Xclamation Fest 2009 was financially successful, and provided a safe, entertaining festival for Modesto residents, and

WHEREAS, Chris Ricci of Chris Ricci Presents, Inc. coordinates all Xclamation Fest events with the Modesto Police Department, the Downtown Improvement District, and the Modesto Centre Plaza staff in order to secure approvals and coordination for the event, and

WHEREAS, this event is of financial benefit to the City of Modesto and downtown merchants,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts staff's report on Xclamation Fest 2009, held in downtown Modesto on Saturday, July 18, 2009.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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. 2009-529

Print

A RESOLUTION AMENDING THE FISCAL YEAR 2009/2010 BUDGET, ESTIMATING REVENUE OF $22,600 FROM ASSET FORFEITURES TO POLICE OPERATIONS FOR THE PURCHASE OF THREE POLICE CANINES AND THE ASSOCIATED COSTS FOR THEIR PURCHASE

WHEREAS, there will be three police canines retired from the Police Department Canine Unit, and

WHEREAS, the Police Department needs to replace these dogs to maintain its canine unit at full capacity, and

WHEREAS, costs for the dogs and their air transport back to Modesto is $22,600, and

WHEREAS, the Asset Forfeiture Trust Fund has monies available for this purchase,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2009/2010 Operating Budget is hereby amended as indicated below:

Appropriate:

To:	0100-190-1961-5001	$22,600	Police Field Operations

Revenue:

From:	0100-190-1961-7202	$22,600	Seized Forfeitures

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 4th day of November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-530

RESOLUTION APPROVING AN AGREEMENT WITH STANISLAUS COUNTY FOR THE LEASE OF SPACE AT THE CITY OF MODESTO TRANSPORTATION CENTER AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto Downtown Transportation Center was designed to be an intermodal public transit facility, and

WHEREAS, a lease agreement was entered into by the City of Modesto and Stanislaus County on the 14th Day of December 1993 to lease space in the Modesto Transportation Center located at 1001 Ninth Street, Modesto, and

WHEREAS, the Stanislaus County transit service (Stanislaus Regional Transit) has been using the Center as a transfer point for over fifteen years, and

WHEREAS, the City and County desire to continue joint use of this key transit facility, and

WHEREAS, the Stanislaus County Board of Supervisors approved a new five-year agreement with the City of Modesto for use of the Transportation Center,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Stanislaus County for the lease of space at the City of Modesto Transportation Center.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The forgoing resolution was introduced at a regular meeting of the Council of the City of Modesto on the 4th day of November, 2009, By Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and this resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHENIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANNA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-531

RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF CLEO GRIFFITH FROM THE CULTURE COMMISSION

WHEREAS, Cleo Griffith was appointed a member of the Culture Commission on June 13, 2006, and

WHEREAS, Cleo Griffith has tendered her resignation from the Culture Commission, and

NOW, THERFORE, BE IT RESOLVED that the resignation of Cleo Griffith from the Culture Commission be, and hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of the City, hereby expresses its sincere appreciation to Cleo Griffith for her service to the community.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 10th day of November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-532

A RESOLUTION AMENDING THE CAPITAL IMPROVEMENT PROGRAM TASK FORCE MEMBERSHIP AND APPROVING THE CAPITAL IMPROVEMENT PROGRAM POLICIES AND PROCEDURES

WHEREAS, in 2008, the City Council initiated the process to evaluate and prioritize capital improvement projects for the annual preparation of the Capital Improvement Program (CIP), and

WHEREAS, the process included a CIP Task Force consisting of a City Councilmember, a City Planning Commission member, an Airport Advisory Committee member, two representatives of the public-at-large, and interdepartmental staff, and

WHEREAS, on September 22, 2009, the City Council, by Resolution No. 2009-437, appointed members to the Fiscal Year 2010-2011 CIP Task Force, and

WHEREAS, on October 13, 2009, the CIP Task Force recommended that a member of the Stancog Citizens Advisory Committee be appointed to fill the vacant public-at-large seat on the CIP Task Force, and

WHEREAS, the Stancog Citizens Advisory Committee recommended that Dennis Wilson be appointed to the CIP Task Force, and

WHEREAS, on October 13, 2009, the CIP Task Force also reviewed and discussed the Capital Improvement Program Policies and Procedures (CIP Policies and Procedures), and

WHEREAS, the CIP Task Force recommended revisions be made to the CIP Policies and Procedures,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the addition of Dennis Wilson to the fiscal year 2010-2011 CIP

Task Force.

BE IT FURTHER RESOLVED that the City Council hereby approves the Capital Improvement Program Policies and Procedures, **attached** as **Exhibit A**.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 10th day of November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CAPITAL IMPROVEMENT PROGRAM

Policies and Procedures Related to the City of Modesto's Capital Improvement Program (CIP)

I. Purpose

The 10-year Capital Improvement Program (CIP) strives to reflect the goals and policies established by the General Plan by systematically planning, scheduling, managing, monitoring and financing capital projects to ensure cost-effectiveness and conformity with established policies and adopted Specific Plans. The CIP guides the funding and construction of all public improvements constructed by the City, including roads, wastewater treatment facilities and lines, water lines, and parks. The CIP reflects a balance between capital replacement projects that repair, replace or enhance existing facilities, equipment or infrastructure and capital facility projects that significantly expand or add to the City's existing fixed assets. Attention should be given to utilize available resources and grants in a manner that legitimately maximizes the city's capacity to complete the capital improvements described above.

II. Capital Improvement Program Task Force

The General Plan calls for the creation of an organization-wide method for identifying and ranking CIPs for proposed inclusion in the annual CIP and to guide the City's applications for regional, state, federal, or other funds. Initiated in fiscal year 2008-2009, the Capital Improvement Program Task Force (CIP Task Force) was fully implemented during the fiscal year 2009-2010 CIP process. This new approach incorporates a CIP Task Force that is broader in scope and purpose and includes interdepartmental representation. Additional opportunity for the City Council and the community to participate in the CIP process promotes its importance and relevance to daily life.

Each CIP Task Force member participates in the evaluation and prioritization of projects and each member has equal voting weight. The process is designed to promote open dialogue and consensus building. Preapproved evaluation criteria and protocol guide the CIP Task Force through the prioritization process.

The General Plan outlines the following criteria by which the organization-wide method for identifying and ranking capital improvement projects should be structured:

1. Establish an objective rating system that includes criteria that are appropriate for each facility type (bridges, roadways, traffic signals, pedestrian, drainage, water, sewer, parks, libraries, fire, police, etc.).

2. Ensure projects conform to community plans and Infrastructure Financing Plans (IFP) and incorporate community-level priorities identified in each of the plans in the ranking process.

3. Develop broad-based regional financing options for regional-serving capital projects.

4. Assign "high priority" preference to projects located within existing and potential Specific Plan Areas that are also located within communities not meeting General Plan-identified public facilities guidelines or acceptable levels of service for the type of facility or service being considered. This is followed by preference to projects in areas generally located outside existing and potential Specific Plan Area locations, as previously described, in areas that are not meeting public facilities guidelines or acceptable levels of service as identified in the General Plan for the type of facility or service being considered.

5. Include in the ranking process preference for funding of new or expanded public facilities and services which can address needs in multiple areas.

6. Coordinate with other public, private, and not-for-profit entities to include areas with existing needs as a major criterion for allocating resources for new or expanded infrastructure, facilities, or amenities.

A. Objectives:

1. Develop a credible process for identifying top priority projects.

2. Use a coordinated approach to linking CIP projects with other planning efforts and community goals.

3. Engage staff, elected officials and citizens in the process of developing and administering the CIP to garner greater community support and attention.

B. Membership:

The CIP Task Force Membership consists of one City Councilmember, one Planning Commission member, one Airport Advisory Member, members of the public at large and key City personnel.

C. Evaluation Criteria

Seven evaluation criteria have been developed for project evaluation. Every project is evaluated against all seven criteria and assigned points on a scale of -5 to +5. This ensures the most objective process possible and leads to consistent decision making.

1. **Public Health, Safety and Other Mandates**

    - Does the project improve or specifically address a health, safety or other regulatory mandate in the community?
    - Does the project specifically address a legal requirement or abate a potential health or safety crisis?

2. **Supports Stated Community Goals and Policies**

    - Does the project help implement policies in the General Plan, Strategic Plan, or other adopted plan?
    - Is the project a part of or consistent with an articulated, acceptable mid, short or long-range program or departmental strategic plan?
    - Does the request implement some or all of the recommendations of a previous study?
    - Has the project been specifically identified by the public in previous community forums, surveys, etc.?
    - Has the project consistently been included in previous capital improvement programs?

3. **Capital Fiscal Impact**

    - Does the project have a positive impact on the General Fund budget?
    - Does the project bring in additional outside funds or grants in some proportion?
    - Is the project realistic from a financial standpoint? (Consider direct costs, as well as ongoing and additional costs such as those to provide temporary services during implementation of the project.)
    - Are funds already dedicated or available for the project?
    - Will funding the project now result in a significant savings or economies of scale?

4. **Promotes Economic Development**

   - Does the project facilitate a job producing development?
   - Does the project facilitate development that will provide positive revenue enhancement to the City?
   - Does the project help prevent revenue leakage?

5. **Operation and Maintenance Fiscal Impact**

   - Does the project have a positive impact on the City's Operating and Maintenance (O&M) budget?
   - Is the project an efficiency improvement project?
   - Is the project a low-maintenance project?
   - Does the City have the ability (staff, funds, etc.) to support the project in O&M?

6. **Impact on Service Levels**

   - Does the project bring the service up to a desired level?
   - Does the project improve service levels?

7. **Relationship to Other Projects/Coordination**

   - Does the project coordinate well with other projects underway?
   - Can the project be effectively coordinated with other projects (for instance, water and/or sewer line repairs done in conjunction with road work?)
   - Will all prerequisite projects be complete before this project is scheduled?
   - Is the project timely or does it provide a critical window of opportunity?
   - Is the project planned to create minimal disruption or inconvenience to the public?
   - Is the project the best use of funding for the fund category (as ranked by sponsoring department)?

D. Criteria Weights

The CIP Task Force determined that certain criteria are worthy of greater emphasis. In the evaluation process, this is accomplished by creating "weighting points" that are assigned to each of the seven criteria. These weighting points are automatically calculated as the CIP Task Force scores each project.

Criteria	Weighting Points
Public Health and Safety Mandates	95
Community Goals	85
Promotes Economic Development	85
Capital Fiscal Impact	75
Operation and Maintenance Fiscal Impact	75
Impact on Service Levels	65
Relationship to Other Projects/Coordination	65

E. Final Project Scoring

Projects should first be grouped into categories based on their project location. Using the evaluation criteria and weights above, the CIP Task Force will score each project. Some of the projects may not be scored by the Task Force because they are under a legal or regulatory mandate to be completed. Because the City is already obligated to complete these projects expeditiously, scoring them would serve no purpose.

All project rankings have been added to the project detail sheets. The scores range from 0 to 3000. Projects ranked the highest by the CIP Task Force will have a priority code of 3000. For each project ranked by the CIP Task Force, its corresponding priority score can be found below the project title of the project detail sheets.

The CIP Task Force will review and prioritize all existing capital projects to assure consistency with the City's General Plan and the City's vision statement. A recommendation will then be made to the Planning Commission.

III. Budgeting Process

A. Budgeting Process – Generally

Section 65401 of the Government Code and Section 10-1.102 of the Modesto Municipal Code, requires the Planning Commission to review all new capital projects to determine if they conform with the City's adopted Modesto Urban Area General Plan. Existing CIPs will be reviewed quarterly by the CIP Task

Force. This review will utilize not only financial information to identify project progress and completion timelines but also project status updates from Project Managers. This will be integrated into the budget proforma review process. The CIP budget will be organized into the same functional groupings used for the operating programs.

Based on the recommendation from the CIP Task Force, the City of Modesto Planning Commission will review for General Plan conformity and will forward a final recommendation to the City Council. The City Council will then review the final CIP recommendation and approve the funding of new projects and the re-appropriation of funds for existing projects as part of the annual CIP budget cycle.

B. Budgeting Policies

1. Project costs are appropriated only when the required revenues are available.

2. For projects financed with grant monies, the grant award must be accepted by the City Council. (Note: a copy of the final grant award must be provided to the Finance Department.)

3. For projects financed with debt, it can be considered for inclusion in the CIP but the appropriation will not be released until the financing has been completed.

4. Budget actions involving any Federal, State, or grant funded CIPs are restrained by the conditions of the funding award.

5. Project costs will be included in the CIP in phases, i.e. projects that are not bid-ready will reflect appropriations only through the design phase.

6. Appropriations needed for the construction phase are based on the bid awarded at the time the appropriation(s) for construction, contingency and construction management costs are requested.

7. Projects to be closed will be identified by the Project Managers and submitted by the appropriate Department Director through the Finance Director to the City Manager for closure. The City Manager has the final authority to close the projects using the CIP Closure Form. The reasons for closing a project may include Project Completion, delays due to unanticipated costs or events and change in City Council direction.

8. All new CIPs must be submitted to the CIP Task Force for consideration and review before they are presented to the City Council for appropriation approval.

C. Requirements to Qualify as a CIP

1. A "Project" description and cost estimate should include all phases, from environmental assessment and right of way acquisition through construction, regardless of whether or not all funding will be available within the current fiscal year budgeting cycle.

2. Typically, the cost of a Project should be $100,000 or greater over the life of the Project. Also, a CIP will have a useful life of five or more years. Exceptions to this threshold may be approved by the CIP Task Force.

3. Project revenues and expenditures must be clearly identified and balanced.

4. Projects must have identifiable timelines that include periodic milestones.

5. While (1) maintenance costs to increase the life of the City's infrastructure, (2) replacement costs for infrastructure and (3) set-aside reserve amounts to create future funding for a project are not considered a "Project"; they are included in the CIP budget. . Examples include pavement maintenance, water system downstream improvements and accumulation of funds for the Pelandale-99 interchange.

6. Certain purchases and installation of fixed assets may also be included in the CIP budget plan.

7. Every capital project will have a Project Manager who will prepare the project proposal, ensure that required phases are completed on schedule, authorize all project expenditures, ensure that all regulations and laws are observed, and periodically report project status to the CIP Task Force. The Project Manager ensures that projects comply with the requirements imposed by the guidelines controlling the various revenue sources that are used to finance capital project costs. The Project Manager shall also coordinate project accounting with the Finance Department.

D. Primary-Secondary Project Relationships

The City Council previously approved grouping similar projects together in a "primary-secondary" relationship. An example would be replacement of upgrade of traffic signals at different intersection throughout the City. "Traffic Signals" would be the primary" project and individual "secondary" projects would then be indentified when either construction or construction design on each specific intersection begins. The primary project description must include a description of each of the secondary projects related to it. The primary project was designed to serve as the budgetary control device for both the primary and secondary components. Currently, the City Manager has the authority to move funding from one secondary project to another secondary project, as long as the overall primary project appropriation level does not change. This approach was designed to allow for greater flexibility and efficiency when programming multiple projects of the same type.

With the creation and empowerment of the CIP Task Force, the primary-secondary project budgeting relationship creates difficulty for the CIP Task Force in reviewing and ranking projects. The stand-alone budgeting method is more effective in that it allows the CIP Task Force to review and rank a specific "project" rather than being tasked to review and rank a primary account that may contain several secondary projects.

For utility funds, the primary-secondary budgeting relationships may be used for existing and new CIPs.

For all non-utility funds, the existing primary-secondary budgeting relationships may remain as currently budgeted, but the total revenues may not exceed the total appropriations. (For example, if there are three secondary accounts and their collective budgets are $100,000; the revenue of the primary account may not exceed $100,000.) All new non-utility fund CIPs should be budgeted using the stand-alone budgeting method.

E. Project Status Reports

Project milestones will be listed as objectives in the CIP program narratives to facilitate project tracking. Status reports for all CIPs should be provided to the CIP Task Force on a quarterly basis and then referred to the City Council for informational purposes. The format and content of the report will be coordinated between the CIP Task Force Administrator and the Finance Department.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-533

RESOLUTION AUTHORIZING THE AWARD OF CONTRACT FOR THE PURCHASE OF THREE (3) PICKUP TRUCKS FOR THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, TO HERITAGE FORD, MODESTO, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR A TOTAL ESTIMATED COST OF $73,712

WHEREAS, the City Manager authorized the Purchasing Manager to solicit a formal Request for Bids (RFB) and take advantage of various competitive processes for the purchase of new vehicles and heavy equipment throughout FY 09/10, with the Purchasing Division coming back to Council for award authorization. Two (2) of these pickup trucks are for new service requirements and one pickup truck is for replacement, as determined by the Fleet Services Division, and

WHEREAS, recently Council approved the purchase of three (3) similar pickup trucks through a competitive bid process. Staff elected to solicit pricing from a local vendor to test current market conditions. Through this process the local vendor provided pricing that resulted in a cost savings of $1,386 per vehicle, and

WHEREAS, based on providing the lowest responsive and responsible pricing, City staff recommends the award of contract for the purchase of three (3) pickup trucks for the Public Works Department, Fleet Services Division, to Heritage Ford, Modesto, CA, and authorize the Purchasing Manager to issue a purchase order for an estimated total cost of $73,712, 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 MMC, and

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, and

WHEREAS, acting within his discretion, the Purchasing Manager invoked that exception for this purchase, and

WHEREAS, the purchase of three (3) pickup trucks with Heritage Ford, Modesto, CA, conforms to MMC Section 8-3.204(d).

WHEREAS, funds are budgeted in Fiscal Year 09/10, in the following Fleet Equipment Replacement Fund accounts: 7210-480-5814-5517, 6100-480-5013-5700,

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 three (3) pickup trucks for the Public Works Department, Fleet Services Division, to Heritage Ford, Modesto, CA, for a total estimated cost of $73,712,

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 $73,712.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-534

A RESOLUTION APPROVING THE ELIMINATION OF THE CATHODE RAY TUBE COLLECTION PROGRAM CONDUCTED BY THE CITY'S LICENSED SOLID WASTE HAULERS

WHEREAS, in August, 2001 the State of California adopted new rules that banned landfill disposal of TV tubes, computer monitors, and other cathode ray tubes ("CRT's"), giving residents no way to dispose of them, and

WHEREAS, in 2001 the Council therefore approved having the City's licensed solid waste collection companies implement a program to collect and legally dispose of CRT's, and

WHEREAS, under this program, residents receive a coupon from the haulers that lets them drop off 2 CRT's per year at the transfer stations, and

WHEREAS, the haulers then package the CRT's and ship them to a recycler, and

WHEREAS, at the request of the Economic Development Committee, City staff conducted an analysis of this program, among other special services offered by the collection companies, and determined that the use of this program by residents was not significant, and

WHEREAS, City staff further determined that within the last few years, a developing market for CRT components has resulted in a proliferation of recycling businesses that take CRT's for free, and

WHEREAS, in addition, residents can dispose of CRT's at mobile collection events and at the Household Hazardous Waste Facility on Morgan Road, and

WHEREAS, on October 12, 2009, staff recommended to the Economic Development Committee that the CRT collection program conducted by the haulers be eliminated, and

WHEREAS, a report dated November 10, 2009, 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 meeting of the City Council to be held at 5:30 p.m. on November 10, 2009, in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto California, at which date and time the report was presented, and

WHEREAS, it was found and determined by the Council of the City of Modesto that the cathode ray tube program currently being conducted by the City's licensed solid waste collection companies should be eliminated,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it approves the elimination of the Cathode Ray Tube collection program that is currently being conducted by the City's licensed solid waste collection companies.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-535

RESOLUTION APPROVING AN AGREEMENT WITH HDR ENGINEERING, INC. FOR PROFESSIONAL SERVICES RELATED TO THE STANISLAUS WASTE-TO-ENERGY FACILITY, IN AN AMOUNT NOT-TO-EXCEED $105,355; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the County of Stanislaus and the City of Modesto (collectively referred to as the "Contracting Communities"), share responsibility and contractual obligations, pursuant to the Joint Powers Agreement ("JPA"), for the operations and maintenance of the privately owned and operated Waste-to-Energy Facility (the "Facility"), and

WHEREAS, the Facility was developed via a public-private partnership with Covanta Energy Corporation, and is owned and operated by Covanta under a 20-year contract with the Contracting Communities (the "Service Agreement") through January 1, 2010, with an option to extend it until January 1, 2016, and

WHEREAS, in May 2009, pursuant to Section 11.01 of the Service Agreement, the Contracting Communities exercised the option to extend the Service Agreement to January 1, 2016, and

WHEREAS, Covanta is required to operate the Facility in accordance with all permits and applicable regulations, achieve the contractual performance standards, and maintain the Facility in accordance with industry standards and good engineering practices, and

WHEREAS, in May, 2006, the Contracting Communities entered into a contract with HDR Engineering, Inc. (HDR) for technical engineering services to assess the

condition of the facility and assist in negotiating a new Service Agreement with Covanta, and

WHEREAS, the term of this contract was from June 1, 2006 through December 31, 2009, with an expenditure limit of $150,000, and

WHEREAS, as the Facility operations continue beyond 2010 and negotiations are ongoing, the Contracting Communities will continue to have a need for reasonable assurances that the Facility is in good mechanical condition and for assistance with negotiations, and

WHEREAS, based on HDR's familiarity with the Facility and cost savings on the initial agreement, HDR's services continue to be necessary, and

WHEREAS, County Counsel has recommended that the contract extension be in the form of a new Agreement following the new County template for Professional Design Services, and the City Attorney's office has reviewed and approved of the format of the proposed new Agreement, and

WHEREAS, the proposed Professional Design Services Agreement with HDR Engineering, Inc. (**Attachment "A"**), has a six-year term expiring on January 1, 2016, and a not-to-exceed cost of $105,355 for the two main tasks of Operating Condition Assessment and Contract Negotiation Assistance, and

WHEREAS, funds for this work are available in the Fiscal Year 2009-2010 Waste-to-Energy project budget,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with HDR Engineering, Inc. for professional

services related to the Stanislaus Waste-to-Energy Facility, in an amount not-to-exceed $105,355.

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 10th day of November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

DEPARTMENT OF ENVIRONMENTAL RESOURCES
3800 Cornucopia Way, Suite C,
Modesto, Ca 95358-9492
Phone: (209) 525-6700
Fax: (209) 525-6774

STANISLAUS COUNTY
PROFESSIONAL DESIGN SERVICES AGREEMENT

This Agreement is made and entered into by and between the County of Stanislaus, a political subdivision of the State of California, and the City of Modesto (collectively referred to as the "Contracting Communities") and HDR Engineering, Inc., hereinafter referred to as "Consultant".

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1.0 PROFESSIONAL SERVICES TO BE PROVIDED BY CONSULTANT

1.1. Scope of Services: Consultant shall provide the professional services described in Exhibits "A attached hereto and incorporated herein by reference.

1.2. Professional Practices: All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. Consultant also represents that it is familiar with all laws that may affect its performance of this Agreement and shall advise Contracting Communities of any changes in any laws that may affect Consultant's performance of this Agreement.

1.3. Representations: Consultant represents that it has reviewed the Scope of Services and that in its professional judgment the services to be performed under this Agreement can be performed within the maximum fee set forth herein below and within the time specified in the Project Schedule attached hereto. Consultant represents that it is qualified to perform the professional services required by this Agreement and possesses the necessary licenses and permits required to perform said services

1.4. Warranty. Consultant warrants that it shall perform the services required by this Agreement in compliance with all applicable Federal and California employment laws including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement.

1.5. Non-Discrimination. In performing this Agreement, Consultant shall not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religion, color, national origin, ancestry, age, physical handicap, medical condition, marital status, sexual gender or sexual orientation, except as permitted pursuant to Section 12940 of the Government Code. Violation of this provision may result in the imposition of penalties referred to in Labor Code, Section 1735.

1.6. Non-Exclusive Agreement. Consultant acknowledges that Contracting Communities may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.7. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of Contracting Communities. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

2.0 COMPENSATION AND BILLING

2.1. Compensation. Consultant shall be paid in accordance with the fee schedule set forth in Exhibit "B", attached hereto and made a part of this Agreement (the "Fee Schedule"). Consultant's compensation shall in no case exceed **One Hundred Five Thousand, Three Hundred Fifty-Five Dollars ($105,355.00)**.

2.2. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of services specified in the Response unless the Contracting Communities or the Project Manager for this Project, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation

shall be barred and are unenforceable.

2.3. Method of Billing. Consultant may submit invoices to Contracting Communities' Project Manager for approval on a progress basis, but no more often than once each calendar month. Said invoice shall be based on the total of all Consultants' services that have been completed to Contracting Communities sole satisfaction. Contracting Communities shall pay Consultant's invoice within forty-five (45) days from the date Contracting Communities receives said invoice. Each invoice shall describe in detail, the services performed and the associated percentage of tasks completed. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.4. Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to Contracting Communities or its Project Manager for inspection and/or audit at mutually convenient times for a period of three (3) years from the termination of this Agreement.

3.0 TIME OF PERFORMANCE

3.1. Commencement and Completion of Work. The professional services to be performed pursuant to this Agreement shall commence within five (5) days after Contracting Communities delivers its Notice to Proceed. Said services shall be performed in strict compliance with the Project Schedule approved by Contracting Communities as set forth in Exhibit "C", attached hereto and incorporated herein by this reference. The Project Schedule may be amended by mutual agreement of the parties. Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.

3.2. Excusable Delays. Neither party shall be responsible for delays nor lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party.

4.0 TERM OF CONTRACT AND TERMINATION

4.1. Term. This Agreement shall commence **January 1, 2010 and end on December 31, 2015**, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties.

4.2. Notice of Termination. The Contracting Communities reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the Contracting Communities.

4.3. Compensation. In the event of termination, Contracting Communities shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of Contracting Communities written notice of termination. Compensation for work in progress shall be prorated as to the percentage of work completed as of the effective date of termination in accordance with the fees set forth in Exhibit "B. In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the Contracting Communities or in the possession of the Consultant.

4.4. Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the Contracting Communities within ten (10) days of delivery of termination notice to Consultant, at no cost to Contracting Communities. Any use of uncompleted documents without specific written authorization from Consultant shall be at Contracting Communities sole risk and without liability or legal expense to Consultant.

5.0 INSURANCE REQUIREMENTS

5.1. Minimum Scope and Limits of Insurance. Consultant shall obtain and maintain during the life of this Agreement all of the following insurance coverage:

(a) Comprehensive general liability, including premises-operations, products/ completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury with a policy limit of not less than One Million Dollars ($1,000,000.00), combined single limits, per occurrence and aggregate. If Commercial General Liability Insurance or other form with a general aggregate limit is used,

either the general aggregate limit shall apply separately to any act or omission by Consultant under this Agreement or the general aggregate limit shall be twice the required occurrence limit.

(b) Automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars ($1,000,000.00), combined single limits, per occurrence and aggregate.

(c) Workers' compensation insurance as required by the State of California.

(d) Professional errors and omissions ("E&O") liability insurance with policy limits of not less than One Million Dollars ($1,000,000.00), per claim, in the aggregate, covering the negligent acts, errors, or omissions of Consultant in connection with the performance of Consultant's services. Consultant shall obtain and maintain, said E&O liability insurance during the life of this Agreement and for three years after completion of the work hereunder.

5.2. Endorsements. The Consultant shall obtain a specific endorsement to all required insurance policies, except Workers' Compensation insurance and Professional Liability insurance, naming the Contracting Communities and its officers, officials and employees as additional insureds regarding:

(a) Liability arising from or in connection with the performance or omission to perform any term or condition of this Agreement by or on behalf of the Consultant, including the insured's general supervision of its subcontractors;
(b) Services, products and completed operations of the Consultant;
(c) Premises owned, occupied or used by the Consultant; and
(d) Automobiles owned, leased, hired or borrowed by the Consultant.
(e) For Workers' Compensation insurance, the insurance carrier shall agree to waive all rights of subrogation against the Contracting Communities, its officers, officials and employees for losses arising from the performance of or the omission to perform any term or condition of this Agreement by the Consultant.

5.3. Deductibles: Any deductibles, self-insured retentions or named insureds must be declared in writing and approved by Contracting Communities. At the option of the Contracting Communities, either: (a) the insurer shall reduce or eliminate such deductibles, self-insured retentions or named insureds, or (b) the Consultant shall provide a bond, cash, letter of credit, guaranty or other security satisfactory to the Contracting Communities guaranteeing payment of the self-insured retention or deductible and payment of any and all costs, losses, related investigations, claim administration and defense expenses. The Contracting Communities, in its sole discretion, may waive the requirement to reduce or eliminate deductibles or self-insured retentions, in which case, the Consultant agrees that it will be responsible for and pay any self-insured retention or deductible and will pay any and all costs, losses, related investigations, claim administration and defense expenses related to or arising out of the Consultant's defense and indemnification obligations as set forth in this Agreement.

5.4. Certificates of Insurance: At least ten (10) days prior to the date the Consultant begins performance of its obligations under this Agreement, Consultant shall furnish Contracting Communities with certificates of insurance, and with original endorsements, showing coverage required by this Agreement, including, without limitation, those that verify coverage for subcontractors of the Consultant. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements shall be received and, in Contracting Communities sole and absolute discretion, approved by Contracting Communities. Contracting Communities reserves the right to require complete copies of all required insurance policies and endorsements, at any time.

5.5. Non-limiting: Nothing in this Section or the insurance described herein shall be construed as limiting in any way, the indemnification provisions contained in this Agreement, or the liability of Consultant and Consultant's officers, employees, agents, representatives or subcontractors for payments of damages to persons or property.

5.6. Primary Insurance: The Consultant's insurance coverage shall be primary insurance regarding the Contracting Communities and Contracting Communities officers, officials and employees. Any insurance or self-insurance maintained by the Contracting Communities or Contracting Communities officers, officials and employees shall be excess of the Consultant's insurance and shall not contribute with Consultant's insurance. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Contracting Communities or its officers, officials and employees. The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5.7. Cancellation of Insurance: Each insurance policy required by this section shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party except after thirty (30) days prior written notice has been given to Contracting Communities. The Consultant shall promptly notify, or cause the insurance carrier to promptly notify, the Contracting Communities of any change in the insurance policy or policies required under this Agreement, including, without limitation, any reduction in coverage or in limits of the required policy or policies.

5.8. California Admitted Insurer: Insurance shall be placed with California admitted insurers (licensed to do business in California) with a current rating by Best's Key Rating Guide of no less than A-:VII; provided, however, that if no California admitted insurance company provides the required insurance, it is acceptable to provide the required insurance through a United States domiciled carrier that meets the required Best's rating and that is listed on the current List of Eligible Surplus Line Insurers maintained by the California Department of Insurance.

5.9. Subcontractors: Consultant shall require that all of its subcontractors are subject to the insurance and indemnity requirements stated herein, or shall include all subcontractors as additional insureds under its insurance policies.

5.10. Certificates of Insurance: At least ten (10) days prior to the date the Consultant begins performance of its obligations under this Agreement, Consultant shall furnish Contracting Communities with certificates of insurance, and with original endorsements, showing coverage required by this Agreement, including, without limitation, those that verify coverage for subcontractors of the Consultant. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements shall be received and, in Contracting Communities sole and absolute discretion, approved by Contracting Communities. Contracting Communities reserves the right to require complete copies of all required insurance policies and endorsements, at any time.

6.0 INDEMNIFICATION

6.1. Indemnification: To the fullest extent allowed by law, Consultant shall defend, indemnify, and hold harmless the Contracting Communities and its officers, agents, employees and representatives from and against any and all claims, suits, actions, losses, injuries, damages or expenses of every name, kind, and description, including litigation costs and reasonable attorney's fees incurred, which are founded upon, arise out of, pertain to, or relate to, directly or indirectly, in whole or in part, the alleged negligence, recklessness, or willful misconduct of Consultant, its officers, agents, employees, volunteers, representatives, contractors and subcontractors, excluding, however, such liabilities caused in part by the sole negligence, active negligence or willful misconduct of the Contracting Communities, its agents, employees, and representatives.

6.2. Duty to Defend: The duty of Consultant to indemnify and save harmless as set forth herein, shall include both the duty to indemnify and at Consultant's own cost and expense the duty to defend as set forth in Section 2778 of the California Civil Code. This duty to defend arises when such claim is made and shall be independent of any finding of the Contracting Communities negligence. Consultant shall provide legal counsel reasonably acceptable to the Contracting Communities.

6.3. Duty to Cooperate: Each party shall notify the other party immediately in writing of any claim or damage related to activities performed under this Agreement. The parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities under this Agreement. Specifically, Consultant shall take all steps necessary to assist the Contracting Communities in the defense of any claim brought by a contractor hired to construct the Project regarding any errors, flaws, and/or omissions in the plans or specifications of the Project.

6.4. Patent Rights: Consultant represents that professional services provided by Consultant pursuant to this Agreement does not infringe on any other copyrighted work. Consultant shall defend, indemnify and hold harmless the Contracting Communities from all loss, cost, damage, expense, liability or claims, including attorneys' fees, court costs, litigation expenses and expert consultant or witness fees, that may at any time arise for any infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark or any other proprietary right of any person or persons in consequence of the use by the Contracting Communities of any articles or services supplied under this agreement.

7.0 GENERAL PROVISIONS

7.1. Entire Agreement: This Agreement constitutes the entire Agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

7.2. Representatives. The Director of the Stanislaus Contracting Communities Department of Environmental Resources, or her designee, shall be the representative of Contracting Communities for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the Contracting Communities, called for by this Agreement, except as otherwise expressly provided in this Agreement. Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise

expressly provided in this Agreement.

7.3. Project Managers. Contracting Communities shall designate a Project Manager to work directly with Consultant in the performance of this Agreement. Consultant shall designate a Project Manager who shall represent it and be its agent in all consultations with Contracting Communities during the term of this Agreement. Consultant or its Project Manager shall attend and assist in all coordination meetings called by Contracting Communities.

7.4. Designated Personnel: A material covenant of this agreement is that the Consultant shall assign the individuals designated below to perform the functions designated so long as they continue in the employ of the Consultant. The designated individuals shall, so long as their performance continues to be acceptable to Contracting Communities, remain in charge of the services for the Project from beginning through completion of services.

a. Project Manager: Rachel E. Davis, P.E.
b. Lead/Manager: Andrew Cramer, P.E.

7.5. Removal of Personnel or Sub-Consultants: If the Contracting Communities, in its sole discretion at any time during the term of this agreement, desires the removal of any person or sub-consultant assigned by Consultant to perform services, then the Consultant shall remove such person or consultant immediately upon receiving notice from the Contracting Communities.

7.6. Notices: Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

If to County: Stanislaus County
Department of Environmental Resources
3800 Cornucopia Way, Suite C
Modesto, CA 95358
Attn: Susan M. Garcia, C.P.M.

If to City: City of Modesto
P.O. Box 642
Modesto, CA 95353
Attn: Jocelyn Reed

If to Consultant: HDR Engineering, Inc.
8404 Indian Hills Drive
Sacramento, CA 95827
Attn: Ambrose McCready

7.7. Attorneys' Fees: In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

7.8. Governing Law: This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Stanislaus County, California.

7.9. Assignment: Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without Contracting Communities prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of Contracting Communities consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

7.10. Independent Contractor: Consultant is and shall be acting at all times as an independent contractor and not as an employee of Contracting Communities. Consultant shall secure, at his expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder.

7.11. Ownership of Documents: Any interest, including copyright interests, of Consultant or its contractors or subconsultants in studies, reports, memoranda, computational sheets, drawings, plans or any other documents, including electronic data, prepared in connection with the Services, shall be the property of Contracting Communities. To the extent permitted by law, work product produced under this Agreement shall be deemed works for hire and all copyrights in such works shall be the property of the Contracting Communities. In the event that it is ever determined that any works created by Consultant or its subconsultants under this Agreement are not works for hire, Consultant hereby assigns to Contracting Communities all copyrights to such works. With the Contracting Communities prior written approval, Consultant may retain and use copies of such works for reference and as documentation of experience and capabilities.

7.12. Reuse of Design Documents: Should the Contracting Communities desire to reuse the documents specified above and not use the services of the Consultant, then the Contracting Communities agrees to require the new consultant to assume any and all obligations for the reuse of the documents, and the Contracting Communities releases Consultant and its subconsultants from all liability associated with the reuse of such documents.

7.13. Public Records Act Disclosure: Consultant has been advised and is aware that all reports, documents, information and data including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, and provided to Contracting Communities may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 et. seq.). Exceptions to public disclosure may be those documents or information that qualify as trade secrets, as that term is defined in the California Government Code Section 6254.7, and of which Consultant informs Contracting Communities of such trade secret. The Contracting Communities will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The Contracting Communities shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

7.14. Responsibility for Errors: Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the Contracting Communities representative, regarding any services rendered under this Agreement at no additional cost to Contracting Communities. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to Contracting Communities, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of Contracting Communities and to participate in any meeting required with regard to the correction.

7.15. Order of Precedence: In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of the RFP or the Response, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over both the Response and the RFP and the Response shall govern over the RFP.

7.16. Costs: Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

7.17. No Third Party Beneficiary Rights: This Agreement is entered into for the sole benefit of Contracting Communities and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

7.18. Construction: The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

7.19. Amendments: Only a written Amendment executed by the parties hereto or their respective successors and assigns may amend this Agreement.

7.20. Waiver: The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

7.21. Severability: If any provision of this Agreement is determined by a court of competent jurisdiction to

be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party is materially impaired, which determination as made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

7.22. Counterparts: This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

7.23. Corporate Authority: The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so; the parties hereto are formally bound to the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers:

COUNTY OF STANISLAUS Department of Environmental Resources By: _____ Sonya K. Harrigfeld Director "County"	**HDR ENGINEERING, INC.** By: _____ Name Title "Consultant"
APPROVED AS TO FORM: John P. Doering County Counsel By: _____ Thomas E. Boze Assistant County Counsel	
CITY OF MODESTO By: _____ Greg Nyhoff City Manager APPROVED AS TO CONTENT: Department of Park, Recreation, and Neighborhood By: _____ Julie G. Hannon Director APPROVED AS TO FORM: Susana Alcala Wood City Attorney By: _____ Roland R. Stevens Assistant City Attorney	

EXHIBIT A

A. INTRODUCTION

The County of Stanislaus and the City of Modesto (collectively referred to as the "Contracting Communities"), share responsibility and contractual obligations, pursuant to their Joint Powers Agreement ("JPA Agreement"), regarding the operations and maintenance of a privately owned and operated waste-to-energy facility located in Stanislaus County, California (Stanislaus Waste-to-Energy Facility). That facility was developed via a public-private partnership with Covanta Stanislaus, Inc. ("Company") under a 20-year contract term ("Service Agreement").

Pursuant to the Service Agreement, the Company has an obligation to operate Stanislaus WTE Facility ("Facility") in accordance with all permits and applicable regulations, achieve the contractual performance standards and maintain the facilities in accordance with industry standards and good engineering practice. The Contracting Communities relies on the Company to fulfill this obligation to provide reliable, environmentally sound solid waste management services at reasonable and predictable costs.

The Service Agreement expires on January 1, 2010, but the Contracting Communities have provided the Company a timely notice with their intent to exercise the extension option of the Service Agreement to January 1, 2016, in the event that a new or amended Service Agreement could not be secured by December 31, 2010. Prior to considering any new or amended Service Agreement beyond 2016, the Contracting Communities need reasonable assurance that the Facility will continue to perform as required. In order to provide this assurance, the Consultant shall conduct a facility condition assessment. The Consultant shall assess the state of the Facility and identify maintenance issues that need to be addressed to preserve the asset value beyond the current term of the Service Agreement and to set an expected facility performance baseline for any future contract extension. If the Contracting Communities do not elect to extend the Service Agreement, the Contracting Communities have a range of options to consider in order to transition from the current to a future agreement.

The Contracting Communities rely on the Facility to provide waste disposal capacity and to maximize energy revenue that offsets the cost of the operation. Therefore, the Contracting Communities have the right to monitor the Facility's performance. The long-term cost-effective operation of the Facility, which is an important component of the solid waste management system, is of significant interest to the Contracting Communities.

B. FACILITY DESCRIPTION

Background

The Facility is a mass burn, solid waste disposal, resource recovery and electric generating facility built, owned and operated by Covanta Stanislaus, Inc. (formerly known as Ogden Martin Systems of Stanislaus, Inc.), a California corporation (the "Company"). The Facility was developed by the Company pursuant to a service agreement (the "Service Agreement") with the Contracting Communities. The Facility utilizes solid waste mass burn technology owned by Martin, GmbH, the rights to which in North America have been acquired by Covanta Energy Corporation. (formerly known as; Ogden Martin). Covanta Energy Corporation is a wholly owned, indirect subsidiary of Covanta Holding Company (formerly known as; Danielson Holding Corporation). The Company is a corporation organized and existing under the laws of the State of California and a wholly owned, subsidiary of Covanta Energy Corporation.

The Facility site is owned by the County and leased to the Company pursuant to a Facility Site Lease Agreement (the "Facility Site Lease"). The Facility is located in the southwest corner of the county near the community of Crows Landing, about 25 miles from Modesto. The Facility was substantially completed and commenced startup operations in August 1988 and performance testing began in December 1988. After a performance demonstration period, the Facility was effectively accepted by the Contracting Communities on January 10, 1989, as provided under the terms of the Service Agreement. Planned modifications to the Facility were made by the Company in 2001, pursuant to the provisions of the Service Agreement, to address the EPA Emissions Guidelines for Large MWC Facilities promulgated in 1997.

The Stanislaus Waste-To-Energy Financing Agency was established by the Contracting Communities pursuant to the Extended Joint Exercise of Power Agreement (the "JPA Agreement") on December 1, 1989, in accordance with the Governmental Code of the State of California Title 1, Division 7, Chapter 5, as amended and supplemented (the "Act"). Pursuant to the Act and the JPA Agreement, the Agency is a public entity separate from the Contracting Communities. The Agency's sole purpose is to provide for the financing and refinancing of the Facility. The Series 2000 Certificates (par $58,780.000), tax-exempt variable rate revenue bonds, were issued to refinance a portion of the cost of the acquisition and construction of the Facility. The Agency prepaid the Series 2000 Certificates in full in December 2008, about a year before

maturity. Since the County was the operator of the landfill and the scale facilities, the responsibility for managing the billing of tipping fees and management of the collected monies was delegated to the County Treasurer. A separate account was established to manage these funds, which is currently known as the Resource Recovery Account, pursuant to the terms of the Service Agreement.

The Facility is an important component of the Contracting Communities' solid waste disposal system. The Facility generates steam, which is used to produce electricity for sale to Pacific Gas and Electric Company ("PG&E"), pursuant to a power purchase agreement (the "Energy Agreement") between the Company and PG&E. The gross electrical generation capacity of the Facility is 22.5 MW.

The Contracting Communities are obligated, pursuant to the Service Agreement, to deliver Acceptable Waste, not less than the Guaranteed Tonnage, to the Facility, in accordance with an agreed upon monthly delivery schedule and to pay the Service Fee, which includes debt service and operating costs less credits for Energy Revenues. Except in the event of Unforeseen Circumstances which prevents the Company's performance, the Company must dispose of Acceptable Waste up to the Guaranteed Tonnage (243,300 tons per year) either through the Facility or through an alternate method, including land filling. It is the intent of the Company and the Contracting Communities that the Company will process Acceptable Waste delivered to the Facility up to the available disposal capacity of the Facility, as provided in the Service Agreement.

Ferrous metals are recovered from the ash residue produced by the Facility and the revenues from the sale of recovered material are shared by the contracting parties. The ash residue and any excess or unprocessed waste are transported, under a private commercial contract, for disposal in the adjacent Fink Road Landfill (the "Landfill"). The Landfill is owned and operated by the County and currently contains two active disposal units: one Class II landfill for the ash residue and one Class III landfill for all other non-hazardous waste. The Class II landfill is expected to have capacity beyond the current Service Agreement term of January 1, 2010. If needed, the County has the resources to expand the landfill capacity of the Class III landfill, beyond January 1, 2010.

Facility Description
The Facility is comprised of two, independent; mass-burn, combustion units and air emissions control systems, a condensing turbine generator and associated ancillary equipment. The Facility is designed to process a maximum of 800 tons per day (tpd) of municipal solid waste (MSW) with an average higher heating value (HHV) of 5200 Btu per pound. Each combustion unit consists of:

- a proprietary Martin mass-burn grate system,
- an integrated furnace and Zurn Industries waterwall boiler,
- automated combustion controls for carbon monoxide and hydrocarbon control,
- an ammonia injection (i.e., Thermal DeNOx, licensed by Exxon) for nitrogen oxide (NOx) control,
- a carbon injection system for mercury control
- a dry-flue gas scrubber for acid gas control,
- a Flakt baghouse type fabric filters for removal of particulates,
- a Martin ash discharge system and vibratory conveyor, and
- various ancillary equipment

The uncontrolled extraction-condensing turbine generator was manufactured by Elliott Turbomachinery Co. Inc. Electricity is produced for both in-house requirements and for sale to PG&E. The gross electrical generation capacity of the turbine is 22.5MW, 24.5 KVA at 13,800 volts. Approximately three MWs are consumed in-house for Facility operations.

C. SCOPE OF WORK

The Consultant shall perform professional and technical engineering services to prepare a facility condition assessment, provide periodic performance monitoring, and assist with contract negotiations of the Facility. The Consultant shall work closely with representatives of the Contracting Communities as well as, the Contracting Communities legal and financial consultants as may be required.

A more detailed description of the Scope of Work is provided below:

Task 1. End-of-Contract Operating Condition and Regulatory Review
Assess the physical and operating condition of the Facility and its ability to perform as anticipated through the term of an extension of the contract through January 1, 2016, and through the term of any extension of the contract beyond January 1, 2016.. In addition, the Consultant shall review the environmental status of the Facility and compliance records to assess its ability to meet current regulatory requirements, pending regulatory changes, and reasonably foreseeable changes. The task shall include the review and evaluation of the following elements:

- Review of critical project agreements, permits and background information
- Review of existing facility operational data
- A thorough on-site inspection of current physical conditions and operations
- Operations and physical conditions comparison to similar waste-to-energy and solid waste facilities
- Review of current and expected regulatory guidelines that would affect the Facility
- Preparation of a report identifying deficiencies that must be corrected by the Company
- Preparation of a technical letter with findings and recommendations
- Assist the Contracting Communities in its enforcement of the existing permits and contract provisions relating to Facility condition
- Submit a draft and final report indicating findings and present these findings to the Contracting Communities

Consultant shall review existing documents that define the expected operating performance and compare operating performance requirements with operating records. Consultant shall visit the Facility site on a periodic basis, scheduling visits to coincide with outages or other notable events, where practical. Consultant shall perform site observations, inspections, data reviews and interview key Company staff.

During these periodic visits, Consultant shall conduct a two-day inspection of the Facility and review of the Company maintenance records. Prior to the inspection, the Consultant shall hold a meeting with the Contracting Communities and the Company to discuss plant performance and key maintenance issues.

This meeting shall include key plant staff such as the plant, manager, maintenance supervisor, operations superintendent, environmental supervisor and safety coordinator. The work plan for the facility inspection shall be discussed. The inspection shall then be conducted and shall address the state of repair of the facility systems, equipment and the ancillary buildings and systems, such as ferrous recovery and ash storage. The Consultant shall take photographs of selected areas of the Facility to document recorded deficiencies or observed conditions, as deemed appropriate by the Consultant.

The inspection shall include review of the following:

- Condition of equipment and structures affecting the reliability of the Facility;
- General facility housekeeping
- Apparent level of maintenance, including repair and replacement
- Adequacy of spare parts inventory
- Compliance with the Facility operating plan
- Compliance with applicable environmental law, and good engineering and industry practice
- Assessment of the potential impacts of pending environmental regulations

The Consultant inspection team shall prepare a draft report based on the inspection and review of operating records. The report shall summarize and include evaluations, analyses, and opinions regarding the operation, repair and maintenance of the Facility and shall provide a review and an opinion on the following:

- The adequacy of equipment and structures affecting the reliability of the Facility
- The adequacy of the Company in performing its obligations under the Service Agreement, the environmental permits and the Facility operating plan
- Assessment of Facility condition and impact on its ability to operate beyond the term of the Service Agreement

The report shall provide recommendations that shall address the following:

- Identification of any observed environmental/regulatory issues
- Improvements to Facility operations and maintenance and report on observed deficiencies and progress in resolution of prior deficiencies
- Improvements to Facility performance or reductions in the cost of operations

Upon completion of the Contracting Communities review of the Draft Report, the Consultant shall finalize the report within the timeframe specified by the Contracting Communities and distribute the final report to the Contracting Communities.

If the Contracting Communities approve multiple inspections, the inspections shall be scheduled alternately between outages for combustion units 1 and 2 each year. If deemed necessary, both combustion units shall be inspected the first year followed by one per year thereafter. This option shall require two site visits or an extended inspection period, since outages for each unit are normally staggered to maximize the daily

throughput of the Facility. During such inspections it is anticipated that operation/maintenance records, such as ultrasonic tube thickness testing, shall be made available and the Contracting Communities shall endeavor to obtain all such records.

Task Deliverables: A narrative report on Facility operating condition and status of regulatory compliance including supporting data shall be prepared by the Consultant. Identification of any outstanding issues, potential risks associated with facility contract extension, planned regulatory changes equipment condition and other areas of concern. Baseline performance parameters shall be established in terms of operating and maintenance criteria for early identification of potential contractual compliance issues. Reports shall be provided to the Contracting Communities in a digital format. Printed copies of reports are a reimbursable expense.

Planned Meetings: One two-day site visit for two Consultant professionals (one mechanical engineer and one electrical engineer) to the Facility site to meet with the Company's staff and gather information is anticipated for each inspection event. A series of conference calls/emails shall be utilized to gather additional data regarding the System's operations and maintenance and planned system changes to minimize expenses.

Information and Services Provided by Others: The Contracting Communities shall arrange to provide available documents and data and shall assist in obtaining necessary records and data from the Contractor or other appropriate parties that are necessary for the preparation of the report. The Contracting Communities shall coordinate meetings and provide for access to the Facility operations. The Contracting Communities shall arrange a two-day site visit by the Consultant's staff person at the site.

The Consultant shall perform Task 1, one (1) time, between the time frame of January 1,2010 and December 31, 2015. The Contracting Communities will provide at least a 90-day notice to the Consultant prior to the date the Consultant will be required to perform Task 1.

Task 2. Contract Negotiation Assistance

At the discretion of the Contracting Communities, the Consultant may be requested to perform the work described herein identified under Task 2. Perform an evaluation of the existing Service Agreement to identify key issues, improvements to be included in any new Service Agreement, development of negotiation posture and assist in the negotiation of a new Service Agreement or extension/amendment for the Facility operation. Assist the Contracting Communities in developing a scope of services for the Company including consideration of the responsibilities of the Contracting Communities in the Service Agreement. Assist the Contracting Communities in drafting a new service agreement or an amendment to the existing agreement.

- Submit a draft scope of services for a new Service Agreement
- Attend coordination meetings with the Contracting Communities and the Company
- Assist in evaluation of responses
- Provide contract negotiation services
- Assist in evaluation of impacts to the Facility as a result of any new or pending State and Federal Regulations (Change-in-Law)

The Consultant shall review the terms and conditions of the existing Service Agreement with the Contracting Communities representatives to define key contractual issues that have arisen during the term of the existing Service Agreement. The Consultant shall assess the potential options for addressing these issues under a contract extension or amendment. The Consultant shall identify and develop potential responses to the Company requested changes or reactions to the Contracting Communities proposed changes in order to assist the Contracting Communities in developing a negotiation posture.

The Consultant shall assist in preparing a negotiation agenda in conjunction with the negotiation team for discussions with the Company. The Consultant shall facilitate the technical aspects of the negotiation and provide advice on other contractual issues.

Deliverables: Including but not limited to the items listed above, the Consultant shall also provide:

- A brief position memorandum of the principal discussion topics for the Contracting Communities review prior to each negotiation session
- Meeting agenda for the negotiations meetings
- Meeting notes documenting discussions, decisions and action items regarding each negotiation meeting
- Comments on draft documents related to the contractual negotiations

Reports shall be provided in digital format. Printed copies of reports are a reimbursable expense.

Planned Meeting: The Consultant shall attend five (5) meetings in the city of Modesto, California for a new Service Agreement. Additional discussions shall be handled in telephone conference calls. If major contractual modifications require additional meetings or more extensive negotiations, these services shall be provided as Additional Services.

Information and Services Provided by Others: Issues related to contractual provisions, flow control mechanism and any legislative or judicial activities that might arise will be referred to the Contracting Communities' legal advisors.

C. COMPENSATION

The Consultant shall be compensated for the services provided under this Agreement as follows:

1. Consultant shall be compensated on a lump sum basis for the not to exceed limits in each task, as set forth in Exhibit B attached hereto and, by this reference, made a part hereof. The not to exceed lump sum amounts for each task are comprised of the hourly billable rates set forth in Exhibit B. In addition to the aforementioned fees, Consultant shall be reimbursed for the following expenses, plus any expenses agreed to by the parties as set forth in a Schedule of Rates – Exhibit B attached hereto, that are reasonable, necessary and actually incurred by the Consultant in connection with the services:

(a) Expenses, fees or charges for printing, reproduction or binding of documents at actual costs.

(b) Travel expenses shall be reimbursed in accordance with the Contracting Communities' travel policy, which is incorporated herein by reference.

Fees plus reimbursable expenses shall not exceed the amounts set forth in Exhibit B and a copy of the original invoice for the items listed in a, b or c above shall be attached to the invoice submitted to the Contracting Communities' for reimbursement. Payments shall be based upon work documents submitted by the Consultant to the Contracting Communities' and accepted by the Contracting Communities', as being satisfactory to Contracting Communities' needs, not work in process. The Contracting Communities' shall not pay a mark up on any of the above items listed in a, b or c or any item identified in Exhibit B. Items such a telephone, fax, postage or freight are already included in the billable hourly rate.

D. INVOICE REMIT TO:

Consultant shall submit a detailed invoice for work actually completed. The invoice is to include but not be limited to the following information: hours worked by Consultant's Staff, the title of the Staff, billable rate and reimbursable items that are reasonable, necessary and actually incurred by the Consultant in connection with the services.

The remit to address is:
Stanislaus County
Department of Environmental Resources
Attention: Mandip Dhillon
3800 Cornucopia Way, Suite C
Modesto, CA 95358

E. REPRESENTATIVES

The Contracting Communities representative is Mandip Dhillon, Project Manager (209) 525-6786. The Consultant's representative is David Traeger, Senior Management Consultant, (402) 399-1355.

F. PROTECTION OF EXISTING FACILITIES

Consultant shall take every precaution to protect all public and private property during the performance of this Agreement. Any damages caused by Consultant's personnel or equipment will be promptly repaired to the condition existing before the damage or be replaced. All such costs for such repairs or replacement shall be the sole responsibility of the Consultant.

G. SAFETY REQUIREMENTS

All services and merchandise must comply with current California State Division of Industrial Safety Orders and OSHA.

H. WORK SCHEDULE

Consultant is obligated to perform in a timely manner the services and work provided for under this Agreement and the Contracting Communities'hereby gives the Consultant notice to proceed with the work as of the effective date of this Agreement. It is understood by Consultant that the performance of these services and work shall require the Consultant to perform the services and work in conformance with a work schedule agreed to by the parties in Exhibit C attached hereto and made a part of this Agreement.

(Intentionally left blank)

EXHIBIT B
PRICE SCHEDULE

HOURLY RATES
The Consultant shall be compensated on a time and material basis based on the hourly rates, and the not to exceed amounts for each task as set forth below.

HOURLY RATES

TITLE	Hourly Billable Rates
Project Manager	$185.00
Management Consultant	$200.00
Technical Consultant	$200.00
Mechanical Engineer	$162.00
Environmental Engineer	$131.00
Electrical Engineer	$181.00
Contract Specialist	$168.00
Financial Analyst	$135.00
Clerical	$ 48.00

SERVICE CHARGE
The Consultant's service charge for sub-consultant work shall be actual cost plus 15%. The Consultant shall provide County copies sub-consultant's invoice to Consultant along with any invoices submitted for reimbursement of the Consultant's service charge.

PROJECT PRICE

The below project pricing is devised to allow the Contracting Communities the ability to identify costs associated with the frequency of tasks performed in a given calendar year. The Consultant shall be compensated the first year based on the hourly rates set forth above to perform the work associated with each task, not to exceed the amounts listed below. The hourly rates for subsequent years may be increased upon the mutual consent of the Contracting Communities and the Consultant. Maximum Total Task Price includes fees and reimbursable expenses.

Task 1 – End-of-Contract Operating Condition and Regulatory Review
(Performed one time between 2010 and 2015

Item	Description	2010-2015 Not to Exceed Price
1	Review of existing operational data	$ 1,770.00
2	On-Site Inspection of current Physical Conditions and Operations	$ 7,060.00
3	Operations and Physical Conditions Comparison to Similar Waste-to Energy and Solid Waste Facilities	$ 5,170.00
4	Identification of deficiencies that must be corrected by Operator	$ 1,440.00
5	Preparation of a technical letter with findings and recommendations	$ 3,670.00
6	Assist the Contracting Communities in its enforcement of the existing permits and contract provisions relating to Facility condition	$ 3,630.00
7	Submit a draft and final report indicating findings and present these findings to the Contracting Communities	$11,000.00
8	**TOTAL NOT TO EXCEED TASK 1 PRICE**	**$33,740.00**

Task 2 – Contract Negotiation Assistance

Item	Description	Not to Exceed Total Price
1	Submit a draft scope of services for a new service agreement	$18,000.00
2	Attend coordination meetings with Contracting Communities	$ 9,400.00
3	Assist in evaluation of responses	$21,000.00
4	Provide contract negotiation services	$23,215.00
5	**TOTAL NOT TO EXCEED TASK 2 PRICE**	**$71,615.00**

The above not to exceed prices include estimates for Consultant expenses such as travel reimbursements.

EXHIBIT C

PROJECT TIMELINE

The following is a timeline for which the tasks identified below shall be performed or completed:

Task	Date
Task 1 - Data Gathering	Complete 3 weeks prior to inspection.
Task 1 - Inspection	Conduct during maintenance outage.
Task 2 - New Contract	Assume a minimum 6 - month negotiation process, with 5 meetings

Print

MODESTO CITY COUNCIL
RESOLUTION NUMBER 2009-536

A RESOLUTION AMENDING THE FISCAL YEAR 2009/2010 BUDGET ESTIMATING REVENUE OF $10,381.02 FROM ASSET FORFEITURES TO POLICE INVESTIGATIONS AND TRAINING FOR THE PURCHASE OF SURVEILLANCE EQUIPMENT AND TO SEND EIGHT OFFICERS TO NARCOTICS TRAINING

WHEREAS, the Modesto Narcotic Enforcement Team (MNET) is the primary narcotics unit within the City of Modesto and responsible for handling all drug related investigations, and

WHEREAS, MNET investigations often involve conducting surveillance of suspected narcotics users and dealers, and

WHEREAS, the narcotic unit surveillance equipment is crucial to accomplishing this task, and

WHEREAS, eight of the MNET members need advanced narcotic training, and

WHEREAS, the Asset Forfeiture Trust Fund has monies available for this purchase,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2009/10 Operating Budget is hereby amended as indicated below:

Appropriate:

To:	0100-190-1941-0225	$4,580.02	Police Investigations Division
	0100-190-1941-0308	$1,236.00	Police Investigations Division
	0100-190-1921-0209	$4,565.00	Police Training

Revenue:

From:	0100-190-1961-7202	$10,381.02	Seized Forfeitures

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-537

RESOLUTION APPROVING AMENDMENT NO. 1 TO THE FIXED-ROUTE TRANSIT SYSTEM OPERATIONS AGREEMENT WITH MV TRANSPORTATION, INC.

WHEREAS, MV Transportation, Inc. (MV) and the City of Modesto entered into an agreement dated June 5, 2007, for the purpose of providing fixed-route public transportation service within the Modesto urban area, and

WHEREAS, City's contract with MV requires an annual adjustment in MV's rate of payment by the same percentage that the Consumer Price Index (CPI) changes, and

WHEREAS, an increase in the CPI requires an increase in payment and a decrease in the CPI (negative CPI) results in a payment reduction, and

WHEREAS, the proposed amendment would allow the City Manager the option, in the event of a negative CPI, to maintain the current rate of payment or impose a commensurate rate reduction, and

WHEREAS, effective June 30, 2009, for the 12-month period ending May 31, 2009, the CPI was a negative 1.3%, causing a reduction of $.54 in the rate paid per vehicle service hour ($42.27 to $41.73/hour), and

WHEREAS, if the amendment is not approved and the reduced rate continues through June 29, 2010, payments to MV for the 12-month period would be reduced a total of $78,291, and

WHEREAS, notwithstanding the CPI decrease MV's costs continue to increase and,

WHEREAS, to help ensure the continuation of high quality transit service and maintain MV's stability it is important not to decrease the compensation rate at a time when MV's expenses are increasing, and

WHEREAS, Amendment No. 1 to Fixed-Route Transit System Operations Agreement would authorize the City Manager to make no reduction to MV's payment rate during periods when the CPI is negative,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Amendment No. 1 to Fixed-Route Transit System Operations Agreement with MV Transportation, Inc.

The forgoing resolution was introduced at a regular meeting of the Council of the City of Modesto on the 10th day of November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and this resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

ATTEST: _____
STEPHENIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANNA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-538

RESOLUTION ADOPTING FINDINGS REQUIRED UNDER THE WILLIAMSON ACT RELATING TO ACQUISITION OF LAND WITHIN AN AGRICULTURAL PRESERVE, APPROVING AN AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY (FEE, GRANT DEED, TEMPORARY CONSTRUCTION EASEMENT) WITH WILLIAM R. LUCHESSA, TRUSTEE OF THE WILLIAM R. LUCHESSA 2004 TRUST, DATED JULY 7, 2004, AS TO AN UNDIVIDED ½ INTEREST AND NATIVIDAD LUCHESSA, AS SUCCESSOR TRUSTEE OF THE ALVIN LUCHESSA AND NATIVIDAD LUCHESSA 2004 TRUST DATED JULY 26, 2004, AS TO AN UNDIVIDED ½ INTEREST, IN THE AMOUNT OF $32,101.00, FOR THE ACQUISITION OF A PORTION OF PROPERTY LOCATED AT 1218 BANGS AVENUE (APN: 046-002-001) FOR ADDITIONAL PERMANENT RIGHT-OF-WAY AND INCIDENTAL RIGHTS REQUIRED FOR THE PELANDALE AVENUE WIDENING 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 desires to acquire a portion of a property located at 1218 Bangs Avenue (APN: 046-002-001) owned by William R. Luchessa, trustee of the William R. Luchessa 2004 Trust as to an undivided ½ interest and Natividad Luchessa, as successor trustee of the Alvin Luchessa and Natividad Luchessa 2004 Trust, (the subject property) to be purchased by the City of Modesto for the Pelandale Avenue Widening project, and

WHEREAS, the Pelandale Avenue Widening Project involves the expansion of Pelandale Avenue to include four additional lanes of traffic to create a six-lane arterial expressway between Dale road and McHenry Avenue, and

WHEREAS, Assessor's Parcel Number 046-002-001 is currently encumbered by a Williamson Act contract, and

WHEREAS, the location of the project generally, and specifically on this parcel, is not based primarily on a consideration of the lower cost of acquiring land in an

agricultural preserve, but rather on the current location and alignment of Pelandale Avenue and related improvements, the residential neighborhoods abutting Pelandale Avenue, and the purpose of increasing circulation on a six lane expressway, and

WHEREAS, there is no other land within or outside the preserve on which it is reasonably feasible to locate the project, and

WHEREAS, the appraisal of the land was without consideration of the involved Williamson Act contract pursuant to Civil Code section 51295, and

WHEREAS, the acquisition of the subject property and the location of the Project will not interfere with the continued agricultural use of the remainder parcel, and

WHEREAS, the Project requires acquisition of the subject property, and

WHEREAS, the City Council of the City of Modesto directed staff to enter into negotiations with the landowners to purchase the portion of real property described herein, to compensate the landowner for severance damages (loss of trees) and for extension of the term of a temporary construction easement needed for the scope of work required for the Project, and

WHEREAS, a purchase agreement has been negotiated between the City and the landowners,

NOW, THEREFORE, IT IS FOUND, DETERMINED, AND ORDERED as follows:

1. The public interest and necessity require the acquisition of the subject Property.
2. The Project is planned and located in the manner which was not based primarily on, nor in part on a consideration of a lower cost of acquiring land within an agricultural preserve.
3. There is no other land within or outside the agricultural preserve on which it is reasonably feasible to plan and locate the project.

4. The acquisition of the subject property will not interfere with continued agricultural use of the remainder parcel.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement for Purchase and Sale of Real Property (Fee, Grant Deed, Temporary Construction Easement) between the City of Modesto and William R. Luchessa 2004 Trust, as to an undivided ½ interest and Natividad Luchessa, as successor trustee of the Alvin Luchessa and Natividad Luchessa 2004 Trust in the amount of $32,101, for the acquisition of a portion of property, including loss and removal of trees and extension of the temporary construction easement, located at 1218 Bangs Avenue (APN: 046-002-001) for the Pelandale Avenue Widening 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 10th day of November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-539

A RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE A CERTIFICATE OF ACCEPTANCE FORM FOR THE GRANT DEED FOR THE ACQUISITION OF A PORTION OF PROPERTY LOCATED AT 1218 BANGS AVENUE (APN: 046-002-001), OWNED BY WILLIAM R. LUCHESSA, TRUSTEE OF THE WILLIAM R. LUCHESSA 2004 TRUST, AS TO AN UNDIVIDED ½ INTEREST AND NATIVIDAD LUCHESSA, AS SUCCESSOR TRUSTEE OF THE ALVIN LUCHESSA AND NATIVIDAD LUCHESSA 2004 TRUST TO BE PURCHASED BY THE CITY OF MODESTO FOR THE PELANDALE AVENUE WIDENING PROJECT

WHEREAS, Section 27281 of the Government Code requires a public agency to accept real property prior to the recordation of a deed or adopt a resolution accepting real property, and

WHEREAS, the City of Modesto desires to acquire a portion of a parcel (APN: 046-002-001) for the Pelandale Avenue Widening 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 execute a Certificate of Acceptance Form for the Grant Deed for the acquisition of a portion of property located at 1218 Bangs Avenue (APN: 046-002-001), owned by William R. Luchessa, trustee of the William R. Luchessa 2004 Trust, as to an undivided ½ interest and Natividad Luchessa, as successor trustee of the Alvin Luchessa and Natividad Luchessa 2004 Trust to be purchased by the City of Modesto for the Pelandale Avenue Widening project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-540

A RESOLUTION AUTHORIZING THE SOLE SOURCE PROCUREMENT FOR THE REPAIR OR REPLACEMENT OF A SIEMENS SCREW PUMP FOR THE SUTTER TREATMENT PLANT FROM SIEMENS WATER TECHNOLOGIES, THOMASVILLE, GA., AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR THE REPAIR OR REPLACEMENT FOR A TOTAL COST NOT TO EXCEED $900,000

WHEREAS, the Sutter Treatment Plant utilizes four (4) InternaLift screw pumps in a single wet pit to elevate untreated sewage from the main trunk lines to the headworks process, and

WHEREAS, InternaLift pumps are a very unique proprietary design that utilize a large diameter tube with fixed, twisted flights inside to elevate the water as the tube rotates, and

WHEREAS, on September 19, 2009, influent pump #2 had a catastrophic failure of the lower bearing assembly, which is 9 feet in diameter and carries a rotating load of 92,000 lbs, and

WHEREAS, the pump was removed from the influent pit for inspection and repair, and

WHEREAS, Siemens Water Technologies, the original equipment manufacturer, was called out to assist in the evaluation, and it was determined that the pump could not be fully inspected, assessed, or repaired in the field, and

WHEREAS, the pump must be shipped to the Siemens facility in Thomasville, GA, which is the only facility with trained technical experts and equipment large enough to handle this size pump to restore it to service, and

WHEREAS, Siemens will then evaluate the pump to determine if it can be repaired or must be replaced, and

WHEREAS, estimated cost for repair only is approximately $300,000; however, should Siemens determine that the pump cannot be repaired, the cost for a new pump would be approximately $900,000, and

WHEREAS, funds are available through a separate Council action that transferred funds from Account No. 6210-480-B576-6052 ($500,000) and from Wastewater Reserves Account No. 6210-800-8000-8003 ($400,000) into new Capital Improvement Program Account Number 6210-480-B191-6070 – Siemens Screw Pump Repair for this expenditure, 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, "Where the Purchasing Agency's requirements can be met solely by a single article or process." The sole source procurement of the repair or replacement of the Siemens Screw Pump for the Public Works Department, Water Quality Control Services Division, conforms to the MMC,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the sole source procurement of the repair or replacement of a Siemens Screw Pump for the Sutter Treatment Plant from Siemens Water Technologies, Thomasville, GA.

BE IT FURTHER RESOLVED that the Council authorizes the Purchasing Manager to prepare a purchase order for a total cost not to exceed $900,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-541

A RESOLUTION AUTHORIZING THE TRANSFER OF $500,000 FROM CAPITAL IMPROVEMENT PROJECT 6210-480-B576-6052 –RENEWAL / REPLACEMENT SUTTER TP AND THE TRANSER OF $400,000 FROM WASTEWATER RESERVES 6210-800-8000-8003 TO NEW CAPITAL IMPROVEMENT PROJECTACCOUNT 6210-480-B191-6070 - SIEMENS SCREW PUMP REPAIR

WHEREAS, the Sutter Treatment Plant utilizes four (4) InternaLift screw pumps in a single wet pit to elevate untreated sewage from the main trunk lines to the headworks process, and

WHEREAS, InternaLift pumps are a very unique proprietary design that utilizes a large diameter tube with fixed, twisted flights inside to elevate the water as the tube rotates, and

WHEREAS, on September 19, 2009, influent pump #2 had a catastrophic failure of the lower bearing assembly, which is 9 feet in diameter and carries a rotating load of 92,000 pounds, and

WHEREAS, estimated cost for repair is approximately $300,000; however, should Siemens determine that the pump cannot be repaired, the cost for a new pump would be approximately $900,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the transfer of $500,000 from Capital Improvement Project 6210-480-B576-6052 – Renewal/Replacement Sutter TP and the transfer of $400,000 from Wastewater Reserves 6210-800-8000-8003 to new Capital Improvement Project account 6210-480-B191-6070 – Siemens Screw Pump Repair.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT "A"
Siemens Screw Pump

Fund

Wastewater

Expense Adjustments	
6210-480-B576-6052 Renewal/Repl Sutter TP	-$500,000
6210-800-8000-8003 Wastewater Fund Reserves	-$400,000
6210-480-B191-6070 Siemens Screw Pump	+$900,000

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-542

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED, "WELLHEAD TREATMENT AND BLENDING LINES – WELLS 283 & 236", CONTINGENT UPON RECEIPT OF EXECUTED SECOND AMENDMENT TO FUNDING AGREEMENT WITH CALIFORNIA DEPARTMENT OF PUBLIC HEALTH (CDPH), ACCEPTING THE BID AND APPROVING A CONTRACT WITH CONCO-WEST, INC. IN THE AMOUNT OF $940,300, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Wellhead Treatment and Blending Lines – Wells 283 & 236 project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Wellhead Treatment and Blending Lines – Wells 283 & 236 project were opened at 11:00 a.m. on October 6, 2009, and later tabulated by the Director of Public Works for the consideration of the Council, and

WHEREAS, the Director of Public Works has recommended that the bid of $940,300 received from Conco-West, Inc. be accepted as the lowest responsible bid and the contract be awarded to Conco-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 Wellhead Treatment and Blending Lines – Wells 283 & 236 project, contingent upon receipt of executed Second Amendment to Funding Agreement with California Department of Public Health (CDPH), accepts the bid of Conco-West, Inc. in the amount of $940,300, and awards Conco-West, Inc. the contract for the Wellhead Treatment and Blending Lines – Wells 283 & 236 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 November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-543

A RESOLUTION APPROVING A NEW CAPITAL IMPROVEMENT PROGRAM ACCOUNT FOR THE PROJECT TITLED, "ARRA WELLHEAD TREATMENT AND BLENDING LINES – WELLS 283 & 236", WHICH DID NOT APPEAR IN THE ADOPTED CAPITAL IMPROVEMENT PROGRAM FOR FISCAL YEAR 2009-2010

WHEREAS, on February 27, 2009, City staff submitted the preapplication for design and construction funds for the ARRA Wellhead Treatment and Blending Lines – Wells 283 & 236 project (Project) to California Department of Health (CDPH), and

WHEREAS, on April 28, 2009, by Resolution 2009-187, Council authorized submittal of an application to CDPH, and

WHEREAS, on August 5, 2009, by Resolution 2009-383, Council authorized the City Manager, or Deputy City Manager, to sign the Funding Agreement with CDPH under the California Safe Drinking Water State Revolving Fund and the American Recovery and Reinvestment Act of 2009, and

WHEREAS, on September 17, 2009, the Funding Agreement with CDPH for the Project was executed for a total amount of $800,000.00, and

WHEREAS, this CIP project account was not included in the adopted CIP for Fiscal Year 2009-2010, and

WHEREAS, City staff recommends approving a new CIP Account 0340-430-W029 for the project titled, "ARRA Wells 283 & 236 Blending",

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a new Capital Improvement Program Account 0340-430-W029 for the project titled, "ARRA Wells 283 & 236 Blending".

BE IT FURTHER RESOLVED that the Finance Director, or his/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 10th day of November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-544

A RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 CAPITAL IMPROVEMENT PROGRAM BUDGET, AS PER EXECUTED FUNDING AGREEMENT AND AMENDMENT TO FUNDING AGREEMENT WITH CALIFORNIA DEPARTMENT OF PUBLIC HEALTH (CDPH), AND CONTINGENT UPON RECEIPT OF EXECUTED SECOND AMENDMENT TO FUNDING AGREEMENT WITH CDPH, IN ORDER TO FULLY FUND THE DESIGN AND CONSTRUCTION ACTIVITIES FOR THE ARRA FUNDED WELLS 283 & 236 BLENDING PROJECT

WHEREAS, a budget adjustment in the amount of $1,146,830 is necessary to fully fund the design and construction activities for the ARRA funded Wells 283 & 236 Blending project including contingency and construction administration, and

WHEREAS, the Fiscal Year 2009-2010 Capital Improvement Program budget must be amended, as per executed Funding Agreement with California Department of Public Health (CDPH), and contingent upon receipt of executed Amendment to Funding Agreement and Second Amendment to Funding Agreement with CDPH, 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 amendment of the Fiscal Year 2009-2010 Capital Improvement Program budget, as per executed Funding Agreement and Amendment to Funding Agreement with California Department of Public Health (CDPH), and contingent upon receipt of executed Second Amendment to Funding Agreement with CDPH, as shown in **Exhibit A**.

BE IT FURTHER RESOLVED that the Finance Director, or his/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 10th day of November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit A

FUND:

ARRA Environment – Water

REVENUES:

ARRA Environment – Water	0340-430-W029-3650-50	$1,146,830

EXPENDITURES:		Increase/(Decrease)
ARRA Wells 283 & 236 Blending	0340-430-W029-6010	$18,470
ARRA Wells 283 & 236 Blending	0340-430-W029-6040	$940,300
ARRA Wells 283 & 236 Blending	0340-430-W029-6050	$94,030
ARRA Wells 283 & 236 Blending	0340-430-W029-6060	$94,030

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-545

A RESOLUTION REJECTING ALL BIDS FOR THE PRIMARY OUTFALL REHABILITATION PROJECT-PHASE I AND AUTHORIZING STAFF TO IMMEDIATELY REVISE THE PLANS AND SPECIFICATIONS, AND RE-ADVERTISE A PROJECT WITH A REDUCED SCOPE FOR THE PRIMARY OUTFALL REHABILITATION PROJECT-PHASE I

WHEREAS, the bids received for the Primary Outfall Rehabilitation Project-Phase I were opened at 11:00 a.m. on September 15, 2009, and later tabulated by the Director of Public Works for the consideration of the Council, and

WHEREAS, on September 16, 2009, Spiniello Companies, the second lowest bidder, submitted a letter to the City Clerk as an official protest to the bid results and award, and

WHEREAS, on September 18 and October 20, 2009, Ebert McGuire and Hester, the third low bidder, submitted letters protesting the award of the project to either of the two lowest bidders, Colich & Sons L.P. or Spiniello Companies, and

WHEREAS, Public Works and legal staff have reviewed all information and have determined it is in the best interest of the City to recommend that all bids be rejected, and

WHEREAS, staff recommends immediately revising the plans and specifications by eliminating the most contentious work from the plans and specifications and re-advertising a project with a reduced scope for the Primary Outfall Rehabilitation Project Phase I, and

WHEREAS, staff will also research the use of alternative materials for the limited length deleted from Phase I and include this portion of pipe with the Primary Outfall Rehabilitation Phase II, to be advertised for bid and constructed after Phase I is completed,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that all bids received for the Primary Outfall Rehabilitation Project-Phase I, opened in the office of the City Clerk on September 15, 2009, are hereby rejected.

BE IT FURTHER RESOLVED that staff is hereby authorized to immediately re-advertise a project with a reduced scope for the Primary Outfall Rehabilitation Project-Phase I.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NUMBER 2009-546

A RESOLUTION APPROVING A JOINT POWERS AGREEMENT BETWEEN THE COUNTY OF STANISLAUS AND THE CITIES OF MODESTO, HUGHSON, PATTERSON, CERES AND WATERFORD, TO ESTABLISH THE STANISLAUS ANIMAL SERVICES AGENCY FOR THE JOINT OPERATION AND MANAGEMENT OF THE ANIMAL SHELTER FOR A TWENTY-FIVE YEAR AGREEMENT, WITH AN ESTIMATED CUMULATIVE DEBT SERVICE COST TO THE CITY OF MODESTO OF $5,874,265; AND AUTHORIZING THE MAYOR, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, since June of 2009, City staff has collaborated with staff members from the County of Stanislaus, cities of Ceres, Hughson, Patterson, and Waterford to review and finalize the Joint Powers Agreement (JPA) that will establish the Stanislaus Animal Services Agency, and

WHEREAS, the partnering jurisdictions have reached a tentative agreement on the JPA, and

WHEREAS, the JPA will be governed by a board, the members of which shall be appointed by each member agency, to include the County Chief Executive Officer and the City Manager of each member agency with equal representation, and

WHEREAS, the JPA shall have the common power of the member agencies to plan, establish and exercise all government functions necessary to provide animal services for the benefit of the member agencies, and

WHEREAS, a member agency may withdraw from the JPA at any time by giving notice to all other member agencies by resolution of intent to withdraw, and

WHEREAS, upon a member agency's withdrawal, the JPA will have the first right of refusal to purchase the withdrawing member's share, and

WHEREAS, if the JPA does not purchase the exiting member's percentage share, the existing member can sell it to another agency for current debt outstanding at the date of termination of membership in the JPA, and

WHEREAS, member agencies will be required to pay their proportional share of capitalized costs on the date of actual occupancy, and member agencies may elect to pay capitalized costs in advance of the facility's completion, and

WHEREAS, the MOU between the County and the City of Modesto addresses the future disposition of the existing Finch Road site, as well as a phased in debt payment plan to address past contributions made by the City to the County's Shelter operations, and

WHEREAS, this MOU establishes a twenty-five year debt service repayment schedule for the repayment to the County of Stanislaus for the cost of construction of the Animal Shelter, the specific terms of which are detailed in the Joint Powers Agreement entered by the parties,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement between the County of Stanislaus and the cities of Modesto, Hughson, Patterson, Ceres and Waterford, to establish the Stanislaus Animal Services Agency for the joint operation and management of the animal shelter for a twenty-five year agreement, with an estimated cumulative debt service cost to the City of Modesto of $5,874,265.

BE IT FURTHER RESOLVED that the Mayor, 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 November, 2009, by Councilmember Keating, 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: Keating, Lopez, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-547

A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE COUNTY OF STANISLAUS AND THE CITY OF MODESTO RELATING TO SHELTER CAPITAL COSTS AND THE DISPOSITION OF THE FINCH ROAD ANIMAL SHELTER; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE MEMORANDUM OF UNDERSTANDING

WHEREAS, since June of 2009, City staff has collaborated with staff members from the County of Stanislaus, cities of Ceres, Hughson, Patterson, and Waterford to review and finalize the Joint Powers Agreement (JPA) that will establish the Stanislaus Animal Services Agency, and

WHEREAS, the partnering jurisdictions have reached a tentative agreement on the JPA, and

WHEREAS, the JPA will be governed by a board, the members of which shall be appointed by each member agency, to include the County Chief Executive Officer and the City Manager of each member agency with equal representation, and

WHEREAS, the JPA shall have the common power of the member agencies to plan, establish and exercise all government functions necessary to provide animal services for the benefit of the member agencies, and

WHEREAS, a member agency may withdraw from the JPA at any time by giving notice to all other member agencies by resolution of intent to withdraw, and

WHEREAS, upon a member agency's withdrawal, the JPA will have the first right of refusal to purchase the withdrawing member's share, and

WHEREAS, if the JPA does not purchase the exiting member's percentage share, the existing member can sell it to another agency for current debt outstanding at the date of termination of membership in the JPA, and

WHEREAS, member agencies will be required to pay their proportional share of capitalized costs on the date of actual occupancy, and member agencies may elect to pay capitalized costs in advance of the facility's completion, and

WHEREAS, the Memorandum Of Understanding (MOU) between the County of Stanislaus and the City of Modesto addresses the future disposition of the existing Finch Road site, as well as a phased in debt payment plan to address past contributions made by the City to the County's Shelter operations, and

WHEREAS, this MOU establishes a twenty-five year debt service repayment schedule for the repayment to the County of Stanislaus for the cost of construction of the Animal Shelter, the specific terms of which are detailed in the Joint Powers Agreement entered by the parties,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Memorandum of Understanding between the County of Stanislaus and the City of Modesto relating to shelter capital costs and the disposition of the Finch Road Animal Shelter.

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 10th day of November, 2009, by Councilmember Keating, 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: Keating, Lopez, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-548

A RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO CONFIRMING THE CANVASS OF THE REGULAR MUNICIPAL ELECTION WHICH WAS HELD IN THE CITY OF MODESTO ON NOVEMBER 3, 2009, AND DECLARING THE RESULTS OF SAID ELECTION.

WHEREAS, on Tuesday, November 3, 2009, a Regular Municipal Election was held in the City of Modesto (herein called "City") and in the Modesto High School District (herein called "District") of Stanislaus County to elect the following:

1. One Councilmember to District 2 for a four year term;
2. Once Councilmember to District 4 for a four year term;
3. One Councilmember to District 5 for a four year term;
4. Four Board of Education Members for four year terms; and

WHEREAS, as set forth in Section 5 hereof, Measures A, B, C, D and E were Advisory measures, and were submitted to the qualified electors in the November 3, 2009, City of Modesto election, and

WHEREAS, said election was held on Tuesday, November 3, 2009, in accordance with law and the proceedings of this Council, and the votes thereat received and canvassed, and the returns thereof ascertained, determined, and declared in all respects as required by law, and

WHEREAS, the City Clerk canvassed the returns of said regular municipal election in accordance with law, and certified the results of the election of the Council by a Certificate of Canvass and Statement of Votes dated November 24, 2009, a copy of which is **attached** hereto marked **Exhibit "A"** and made a part hereof,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto as follows:

SECTION 1. Said canvass by the City Clerk as shown on the Certificate of Canvass and Statement of Votes and the results of the election are hereby ratified, confirmed and approved.

SECTION 2. That in accordance with Section 10264 of the Elections Code, a copy of said Certificate of Canvass and Statement of Votes, which is **attached** hereto marked as **Exhibit "A"** and made a part hereof, shows a complete tabulation of the following:

(A) The whole number of votes cast in Districts 2, 4, and 5 in the City.

(B) The whole number of votes cast in the Modesto High School District.

(C) The names of the persons voted for.

(D) For what office each person was voted for.

(E) The number of votes given in the City to each person.

(F) The number of votes given in the City for each Measure.

SECTION 3. That, at said Regular Municipal election, the following named persons having received a majority of the votes cast for the elective offices, as designated on **Exhibit "A"**, are hereby declared to be duly and regularly elected to such office, and the City Clerk is hereby directed to issue a Certificate of election to each such persons, certifying his/her election to the office appearing after his/her name, and to administer to each of said persons the oath of office prescribed by the Constitution and laws of the State of California and the Charter of the City, to wit:

Dave Geer	Councilmember for a term of four years, District 2, Modesto City Council.
Joe Muratore	Councilmember for a term of four years, District 4, Modesto City Council.
Kristin Olsen	Councilmember for a term of four years, District 5, Modesto City Council.

Nancy Cline	Member, Modesto Board of Education, for a term of four years.
Cindy Marks	Member, Modesto Board of Education, for a term of four years.
Ruben A.Villalobos	Member, Modesto Board of Education, for a term of four years.
Sue Zwahlen	Member, Modesto Board of Education, for a term of four years.

SECTION 4. The following votes were cast for Measures A, B, C, D and E:

Measure	**Total Votes For**	**Total Votes Against**
Measure A: Shall the City Council provide sewer service to the following described area of the Modesto Urban Area General Plan, provided the area is first annexed to the City? The unincorporated area designated "Kiernan Avenue Corridor CPDs, including Kiernan / Carver North CPD and portions of Kiernan / Carver and Salida CPDs." Generally bordered north by General Plan boundary and future Pirrone centerline; east by Tully and McHenry centerlines; south by Bangs centerline; west by American and Stoddard centerlines.	8,294	12,467
Measure B: Shall the City Council provide sewer service to the following described area of the Modesto Urban Area General Plan, provided the area is first annexed to the City? The unincorporated area designated "College West Comprehensive Planning District" in Modesto Urban Area General Plan. Generally bordered on east by Union Pacific Railroad and Poust Road centerline/extended north; south by Shoemake Avenue centerline and existing residential properties that front Mozart Drive; west by Morse Road centerline/extended north.	7,288	13,358

Measure C: Shall the City Council provide sewer service to the following described area of the Modesto Urban Area General Plan, provided the area is first annexed to the City? The unincorporated area designated as "130-acre Regional Commercial portion of the Hetch-Hetchy Comprehensive Planning District". Generally, area is bordered on north by Claribel Road centerline; east by imaginary line 0.25 miles east of centerline of McHenry Avenue; south by Claratina Avenue centerline; west by McHenry Avenue centerline.	7,883	12,680
Measure D: Shall the City Council provide sewer service to the following described area of the Modesto Urban Area General Plan, provided the area is first annexed to the City? The unincorporated area designated "Northwest portion of the Roselle/Claribel Comprehensive Planning District" in the Modesto Urban Area General Plan. Generally, the area is bordered on north by centerline of Claribel Road, on east by Roselle Avenue, on south by Claratina Avenue, and west by Oakdale Road.	7,490	13,120
Measure E: Shall the City Council provide sewer service to the following described area of the Modesto Urban Area General Plan, provided the area is first annexed to the City? The unincorporated area designated "830-acre Village Residential Portion of Hetch-Hetchy Comprehensive Planning District" in the Modesto Urban Area General Plan. Generally bordered north by Claribel Road centerline; east by Oakdale Road centerline; south by Claratina Avenue centerline; west by imaginary line 0.25 miles east of McHenry centerline.	6,213	14,349

Measures A, B, C, D and E. Less than a majority of all of the votes cast at the election for Measures A, B, C, D and E were in favor of said proposed Measures A, B, C, D and E and said Measures A, B, C, D and E did not carry, were not approved, and were not ratified by a majority of the qualified voters voting on said Measures.

CERTIFICATE OF CANVASS
AND
STATEMENT OF VOTE

CITY OF MODESTO REGULAR MUNICIPAL ELECTION
November 3, 2009

I, Stephanie Lopez, City Clerk of the City of Modesto, do hereby certify that I caused the Stanislaus County Clerk's Office, on November 3, 2009, to publicly canvass the returns of the City of Modesto Regular Municipal Election held on November 3, 2009, in accordance with Modesto City Council Resolution 67-36. The following are the results of said election:

CANDIDATES	NUMBER OF VOTES	PERCENTAGE OF VOTE
District 2, Modesto City Council		
Dave Geer	596	56.82%
Al Nava	448	42.71%
Total Votes Cast for District 2	1,149	
Non-Qualified Write-in Candidates	5	
District 4, Modesto City Council		
Jeff Perine	1,227	32.04%
Robert Stanford	456	11.91%
Joe Muratore	2,135	55.74%
Total Votes Cast for District 4	4,021	
Non-Qualified Write-in Candidates	12	
District 5, Modesto City Council		
Joe Cataline	1,591	33.90%
Kristin Olsen	3,090	65.84%
Total Votes Cast for District 5	4,975	
Non-Qualified Write-in Candidates	12	

MEASURES	NUMBER OF VOTES		PERCENTAGE OF VOTE
Measure A			
Shall the City Council provide sewer service to the following described area of the Modesto Urban Area General Plan, provided the area is first annexed to the City? The unincorporated area designated "Kiernan Avenue Corridor CPDs, including Kiernan / Carver North CPD and portions of Kiernan / Carver and Salida CPDs." Generally bordered north by General Plan boundary and future Pirrone centerline; east by Tully and McHenry centerlines; south by Bangs centerline; west by American and Stoddard centerlines.			
	8,294	YES	39.95%
	12,467	**No**	**60.05%**
Measure B			
Shall the City Council provide sewer service to the following described area of the Modesto Urban Area General Plan, provided the area is first annexed to the City? The unincorporated area designated "College West Comprehensive Planning District" in Modesto Urban Area General Plan. Generally bordered on			

east by Union Pacific Railroad and Poust Road centerline/extended north; south by Shoemake Avenue centerline and existing residential properties that front Mozart Drive; west by Morse Road centerline/extended north.

7,288	YES	35.30%
13,358	**No**	**64.70%**

Measure C
Shall the City Council provide sewer service to the following described area of the Modesto Urban Area General Plan, provided the area is first annexed to the City? The unincorporated area designated as "130-acre Regional Commercial portion of the Hetch-Hetchy Comprehensive Planning District". Generally, area is bordered on north by Claribel Road centerline; east by imaginary line 0.25 miles east of centerline of McHenry Avenue; south by Claratina Avenue centerline; west by McHenry Avenue centerline.

7,883	YES	38.34%
12,680	**No**	**61.66%**

Measure D
Shall the City Council provide sewer service to the following described area of the Modesto Urban Area General Plan, provided the area is first annexed to the City? The unincorporated area designated "Northwest portion of the Roselle/Claribel Comprehensive Planning District" in the Modesto Urban Area General Plan. Generally, the area is bordered on north by centerline of Claribel Road, on east by Roselle Avenue, on south by Claratina Avenue, and west by Oakdale Road.

7,490	YES	36.34%
13,120	**No**	**63.66%**

Measure E
Shall the City Council provide sewer service to the following described area of the Modesto Urban Area General Plan, provided the area is first annexed to the City? The unincorporated area designated "830-acre Village Residential Portion of Hetch-Hetchy Comprehensive Planning District" in the Modesto Urban Area General Plan. Generally bordered north by Claribel Road centerline; east by Oakdale Road centerline; south by Claratina Avenue centerline; west by imaginary line 0.25 miles east of McHenry centerline.

6,213	YES	30.22%
14,349	**No**	**69.78%**

CANDIDATES	NUMBER OF VOTES	PERCENTAGE OF VOTE
Member, Modesto Board of Education – 4 year term		
Steve Collins	8,349	9.58%
Nancy Cline	**10,491**	**12.04%**
Sue Zwahlen	**14,665**	**16.84%**
Solange G. Altman	9,456	10.86%
Belinda Rolicheck	5,443	6.25%
Ruben A. Villalobos	**11,111**	**12.76%**
Joshua Vander Veen	6,581	7.56%
Jim Standart	9,108	10.46%
Cindy Marks	**11,744**	**13.48%**
Non-Qualified Write-in Candidates	159	.18%

VOTER TURNOUT:	**87,107**		**100%**
	TOTAL REGISTERED VOTERS	**TOTAL TURNOUT**	**TURNOUT PERCENTAGE**
City of Modesto Council District 2	9,476	1,149	12.13%
City of Modesto Council District 4	15,514	4,021	25.92%
City of Modesto Council District 5	17,434	4,975	28.54%
Measures A, B, C, D and E	93,005	21,918	23.57%
Modesto High School District	118,056	26,936	22.82%

STEPHANIE LOPEZ
City Clerk
City of Modesto

November 24, 2009

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-549

A RESOLUTION APPROVING A THIRD ADDENDUM TO THE AGREEMENT WITH THE LAW FIRM OF RENNE SLOAN HOLZMAN & SAKAI, LLP AUTHORIZING THE ENGAGEMENT OF A HUMAN RESOURCES CONSULTANT, AND AUTHORIZING THE CITY MANAGER AND THE CITY ATTORNEY TO EXECUTE THE THIRD ADDENDUM TO AGREEMENT

WHEREAS, the City of Modesto entered into an Agreement for outside Legal Services with the Law Firm of Renne Sloan Holzman & Sakai, LLP (Renne Sloan) on January 1, 2009, for specialized legal and consultant services in the area of labor, employment and personnel matters, and

WHEREAS, as a result of the City of Modesto's Voluntary Separation Incentive Program of 2009 the Human Resources Director retired effective June 1, 2009, and

WHEREAS, the City Council has directed the City Manager to review all positions in the City and make determinations and recommendations regarding efficiencies in operation of all departments, divisions and work units in the City, and

WHEREAS, the City Manager has requested the opportunity to conduct such a review by engaging a Human Resources consultant to oversee the operations of the Human Resources Department for a limited term, and make any recommendations to the City Manager regarding operations and other process efficiencies, and

WHEREAS, Renne Sloan also associates in a number of non-attorney professionals who are highly experienced former public agency directors and managers to provide technical assistance to their clients as needed, and the City Manager wishes to avail himself of these technical services to study efficiencies in the Human Resources Department in response to the Council's direction, and

WHEREAS, Mark Gregersen has been recommended by Renne Sloan as a consultant associated with their firm who has over 25 years of City and County experience in Human Resources and Finance who is available to assist the City Manager in this regard, and

WHEREAS, the original Agreement with Renne Sloan for outside legal services was executed pursuant to the authority granted to the City Attorney under Modesto City Charter Section 902 for engagement of legal services, and so the City Attorney has recommended, out of an abundance of form, that the Council approve the expanded scope of that Agreement to include the technical services to be provided by Mr. Gregersen, and

WHEREAS, the Third Addendum provides for an amount not to exceed $168,000, which shall be allocated in amounts no greater than $4,000 per week for Interim Director of Human Resources services, and at a rate of $205 per hour, plus reasonable and customary expenses, for human resources and labor relations consulting services provided when it is determined that Interim Director of Human Resource Services are no longer needed, and

WHEREAS, funding for this action will be brought separately to Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Third Addendum to the Agreement for Legal Services with the Law Firm of Renne Sloan Holtzman & Sakai, LLP to expand the scope of services to include the provision of technical assistance.

BE IT FURTHER RESOLVED that the City Manager and the City Attorney are hereby authorized to execute the Third Addendum to Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-550

RESOLUTION APPROVING AN APPLICATION IN THE AMOUNT OF $1 MILLION TO THE FISCAL YEAR 2010–2011 BICYCLE TRANSPORTATION ACCOUNT TO FUND THE CONTINUED DEVELOPMENT OF THE VIRGINIA CORRIDOR PROJECT; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ANY NECESSARY DOCUMENTS

WHEREAS, the State of California has made funding available through the Department of Transportation's Bicycle Transportation Account for Fiscal Year 2010-2011, and

WHEREAS, development of the Virginia Corridor Project (the "Project") is consistent with the Bicycle Transportation Act of the State of California's Department of Transportation program, and

WHEREAS, if selected, the City of Modesto will enter into a contract with the State of California for the Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby:

1. Approves the filing of a grant application for $1 million from the State of California's Department of Transportation through the Bicycle Transportation Account for Fiscal Year 2010-2011; and

2. Certifies that the City of Modesto has or will have sufficient funds to operate and maintain the Project; and

3. Certifies that the applicant has reviewed, understands, and agrees to the General Provisions contained in the contract shown in the Procedural Guide; and

4. Authorizes the City Manager, or his designee, as agent of the City of Modesto, to conduct all negotiations and execute and submit all documents, including but

not limited to, applications, contracts, amendments, payment requests, and compliance with all applicable current state and federal laws, which may be necessary for the completion of the aforementioned Project upon acceptance of said grant by the City Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-551

RESOLUTION APPROVING (1) A PURCHASE AND SALE AGREEMENT BETWEEN JP MORGAN AND CHASE BANK (SELLER) AND THE CITY OF MODESTO (PURCHASER) FOR REAL PROPERTY LOCATED AT 1712 SAINT CHARLOTTE LANE, MODESTO, FOR THE PURCHASE PRICE OF $98,782.00; (2) THE SUBSEQUENT TRANSFER OF TITLE TO BORGES CONSTRUCTION, A FOR-PROFIT NEIGHBORHOOD STABILIZATIION (NSP) PARTICIPANT/RECIPIENT IN CONSIDERATION FOR EXECUTION OF NSP LOAN AGREEMENT, PROMISSORY NOTE, DEED OF TRUST AND REGULATORY AGREEMENT; AND (3) AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN A CERTIFICATE OF ACCEPTANCE, REQUIRED TRANSFER DOCUMENTS, LOAN DOCUMENTS AND ALL RELATED DOCUMENTS TO COMPLETE AND CLOSE THE TRANSACTION

WHEREAS, on May 12, 2009, the City Council, by Resolution No. 2009-212, approved the Fiscal Year 2009-2010 Annual Action Plan (AAP) which included activities for the allocation of Neighborhood Stabilization Program (NSP) funds, and

WHEREAS, of the $8.1 million in NSP funding, $2 million was allocated for the purchase and rehabilitation of foreclosed homes within specific focus areas, and

WHEREAS, under the City's program, qualified non-profit and for-profit organizations are able to request funding for eligible property acquisition and rehabilitation, and

WHEREAS, the requests are reviewed by a sub-committee of the Citizens Housing & Community Development Committee (CH&CDC) based on previously approved criteria. Once approved, funding is allocated for the property purchase. Rehabilitation costs are included in the loan amount but are paid out on a reimbursement basis, and

WHEREAS, Borges Construction, a qualified for-profit participant, submitted a property acquisition request for a foreclosed home located at 1712 Saint Charlotte Lane,

Modesto, for funding and was approved by the CH&CDC sub-committee; however, in processing the loan, the City was advised that JP Morgan and Chase Bank will only sell their discounted properties to governmental agencies and/or non-profits, and

WHEREAS, to comply with this requirement, it will be necessary to open a double escrow account and a reconveyance of title will be made. The title of reconveyance will be made to Borges Construction as an eligible and approved NSP participant, and

WHEREAS, approval of the proposed action will help the City meet its goal of spending the NSP funds before the September 2010 deadline,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Purchase and Sale Agreement and a Certificate of Acceptance between JP Morgan and Chase Bank and the City of Modesto for real property located at 1712 Saint Charlotte Lane, Modesto, for $98,782, approving the transfer of title of the property to Borges Construction.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute the Purchase and Sale 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 24th day of November 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-552

RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE FUTURE PURCHASE AND SALE AGREEMENTS, NSP FUNDED TRANSACTIONS APPROVED BY A SUBCOMMITTEE OF THE CITIZEN'S HOUSING & COMMUNITY DEVELOPMENT COMMITTEE (CH&CDC) BASED ON PREVIOUSLY APPROVED CRITERIA AND GUIDELINES

WHEREAS, on May 12, 2009, the City Council, by Resolution No. 2009-212, approved the Fiscal Year 2009-2010 Annual Action Plan (AAP) which included activities for the allocation of NSP funds, and

WHEREAS, of the $8.1 million in NSP funding, $2 million was allocated for the purchase and rehabilitation of foreclosed homes within specific focus areas, and

WHEREAS, under the City's program, qualified non-profit and for-profit organizations are able to request funding for eligible property acquisition and rehabilitation, and

WHEREAS, the requests are reviewed by a sub-committee of the Citizens Housing & Community Development Committee (CH&CDC) based on previously approved criteria. Once approved, funding is allocated for the property purchase. Rehabilitation costs are included in the loan amount but are paid out on a reimbursement basis, and

WHEREAS, certain financial institutions require that discounted property sales only be made to qualified non-profit or governmental agencies which precludes the City's for-profit participants from buying properties except through a double-escrow to which the City is a party, 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 future purchase/sale agreements, NSP loan documents and all related documents for NSP funded transactions approved by a subcommittee of the Citizen's Housing & Community Development Committee based on previously approved criteria and guidelines.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-553

A RESOLUTION APPROVING AN AGREEMENT WITH BAY AREA ECONOMICS FOR PREPARATION OF THE CITY OF MODESTO'S FIVE YEAR CONSOLIDATED PLAN (2010-2015), ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING UPDATE, AND ANNUAL ACTION PLAN FOR FISCAL YEAR 2010-2011; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE AGREEMENT AND ANY RELATED DOCUMENTS

WHEREAS, the U.S. Department of Housing and Urban Development (HUD) requires a comprehensive, long-term plan for the use of HUD funds, and

WHEREAS, the City of Modesto meets this requirement through the preparation of a Five-Year Consolidated Plan which analyzes the City's housing and community development needs, with a priority focus on low- and moderate-income individuals, households and neighborhoods, and describes long-term strategies for meeting those needs, and

WHEREAS, in addition to the development of policies, the Consolidated Plan also addresses how the City utilizes funding from three different entitlement grants: the Community Development Block Grant (CDBG), the HOME Investment Partnership Grant (HOME) and the Emergency Shelter Grant (ESG), and

WHEREAS, HUD is also committed to eliminating racial and ethnic segregation, illegal physical and other barriers to persons with disabilities and other discriminatory practices in housing, through the implementation of fair housing actions, and

WHEREAS, the City's current Consolidated Plan and Analysis of Impediments to Fair Housing were adopted in 2005 and are due for update prior to June 30, 2010, and

WHEREAS, a Request for Proposals was prepared and Bay Area Economics (BAE) was selected to prepare the City's Five-Year Consolidated Plan, Analysis of

Impediments to Fair Housing Choice, and the Annual Action Plan for Fiscal Year 2010-2011,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Bay Area Economics for preparation of the City's Five-Year Consolidated Plan (2010-2015), Analysis of Impediments to Fair Housing Choice, and Annual Action Plan for Fiscal Year 2010-2011.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of November, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-554

A RESOLUTION APPROVING AN AGREEMENT WITH BROWN AND CALDWELL FOR DESIGN SERVICE FOR THE WELL REMEDIATION AT WELL 226 PROJECT IN AN AMOUNT NOT TO EXCEED $95,000 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $9,500 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $104,500, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, Water Well #226, located at the northwest corner of Conant and Brenner Avenues, was drilled in 1954, and

WHEREAS, Water Well #226 has been placed off-line due to exceeding the maximum contaminant level for arsenic, and

WHEREAS, in addition, this well is approaching the state maximum contaminant level for nitrates, and

WHEREAS, water pressures and fire flows have decreased to near minimum levels while the well is off-line, and

WHEREAS, blending and filtration of the water is too expensive at the present time, and

WHEREAS, a new, deeper well is proposed to be drilled on the existing site, and

WHEREAS, Brown and Caldwell has a state certified hydrogeologist and an experienced well driller on staff to write the project specifications ensuring the well is drilled to implement the advanced sampling techniques, design the underground well casing that will isolate the contaminant layer(s), and oversee the low-bidding water well drilling contractors (future contract) method and materials, and

WHEREAS, on April 7, 2009, by Resolution 2009-149, the City Council approved a short-list of hydrogeologists to be used on a rotating, as-needed basis,

consisting of the following firms: Brown & Caldwell, URS, and West Yost Associates, Inc., and

WHEREAS, in compliance with Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, three Request For Proposals (RFP) were sent to the consultants on the short-list, and

WHEREAS, three proposals were received, and subsequently reviewed by the Selection Committee which consisted of Public Works Engineering and Water Operations staff, and

WHEREAS, the Selection Committee determined that Brown and Caldwell is the most qualified to prepare the design of the Well Remediation at Well 226, and

WHEREAS, therefore, City staff recommends approving an agreement with Brown and Caldwell for the project, and

WHEREAS, City staff recommends approving an Agreement with Brown and Caldwell as the City does not have the staffing level or subject matter expertise to provide design services for the Well Remediation at Well 226 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 Brown and Caldwell for design services for the Well Remediation at Well 226 project in an amount not to exceed $95,000 for the identified scope of services, plus $9,500 for additional services (if needed), for a maximum total amount of $104,500.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-555

A RESOLUTION APPROVING AN AMENDMENT TO THE DEPARTMENT OF HOUSING & URBAN DEVELOPMENT ANNUAL ACTION PLAN FOR FISCAL YEAR 2009-2010, 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

WHEREAS, the City Council, on May 12, 2009, by Resolution No. 2009-212, approved the Fiscal Year 2009-2010 HUD Annual Action Plan, and

WHEREAS, staff has proposed an amendment to the Annual Action Plan as set forth in **Exhibit "1", attached** hereto and incorporated herein by reference, and

WHEREAS, notice has been duly given to the community of a proposed amendment to the Annual Action Plan, and to provide a 30-day comment period, which began October 24, 2009, and ended on November 24, 2009, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) considered the proposed amendment to the HUD Annual Action Plan at its June 18, 2008, meeting, and the Committee recommended that the City Council approve the amendment to the HUD Annual Action Plan as proposed by staff, and

WHEREAS, a duly noticed public hearing was held by the City Council on November 24, 2009, 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 2009-2010 HUD Annual Action Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto

that it hereby approves an Amendment to the Fiscal Year 2009-2010 HUD Annual Action Plan, a copy which is **attached** hereto as **Exhibit "1"**, 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 24th day of November, 2009, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

FY 2009-2010 CDBG
Annual Action Plan Amendment

CDBG Funding	FY 09/10	Total Amendment	Grand Total
Entitlement (decreased by $141 from amount submitted)	2,396,167	0	2,396,167
Revolving Loan Fund (RLF)		0	0
CDBG Funding Total	**2,396,167**	**0**	**2,396,167**

CDBG Budget	FY 09/10	Total Amendment	Grand Total
Housing Development, Preservation & Home Ownership	**1,203,283**	**1,947,267**	**3,150,550**
Down Payment Assistance Program (DPAP)	120,000	240,000	360,000
Emergency Home Repair Program (EHRP) / Rehabilitation Accessibility Program (RAP) - single-unit	165,000	748,526	913,526
Emergency Home Repair Program (EHRP) / Rehabilitation Accessibility Program (RAP) - multi-unit	25,000	-8,905	16,095
Minor Home Repair Grant Program (MHRGP)	10,000	15,000	25,000
Bailey	0	8,905	8,905
Rehabilitation Property Improvement Programs - single-unit	7,500	-2,500	5,000
Rehabilitation Property Improvement Programs - multi-unit	7,500	-2,500	5,000
Lead-Based Paint Services	10,000	0	10,000
Housing Demolition	5,000	0	5,000
Temporary Relocation	5,000	0	5,000
Neighborhood Revitalization Strategy - Service Credits	0	0	0
Neighborhood Revitalization Strategy	134,891	948,741	1,083,632
Housing Rehabilitation Administration Total	394,471	0	394,471
- Loan Application & Portfolio Processing	75,788	0	75,788
- Rehabilitation Technical Assistance Inspections & Services	85,124	0	85,124
- Environmental Review Services	94,130	0	94,130
- Housing Rehabilitation Admin	63,879	0	63,879
- Indirect Admin	75,550	0	75,550
Public Facility & Improvement	**226,555**	**655,000**	**881,555**
ADA Accessibility Features - Park sites	0	300,000	300,000
ADA Curb Cuts	0	250,000	250,000
Public Facilities & Improvement Accessibility Features - Dryden Pathway	26,555	100,000	126,555
Public Facilities & Improvement (Pre Development) Accessibility Features - Senior Center Restroom	60,000	-30,000	30,000
Public Facilities & Improvement - Accessibility Features - KKMC Pathway	40,000	0	40,000
Blight/Health & Safety - Water tower Removal	100,000	35,000	135,000
	0	0	0
Neighborhood Preservation & Stabilization	**253,140**	**9,561**	**262,701**
Code Enforcement - Building Codes	22,500	0	22,500
Interfund	0	9,561	9,561
Code Enforcement - Neighborhoods	205,640	0	205,640
Neighborhood Cleanup	25,000	0	25,000
	0	0	0

FY 2009-2010 CDBG
Annual Action Plan Amendment

CDBG Budget	FY 09/10	Total Amendment	Grand Total
Program Administration & Planning	**529,092**	**0**	**529,092**
General Administration	382,405	0	382,405
General Administration	-141	0	-141
Indirect Administration	106,828	0	106,828
Project Sentinel (Fair Housing)	40,000	0	40,000
	0	0	0
Section 108 Loan Repayments (Principal/Interest)	**376,877**	**0**	**376,877**
	0	**0**	**0**
Public Services	**376,000**	**0**	**376,000**
American Red Cross (ARC) "Emergency Shelter Services"	**18,421**	0	18,421
Center for Human Services (CHS) "Hutton House - Runaway & Homeless Youth"	**24,000**	0	24,000
Center for Human Services (CHS) "Pathways - Transitional Living Program"	**18,694**	0	18,694
Children's Crisis Center (CCC) "Marsha's N.E.A.T. Program"	**30,160**	0	30,160
Children's Crisis Center (CCC) "Cricket's N.E.A.T. Program"	**8,736**	0	8,736
Children's Crisis Center (CCC) Sawyer's N.E.A.T. Program"	**8,736**	0	8,736
Community Housing & Shelter Services (CHSS) "Laura's House Families in Recovery"	**27,120**	0	27,120
Disability Resource Agency for Independent Living (DRAIL) "Assistive Technology Program"	**15,000**	0	15,000
Howard Training Center (HTC) "Senior Meals Program"	20,000	0	20,000
Parent Resource Center (PRC) "ABC's of Childcare"	15,000	0	15,000
Project Sentinel (PS) "Tenant-Landlord"	14,000	0	14,000
SCAP "Nutritional Supplement and Education"	20,000	0	20,000
Second Harvest Food Bank (SHFB) "Food Assistance Program"	40,000	0	40,000
The Salvation Army (TSA) "Berberian Winter Shelter"	30,000	0	30,000
United Samaritians Foundation "Lunch Program"	6,133	0	6,133
Recreation Programs for Low Income Persons	40,000	0	40,000
Recreation Programs for Low Income Persons	40,000	0	40,000
	0	0	0
CDBG Grand Total	**2646026**	**2761828**	**5407854**
	0		0
	141	-2,761,828	-3,011,687

"Exhibit 1"
City Council 11/04/09

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-556

RESOLUTION AMENDING THE FY 2009-2010 ANNUAL OPERATING AND CAPITAL IMPROVEMENT BUDGETS TO REFLECT APPROVED CHANGES AND CARRYOVER FUNDS TO THE HUD ANNUAL ACTION PLAN; AND AUTHORIZING THE FINANCE DIRECTOR, OR HIS 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, on May 12, 2009, by Resolution No. 2009-212, the Modesto City Council approved the Fiscal Year 2009-2010 HUD Annual Action Plan, and

WHEREAS, staff has proposed an amendment to the Annual Action Plan as set forth in **Exhibit "1"**, **attached** hereto and incorporated herein by reference, and

WHEREAS, notice has been duly given to the community of the proposed amendment to the Annual Action Plan, and to provide a 30-day comment period, which began October 24, 2009, and ended on November 24, 2009, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) considered the proposed amendment to the HUD Annual Action Plan at its June 18, 2008, meeting, and the Committee recommended that the Council approve the amendment to the HUD Annual Action Plan as proposed by staff, and

WHEREAS, a duly noticed public hearing was held by the City Council on November 24, 2009, 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 2009-2010 HUD Annual Action Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto

that it hereby approves an Amendment to the Fiscal Year 2009-2010 HUD Annual Action Plan, a copy which is **attached** hereto as **Exhibit "1"**, 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 24th day of November, 2009, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

FY 2009-2010 CDBG
Annual Action Plan Amendment

CDBG Funding	FY 09/10	Total Amendment	Grand Total
ıtitlement (decreased by $141 from amount submitted)	2,396,167	0	2,396,167
ıevolving Loan Fund (RLF)		0	0
CDBG Funding Total	**2,396,167**	**0**	**2,396,167**

CDBG Budget	FY 09/10	Total Amendment	Grand Total
Housing Development, Preservation & Home Ownership	**1,203,283**	**1,947,267**	**3,150,550**
Down Payment Assistance Program (DPAP)	120,000	240,000	360,000
Emergency Home Repair Program (EHRP) / Rehabilitation Accessibility Program (RAP) - single-unit	165,000	748,526	913,526
Emergency Home Repair Program (EHRP) / Rehabilitation Accessibility Program (RAP) - multi-unit	25,000	-8,905	16,095
Minor Home Repair Grant Program (MHRGP)	10,000	15,000	25,000
Bailey	0	8,905	8,905
Rehabilitation Property Improvement Programs - single-unit	7,500	-2,500	5,000
Rehabilitation Property Improvement Programs - multi-unit	7,500	-2,500	5,000
Lead-Based Paint Services	10,000	0	10,000
Housing Demolition	5,000	0	5,000
Temporary Relocation	5,000	0	5,000
ıeighborhood Revitalization Strategy - Service Credits	0	0	0
ıighborhood Revitalization Strategy	134,891	948,741	1,083,632
Housing Rehabilitation Administration Total	394,471	0	394,471
- Loan Application & Portfolio Processing	75,788	0	75,788
- Rehabilitation Technical Assistance Inspections & Services	85,124	0	85,124
- Environmental Review Services	94,130	0	94,130
- Housing Rehabilitation Admin	63,879	0	63,879
- Indirect Admin	75,550	0	75,550
Public Facility & Improvement	**226,555**	**655,000**	**881,555**
ADA Accessibility Features - Park sites	0	300,000	300,000
ADA Curb Cuts	0	250,000	250,000
Public Facilities & Improvement Accessibility Features - Dryden Pathway	26,555	100,000	126,555
Public Facilities & Improvement (Pre Development) Accessibility Features - Senior Center Restroom	60,000	-30,000	30,000
Public Facilities & Improvement - Accessibility Features - KKMC Pathway	40,000	0	40,000
Blight/Health & Safety - Water tower Removal	100,000	35,000	135,000
	0	0	0
Neighborhood Preservation & Stabilization	**253,140**	**9,561**	**262,701**
Code Enforcement - Building Codes	22,500	0	22,500
Interfund	0	9,561	9,561
Code Enforcement - Neighborhoods	205,640	0	205,640
Neighborhood Cleanup	25,000	0	25,000
	0	0	0

"Exhibit 1"
City Council 11/04/09

FY 2009-2010 CDBG
Annual Action Plan Amendment

CDBG Budget	FY 09/10	Total Amendment	Grand Total
Program Administration & Planning	**529,092**	**0**	**529,092**
General Administration	382,405	0	382,405
General Administration	-141	0	-141
Indirect Administration	106,828	0	106,828
Project Sentinel (Fair Housing)	40,000	0	40,000
	0	0	0
Section 108 Loan Repayments (Principal/Interest)	**376,877**	**0**	**376,877**
	0	**0**	**0**
Public Services	**376,000**	**0**	**376,000**
American Red Cross (ARC) "Emergency Shelter Services"	**18,421**	0	18,421
Center for Human Services (CHS) "Hutton House - Runaway & Homeless Youth"	**24,000**	0	24,000
Center for Human Services (CHS) "Pathways - Transitional Living Program"	**18,694**	0	18,694
Children's Crisis Center (CCC) "Marsha's N.E.A.T. Program"	**30,160**	0	30,160
Children's Crisis Center (CCC) "Cricket's N.E.A.T. Program"	**8,736**	0	8,736
Children's Crisis Center (CCC) Sawyer's N.E.A.T. Program"	**8,736**	0	8,736
Community Housing & Shelter Services (CHSS) "Laura's House Families in Recovery"	**27,120**	0	27,120
Disability Resource Agency for Independent Living (DRAIL) "Assistive Technology Program"	**15,000**	0	15,000
Howard Training Center (HTC) "Senior Meals Program"	20,000	0	20,000
Parent Resource Center (PRC) "ABC's of Childcare"	15,000	0	15,000
Project Sentinel (PS) "Tenant-Landlord"	14,000	0	14,000
SCAP "Nutritional Supplement and Education"	20,000	0	20,000
Second Harvest Food Bank (SHFB) "Food Assistance Program"	40,000	0	40,000
The Salvation Army (TSA) "Berberian Winter Shelter"	30,000	0	30,000
United Samaritians Foundation "Lunch Program"	6,133	0	6,133
Recreation Programs for Low Income Persons	40,000	0	40,000
Recreation Programs for Low Income Persons	40,000	0	40,000
	0	0	0
CDBG Grand Total	**2646026**	**2761828**	**5407854**
	0 141	 -2,761,828	0 -3,011,687

"Exhibit 1"
City Council 11/04/09

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-557

A RESOLUTION APPROVING THE EXPENDITURE OF $100,000 FROM THE CITY OF MODESTO'S FISCAL YEAR 2009/2010 ALLOCATION 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) 2009/2010 is $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 2009/2010 State Supplemental Law Enforcement Services Fund allocation of $100,000 for police overtime.

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 November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-558

A RESOLUTION AMENDING THE FISCAL YEAR 2009/2010 MULTI-YEAR BUDGET TO APPROPRIATE REVENUES AND EXPENDITURES FOR THE CITY OF MODESTO'S ALLOCATION FROM THE STATE SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND; AND AUTHORIZING THE FINANCE DIRECTOR, OR HIS 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) 2009/2010 is $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 2009/2010 Police SLESF allocation in the amount of $100,000 will be applied to account number 0400-190-2925-3188,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby amends the FY 2009/2010 multi-year budget to appropriate revenues and expenditures in the amount of $100,000 0400-190-2925-3188 for police overtime, as listed in **Exhibit A**.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of November, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, 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 2009/2010 will be applied to:

	Revenue	Increase/(Decrease)	Description
To:	MY-0400-190-2103-3188	$100,000	2009/10 SLESF Grant

	Expense		
To:	MY-0400-190-2103-0130	$100,000	Overtime

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-559

RESOLUTION REAPPOINTING DAVID TANNER TO THE CITY OF MODESTO GOLF COURSES ADVISORY COMMITTEE

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, David Tanner was originally appointed to the Golf Courses Advisory Committee on September 6, 2006, and

WHEREAS, David Tanner has expressed interest in continuing to serve as a member of the Golf Courses Advisory Committee.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. David Tanner is hereby reappointed to the Golf Courses Advisory Committee 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 appointed member of the Golf Courses Advisory Committee, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of December, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-560

RESOLUTION REAPPOINTING JOEL MENSONIDES TO THE CITY OF MODESTO GOLF COURSES ADVISORY COMMITTEE

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, JOEL MENSONIDES was originally appointed to the Golf Courses Advisory Committee on August 5, 2009, and

WHEREAS, Joel Mensonides has expressed interest in continuing to serve as a member of the Golf Courses Advisory Committee.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. Joel Mensonides is hereby reappointed to the Golf Courses Advisory Committee 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 appointed member of the Golf Courses Advisory Committee, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of December, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-561

RESOLUTION REAPPOINTING ALEXANDRA HOFFMAN TO THE CITY OF HOUSING REHABILITATION LOAN COMMITTEE

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, Alexandra Hoffman was originally appointed to the Housing Rehabilitation Loan Committee on November 7, 2007, and

WHEREAS, Alexandra Hoffman has expressed interest in continuing to serve as a member of the Housing Rehabilitation Loan Committee.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. Alexandra Hoffman is hereby reappointed to the Housing Rehabilitation Loan Committee with a term expiration of January 1, 2014.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Housing Rehabilitation Loan Committee, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of December, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-562

RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 ANNUAL BUDGET

WHEREAS, a monthly financial analysis has been completed and it has been determined that certain adjustments are required to the Annual Budget of the City of Modesto for Fiscal Fiscal Year 2009-2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the Fiscal Year 2009-2010 budget have been adjusted as shown in **Exhibit A**, which is 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.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of December, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

PARKS, RECREATION AND NEIGHBORHOODS

This budget adjustment recognizes new revenue from Stanislaus County and allocates these funds to the Leisure Bucks program for qualified youth, seniors and disabled citizens within Stanislaus County, but outside the Modesto City limits.

REVENUES

TO:	
Miscellaneous Revenue	3,700
0100-350-3801-8155	

APPROPRIATIONS

FROM:	
General Fund Reserves	
0100-800-8000-8003	(15,852)
TO:	
Youth SC	
0100-350-3801-1061	19,552

POLICE DEPARTMENT

The air conditioner compressor in the Police Department administrative building has failed. Equipment failure is not funded in the Building Services Internal Service Fund, and the Police Department has no available funding to replace the failed compressor. This adjustment transfers funds from General Fund Reserves to the Police Department for the cost of the air conditioning compressor unit.

APPROPRIATIONS

FROM:	
General Fund Reserves	
0100-800-8000-8003	(11,363)
TO:	
Services, Professional & Other	
0100-190-1921-0235	11,363

PULBIC WORKS

This budget adjustment recognizes unbudgeted revenue in Capital Improvement Project B812, Primary Outfall Rehabilitation, 6180-430-B812-8122, for the reimbursement of escrow fees from the sale of the property located at 2501 W. Hackett Rd, and appropriates these revenues for Land/ROW Acquisition, 6180-430-B812-6030.

REVENUES

TO:
Refund
6180-430-B812-8122 171

APPROPRIATIONS

TO:
Land/ROW Acquisition
6180-430-B812-6030 171

VARIOUS FUNDS

In anticipation of General Fund furlough and retirement savings, assumptions were made while preparing the Fiscal Year 2009-2010 Operating Budget. Further information has become available since the adoption of the budget on June 23, 2009. The original estimated savings of $4.5 million is $3.9 million, thus requiring a transfer of $560,441 from reserves to the affected organizations salary and benefit budget lines within the general fund. The following budget adjustments are necessary to true up the identified budgets.

APPROPRIATIONS

FROM:
General Fund Reserves
0100-800-8000-8003 (560,441)

TO:

0100	020	0201	0184	SALARY ADJUSTMENT-DECREASE	42,716
0100	020	0201	0194	BENEFITS ADJUSTMENT-DECREASE	13,892
0100	030	0301	0184	SALARY ADJUSTMENT-DECREASE	96,853
0100	030	0301	0194	BENEFITS ADJUSTMENT-DECREASE	29,037
0100	030	0303	0184	SALARY ADJUSTMENT-DECREASE	3,388
0100	030	0303	0194	BENEFITS ADJUSTMENT-DECREASE	584
0100	120	1201	0184	SALARY ADJUSTMENT-DECREASE	3,206
0100	120	1201	0194	BENEFITS ADJUSTMENT-DECREASE	713
0100	120	1222	0184	SALARY ADJUSTMENT-DECREASE	16,439
0100	120	1222	0194	BENEFITS ADJUSTMENT-DECREASE	5,283
0100	120	1224	0184	SALARY ADJUSTMENT-DECREASE	25,576
0100	120	1224	0194	BENEFITS ADJUSTMENT-DECREASE	8,698
0100	120	1232	0184	SALARY ADJUSTMENT-DECREASE	(7,362)
0100	120	1232	0194	BENEFITS ADJUSTMENT-DECREASE	(2,769)
0100	140	1401	0184	SALARY ADJUSTMENT-DECREASE	(1,699)
0100	140	1401	0194	BENEFITS ADJUSTMENT-DECREASE	(293)
0100	140	1413	0184	SALARY ADJUSTMENT-DECREASE	(3,560)
0100	140	1413	0194	BENEFITS ADJUSTMENT-DECREASE	(614)
0100	140	1421	0184	SALARY ADJUSTMENT-DECREASE	1,618
0100	140	1421	0194	BENEFITS ADJUSTMENT-DECREASE	279
0100	140	1430	0184	SALARY ADJUSTMENT-DECREASE	3,422
0100	140	1430	0194	BENEFITS ADJUSTMENT-DECREASE	590

0100	140	3770	0184	SALARY ADJUSTMENT-DECREASE	4,923
0100	140	3770	0194	BENEFITS ADJUSTMENT-DECREASE	849
0100	180	1805	0184	SALARY ADJUSTMENT-DECREASE	35,880
0100	180	1805	0194	BENEFITS ADJUSTMENT-DECREASE	16,415
0100	180	1822	0184	SALARY ADJUSTMENT-DECREASE	(7,382)
0100	180	1822	0194	BENEFITS ADJUSTMENT-DECREASE	(1,273)
0100	180	1832	0184	SALARY ADJUSTMENT-DECREASE	268,036
0100	180	1832	0194	BENEFITS ADJUSTMENT-DECREASE	121,946
0100	190	1901	0184	SALARY ADJUSTMENT-DECREASE	72,295
0100	190	1901	0194	BENEFITS ADJUSTMENT-DECREASE	25,060
0100	190	1902	0184	SALARY ADJUSTMENT-DECREASE	(21,487)
0100	190	1902	0194	BENEFITS ADJUSTMENT-DECREASE	(9,714)
0100	190	1921	0184	SALARY ADJUSTMENT-DECREASE	(79,539)
0100	190	1921	0194	BENEFITS ADJUSTMENT-DECREASE	(18,255)
0100	190	1924	0184	SALARY ADJUSTMENT-DECREASE	(4,207)
0100	190	1924	0194	BENEFITS ADJUSTMENT-DECREASE	(725)
0100	190	1941	0184	SALARY ADJUSTMENT-DECREASE	(60,977)
0100	190	1941	0194	BENEFITS ADJUSTMENT-DECREASE	(17,518)
0100	190	1942	0184	SALARY ADJUSTMENT-DECREASE	(4,674)
0100	190	1942	0194	BENEFITS ADJUSTMENT-DECREASE	(806)
0100	190	1961	0184	SALARY ADJUSTMENT-DECREASE	(143,904)
0100	190	1961	0194	BENEFITS ADJUSTMENT-DECREASE	(45,939)
0100	190	1964	0184	SALARY ADJUSTMENT-DECREASE	(4,046)
0100	190	1964	0194	BENEFITS ADJUSTMENT-DECREASE	(698)
0100	190	1965	0184	SALARY ADJUSTMENT-DECREASE	(4,570)
0100	190	1965	0194	BENEFITS ADJUSTMENT-DECREASE	(788)
0100	190	1966	0184	SALARY ADJUSTMENT-DECREASE	(6,420)
0100	190	1966	0194	BENEFITS ADJUSTMENT-DECREASE	(2,083)
0100	190	2971	0184	SALARY ADJUSTMENT-DECREASE	(2,176)
0100	190	2971	0194	BENEFITS ADJUSTMENT-DECREASE	(375)
0100	300	3001	0184	SALARY ADJUSTMENT-DECREASE	135,521
0100	300	3001	0194	BENEFITS ADJUSTMENT-DECREASE	37,926
0100	350	3522	0184	SALARY ADJUSTMENT-DECREASE	(8,588)
0100	350	3522	0194	BENEFITS ADJUSTMENT-DECREASE	(4,296)
0100	350	4712	0184	SALARY ADJUSTMENT-DECREASE	16,842
0100	350	4712	0194	BENEFITS ADJUSTMENT-DECREASE	6,440
0100	370	3732	0184	SALARY ADJUSTMENT-DECREASE	(7,362)
0100	370	3732	0194	BENEFITS ADJUSTMENT-DECREASE	(2,769)
0100	430	4301	0184	SALARY ADJUSTMENT-DECREASE	(108,712)
0100	430	4301	0194	BENEFITS ADJUSTMENT-DECREASE	(40,885)
0100	510	9510	0184	SALARY ADJUSTMENT-DECREASE	155,887
0100	510	9510	0194	BENEFITS ADJUSTMENT-DECREASE	36,592

As a result of the reorganizations that were a part of the Fiscal Year 2009-2010 adopted Operating Budget, service credit revenues and expenses need to be adjusted. The reorganizations include the movement of the Parking Fund from Parks, Recreation and Neighborhoods to Public Works, Community Forestry moved from Public Works to Parks, Recreation and Neighborhoods, Neighborhood Preservation Unit (NPU) moved from Parks, Recreation and Neighborhoods to Community and Economic Development and Building Services moved to a new division within the Parks, Recreation and Neighborhoods Department. The following budget adjustments are necessary to redirect service credit revenue and expense as a result of the above mentioned reorganizations.

TO:	
0100-350-4712-0255	(9,205)
0360-355-4403-0255	794
0370-355-4444-0255	21,102
0700-480-4724-0255	(21,940)
6000-480-3581-0255	2,609
6280-480-5312-0255	(26)
6280-480-5315-0255	2,443
6700-340-3412-0255	(111)
7800-350-3512-0255	(21,360)
0100-300-3001-4909	(15,121)
0100-350-3522-4909	16,294
0100-350-4712-4909	(121)
0700-480-4724-4909	(28,601)
6000-480-3581-4909	(21,360)
6100-480-5009-4909	(3,884)
7200-480-5801-4909	(49,890)
7800-350-3512-4909	48,660
7800-350-3513-4909	28,329

This budget adjustment is being made to true up actual savings verses what was listed on the 5-7-10% reductions which were adopted on June 23, 2009. A reduction amount of $20,000 was listed, but was reduced due to an additional expense. This adjustment returns the additional expense that was taken.

APPROPRIATIONS

FROM:	
General Fund Reserves	
0100-800-8000-8003	(302)

TO:	
Services, Professional & Other	
0100-140-1430-0235	302

This budget adjustment is being made to correct a typographical error made on the 5-7-10% reduction sheets adopted on June 23, 2009. The intended Salary and Benefit reduction total was $49,680, not the $46,980 which was entered.

APPROPRIATIONS

FROM:	
Buckle-Up Stanislaus - Salary Reduction	
0100-190-1953-0184	(1,350)
Buckle-Up Stanislaus - Benefit Reduction	
0100-190-1953-0194	(1,350)
TO:	
General Fund Reserves	
0100-800-8000-8003	2,700

RESCINDED

Rescinded on March 23, 2010

This Resolution was rescinded by Modesto City Council Resolution

By Reso No. 2010-110

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MODESTO CITY COUNCIL
RESOLUTION NO. 2009-563

VING ADJUSTMENTS TO THE MAXIMUM RATE RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL SOLID WASTE COLLECTION SERVICES, TO BECOME EFFECTIVE JANUARY 1, 2010, INCLUDING FUEL COST; AND RESCINDING RESOLUTION NO. 2009-445

WHEREAS, with the adoption of Ordinance No. 3068-C.S. in November of 1997, the City no longer sets rates for the collection of garbage in Modesto, and instead performs a comprehensive review of cost information submitted by the contract garbage haulers, and

WHEREAS, the City sets a maximum rate that the haulers may charge for the various types of services provided under the contracts based on cost data provided by the lowest cost hauler, and

WHEREAS, Section f (2) of the City's Service Agreements with its solid waste collectors requires that when the City makes adjustments to the collection services provided under the Agreements, any additional costs should be covered by adjustments to the maximum rates, and

WHEREAS, in addition, maximum rates for solid waste collection services are reviewed annually as requested by the City's garbage collection companies, and

WHEREAS, the City conducted an analysis using the audited financial statements provided by the garbage haulers, supplemental data provided by the garbage haulers, and fuel price information and forecast prices developed by the United States Department of Energy, and

WHEREAS, new maximum rates were calculated, and a recommendation for a new maximum rate schedule was developed, which included a recommendation that quarterly adjustments to the fuel component of the maximum rates be made, and

WHEREAS, a report dated December 1, 2009, 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, it was found and determined by the Council of the City of Modesto that the existing schedules of rates and charges for garbage service in the City of Modesto should be revised as recommended, and that quarterly adjustments to the fuel component of the maximum rates should be made, and

WHEREAS, staff has adjusted the fuel component of the maximum rates and has incorporated the fuel component adjustment into the schedule of Maximum Charges for Garbage Service **attached** hereto, marked **Exhibit "1"** and incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the adjustments to 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 January 1, 1010, 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. 2009-445 is hereby rescinded, effective January 1, 2010.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of December, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT "1"
January 1, 2010

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 **$22.56 per month** regardless of size of container. A fuel component of $0.90 per month is included in the maximum rate for the quarter beginning July 1, 2009 and ending September 30, 2009. The fuel component may be adjusted quarterly.
b. The maximum rate for each additional garbage container shall be **$16.81 per month, and $9.50 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 **$18.94 per month**. A fuel component of $0.90 per month is included in the maximum rate for the quarter beginning July 1, 2009 and ending September 30, 2009. The fuel component may be adjusted quarterly.
b. The maximum rate for each additional 60-gallon garbage container shall be **$16.38 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	$ 41.45	$ 72.41	$ 103.34	$ 134.28	$ 165.23	$ 196.18
2 CY	$ 72.41	$ 134.28	$ 196.18	$ 258.07	$ 319.95	$ 381.83
3 CY	$103.34	$ 196.18	$ 289.01	$ 381.83	$ 474.68	$ 567.50
4 CY	$134.28	$ 258.07	$ 381.83	$ 505.62	$ 629.39	$ 753.17
5 CY	$165.23	$ 319.95	$ 474.68	$ 629.39	$ 787.12	$ 938.84
6 CY	$196.18	$ 381.83	$ 567.50	$ 753.17	$ 938.84	$1,124.51

Container Size	FORK Participants Container Maximum Rates NUMBER OF COLLECTIONS PER WEEK					
	1	2	3	4	5	6
2 CY	$ 54.31	$ 100.71	$ 147.14	$ 193.55	$ 239.96	$ 286.37
3 CY	$ 77.51	$ 147.14	$ 216.76	$ 286.37	$ 356.01	$ 425.63
4 CY	$100.71	$ 193.55	$ 286.37	$ 379.22	$ 472.04	$ 564.88
5 CY	$123.92	$ 239.96	$ 356.01	$ 472.04	$ 590.34	$ 704.13
6 CY	$147.14	$ 286.37	$ 425.63	$ 564.88	$ 704.13	$ 843.38
90-gallon	$ 22.56	$ 45.12	$ 67.68	$ 90.24	$ 112.80	$ 135.36

* A detachable container rental rate of $10.00 per month is included in the above schedules.

1. **Weekly rental/Detachable Containers** - Shall not exceed the rate for 1 pickup per week for each size container.

2. **Fuel Component** - A fuel component of $0.78 per cubic yard per month ($0.18 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, 2009 and ending September 30, 2009. The fuel component shall be analyzed quarterly and adjustments shall be made as necessary. The adjustment shall be based on the average price of fuel for a preceding quarter as follows: July 1/January-March; October/April-June; January 1/July-September; April 1/October-December. Average prices shall be determined based on published prices for California from the Department of Energy.

DROP BOX CONTAINERS

1. **Pick up charge** - $210.95 per pick up
2. **Rental** - $0.85 per day up to 7 day maximum rental
   - $3.00 per day for boxes kept 7 or more days without servicing
   - $10.00 per day for boxes kept 21 or more days without servicing
3. **Disposal charge** - Actual charge to be paid by customer. Garbage company will provide up to 40 CY Drop Box containers for above stated charges subject only to load limit of transfer vehicle. An AB 939 Green Waste Diversion Fee of $8.40 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	$310.02	$ 588.54	$ 867.03	$1,145.49	$1,424.04	$1,702.50
4 CY	$402.84	$ 774.21	$1,145.49	$1,516.86	$1,888.17	$2,259.51
6 CY	$588.54	$1,145.49	$1,702.50	$2,259.51	$2,816.52	$3,373.53

Roll-Off Type:

1. 6 CY to 40 CY	$210.95 per pickup
2. Medical waste compactors	$265.00 per pickup
3. Washing compactor	$30.00
4. Disposal Charge:	Actual charge to be paid by customer
5. AB 939 Green Waste Diversion Fee	$8.40 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

1. 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.
2. The above residential maximum rates include a $1.33 per month per household AB 939 Green Waste Diversion Fee.
3. The above commercial bin and front-loader compactor maximum rates include an AB 939 Green Waste Diversion Fee of $2.36 per yard/month.
4. 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.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-564

RESOLUTION APPROVING AN AGREEMENT WITH HOLMES INTERNATIONAL FOR DEVELOPMENT AND IMPLEMENTATION OF A FATS, OILS, AND GREASE CONTROL AND PREVENTION PROGRAM IN AN AMOUNT NOT TO EXCEED $50,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on May 2, 2006, the State Water Resources Control Board (Board), adopted Statewide General Waste Discharge Requirements (WDR) for wastewater collection systems, Order No. 2006-0003-DWQ, and

WHEREAS, Sections of the WDR state the following:

- Section D.3 requires the City to take all feasible steps to eliminate Sanitary Sewer Overflows (SSOs)
- Section D.13.iv requires the City to identify SSO reduction strategies
- Section D.13.vii requires the City to prepare and implement a Fats, Oils, and Grease (FOG) source control program when FOG is found to be a problem, to reduce the amount of substances discharged to the sanitary sewer system of the WDR states that "The City shall take all feasible steps to eliminate Sanitary Sewer Overflows (SSOs)," and

WHEREAS, the Board developed this requirement because FOG is a major cause of sanitary sewer blockages and SSOs, and the reduction of FOG is an effective means for preventing SSOs, and

WHEREAS, FOG is a problem for all municipal sanitary sewer systems, including the City of Modesto's sanitary sewer system, and

WHEREAS, the WDR stipulates that the plan shall include the following:

1) Implementation plan and schedule for a public education outreach program,

2) Plan and schedule for the disposal of FOG generated within the sanitary sewer system service area,
3) Legal authority to prohibit discharges to the system and identify measures to prevent SSOs and blockages caused by FOG,
4) Requirements to install grease removal devices, design standards for the removal devices, maintenance requirements, BMP requirements, record keeping, and reporting requirements,
5) Authority to inspect grease-producing facilities, enforcement authorities and whether the City has sufficient staff to inspect and enforce the FOG ordinance,
6) Identification of sanitary sewer system sections subject to FOG blockages, and establishment of a cleaning maintenance schedule for each section, and
7) Development and implementation of source control measures for all sources of FOG discharged to the sanitary sewer system for each section identified, and

WHEREAS, in accordance with Administrative Director 3.1, on August 20, 2009, staff issued an RFP for the development and implementation of a FOG Control and Prevention Program, and

WHEREAS, five proposals were received and evaluated by staff, and after reviewing the proposals, Holmes International was selected as the most qualified and cost effective consultant for the project, and

WHEREAS, funds are available in the amount of $25,000 in Account 6210-480-5217-0235 and $25,000 in Account 6210-480-B130-6080,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement with Holmes International for development and implementation of a Fats, Oils, and Grease Control and Prevention Program in an amount not to exceed $50,000.

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 1st day of December, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-565

A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH STANTEC CONSULTING INC. FOR DESIGN SERVICES OF SCENIC LIFT STATION PROJECT IN THE AMOUNT OF $29,857 FOR ADDITIONAL SERVICES NOT INCLUDED IN THE ORIGINAL AGREEMENT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE 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, while it becomes less reliable with age, 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, 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 an amendment to agreement with Stantec 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, City staff recommends approving an amendment to agreement with Stantec Consulting Inc. to complete the final design for the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an amendment to agreement with Stantec Consulting Inc. for design services of Scenic Lift Station project in the amount of $29,857 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 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 December, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-566

A RESOLUTION ACCEPTING THE WORK BY PRESTON PIPELINES, INC. FOR THE "ROSE/CELESTE LIFT STATION PROJECT" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $1,648,345.56

WHEREAS, a report has been filed by the Director of Public Works that the Rose/Celeste Lift Station Project has been completed by Preston Pipelines, Inc. in accordance with the contract agreement dated March 14, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Rose/Celeste Lift Station Project" is hereby accepted as complete from said contractor Preston Pipelines, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder and to release securities upon expiration of statutory periods, and that payment of amounts totaling $1,648,345.56 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 December, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-567

A RESOLUTION APPROVING AN AGREEMENT WITH WEST YOST ASSOCIATES, INC. (WEST YOST) FOR DESIGN SERVICES FOR WELL REMEDIATION AT WELL 21 PROJECT IN AN AMOUNT NOT TO EXCEED $146,387 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $14,639 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $161,026, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, Water Well 21 is located within McHenry Village near the Briggsmore/McHenry intersection, and

WHEREAS, Well 21 was drilled in 1959 and produces 1,500 gallons per minute, and

WHEREAS, Perchloroethylene (PCE) contamination from dry cleaning solvents was discovered within the well and it was placed offline in April 2005 due to exceeding the State of California maximum contaminant level (MCL) for uranium, and

WHEREAS, a PCE filtration system was installed along with a block wall to screen the pipe and tanks, and

WHEREAS, upon completion, the filtration system successfully removed PCE from the well; however, during the time the well was offline, uranium concentrations in the well increased and now exceed the MCL, and

WHEREAS, a study is needed to identify the underground water layer that is contributing the contamination, and

WHEREAS, on April 7, 2009, by Resolution No. 2009-149, the City Council approved a short-list of hydrogeologists to be used on a rotating, as-needed basis, consisting of the following firms: Brown & Caldwell, URS, and West Yost Associates, Inc., and

WHEREAS, in compliance with Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, three Request For Proposals (RFP) were sent to the consultants on the short-list, and

WHEREAS, three proposals were received, and subsequently reviewed by the Selection Committee which consisted of Public Works Engineering and Water Operations staff, and

WHEREAS, the Selection Committee determined that West Yost Associates, Inc. is the most qualified to prepare the design of the Well Remediation at Well 21, and

WHEREAS, City staff recommends approving an Agreement with West Yost Associates, Inc. as the City does not have the staffing level or subject matter expertise to provide design services for the Well Remediation at Well 21 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 design services for the Well Remediation at Well 21 project in an amount not to exceed $146,387 for the identified scope of services, plus $14,639 for additional services (if needed), for a maximum total amount of $161,026.

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 December, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-568

A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(590) (PAUL B. DRAPER)

WHEREAS, a verified application for an amendment to Section 32-3-9 of the Zoning Map was filed by Paul B. Draper on December 19, 2008, to reclassify from General Commercial Zone, C-2, to Planned Development Zone, P-D(590), a seven-story mixed use development that includes commercial space, professional office space, residential units and parking, property located on the southwest side of 10th Street between G and H Streets described as follows:

C-2 to P-D(590)

All that portion of Block 54, City of Modesto, County of Stanislaus, State of California located in the Northeast one-quarter of Section 32, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, described as follows:

All of Lots 1 through 16 in Block 54, City of Modesto, according to the Map thereof, filed in Volume 15 of Maps, Stanislaus County Records;

Also including the Southeasterly one-half of H Street, the Southwesterly one-half of 10th Street, the Northwesterly one-half of G Street, and the Northeasterly one-half of the alley in Block 54; all being immediately adjacent to the above described property.

WHEREAS, at a public hearing held on October 19, 2009, 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. 2009-27, that rezoning of the property as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed rezone is consistent with the City's Redevelopment Master Plan, which encourages higher density, vertical mixed-use development in the downtown area; and

2. The recommended conditions of approval will further insure that the proposed project will be compatible with surrounding development.

WHEREAS, said matter was set for a public hearing of the City Council to be held on December 1, 2009, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing was held, and

WHEREAS, after said public hearing the Council found and determined that the application of Paul B. Draper for a Planned Development Zone should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2009-27 and quoted above, and

WHEREAS, the Council has introduced Ordinance No.3521-C.S. on the 1st day of December, 2009, reclassifying the above-described property from General Commercial Zone, C-2, to Planned Development Zone, P-D(590),

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto as follows:

SECTION 1. DEVELOPMENT PLAN. The development plan for Planned Development, P-D(590), is hereby approved subject to the following conditions:

GENERAL CONDITIONS

1. All development shall conform to the Planned Development drawings titled "Mixed-Use Building, 10th & H Streets" as amended in red, stamped approved by the City Council.
2. All development shall comply with the mitigation measures as identified in the **attached Exhibit A**: Mitigation Monitoring and Reporting Program for Environmental Assessment/ C&ED No. 2009-03.
3. Prior to sale of a condominium unit, a subdivision map shall be recorded.

4. Prior to the issuance of a building permit, annexation to the appropriate schools community facilities district will be required to the extent allowed by State law. If this requirement cannot be enforced due to the status of State law, then prior to issuance of a building permit, the developer shall provide written verification from the affected school districts that a determination has been made as to whether the developer will pay the school fees in effect or annex to the appropriate community facilities district.

5. 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 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 such claim, action, or proceeding and shall cooperate fully in the defense.

6. The Capital Facilities Fees payable at the time of the issuance of a building permit for any construction in this parcel map shall be based on the rates in effect at time of issuance of the building permit.

7. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris, and all exposed wall surfaces shall be kept free of graffiti.

PLANNING

8. Prior to the issuance of a building permit, final design of the southwest elevation of the building (alley-facing) as to architectural treatments which will provide decorative lighting along the alley and improved articulation on that side of the building, shall be to the satisfaction of the Community & Economic Development (C&ED) Director.

9. All building drainage gutters, down spouts, vents, etc. located on exterior walls, shall be completely concealed from public view or shall be architecturally compatible (decorative) with the exterior building design and color to the satisfaction of the Director of Community and Economic Development.

10. Prior to issuance of a building permit, the applicant shall submit a cross-section drawing for approval, showing how all rooftop equipment is to be screened from view (including dimensions, materials, colors, etc.) to the satisfaction of the Director of Community and Economic Development or designee. Roof-mounted equipment, including but not limited to air conditioners, fans, vents, antennas, and dishes should be set back from the

roof edge and placed behind a parapet wall or in an enclosure, so they are not visible to motorists or pedestrians. Screening for equipment should be integrated into the building and roof design by the use of compatible materials, colors and forms. Wood lattice and fence-like coverings are not allowed for screening.

11. 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 or designee. Equipment shall be placed underground or adequately screened.

12. Prior to issuance of a building permit, trash enclosures shall be designed using building materials, colors and finishes which are consistent or compatible with those used in the major buildings of the development, as approved by the Community and Economic Development Director or designee.

13. Outdoor storage shall only be permitted within those areas shown on the approved site plan. Areas designated for off-street parking, loading, circulation and maneuvering shall not be used for the outdoor storage of materials or equipment.

14. Prior to occupancy, exterior building walls shall be provided with a graffiti-resistant coating or paint, to a height of 12-feet along the alley-facing (southwest) building elevation.

15. Prior to issuance of a sign permit for any signage, the applicant shall submit a sign program for review and approval, to the satisfaction of the Director of Community and Economic Development or designee.

16. Prior to issuance of a building permit, the applicant shall submit a parking plan which demonstrates sufficient parking for the retail and offices uses is available to meet the parking requirements of the Modesto Municipal Code.

FIRE PREVENTION

17. Prior to occupancy, the project will need to meet the construction requirements of a high rise building as stated in the 2007 California Building Code Chapter 4 and the appropriate chapters of the 2007 California Fire Code related to alarm notification, fire department access and fire protection to the satisfaction of the Fire Chief of designee.

18. Prior to the issuance of a building permit, all on-site and off-site improvements shall be approved by the Fire Prevention Bureau as they relate to Fire Department access, fire flow requirements, and the location and type of fire appliances, including hydrants and other connections.

PARKS

19. Prior to the issuance of a building permit, a landscaping and irrigation plan shall be approved by the Parks, Recreation and Neighborhoods Department Director or designee. The landscaping and irrigation system shall be installed and maintained in accordance with the approved plan.

LAND DEVELOPMENT ENGINEERING

20. 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.

21. Prior to the issuance of a building permit, the development shall include improvements to the surrounding streetscape, including but not limited to sidewalks, street trees, and lighting, in accordance with the Downtown Improvement District and City Standards to the satisfaction of the City Engineer or designee.

22. 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.

23. Prior to issuance of a building permit, the developer shall dedicate public utility easements as required by the utility companies and the City Engineer or designee.

24. All existing underground and aboveground utilities, irrigation, and electrical lines shall be protected, relocated, or removed as required by the respective utility company, Modesto Irrigation District, and/or City Engineer or designee. Easements for utilities, irrigation, and electrical lines to remain shall be dedicated as required.

25. Prior to certificate of occupancy, all damaged or deteriorated curb, gutter, sidewalk, and other existing public improvements at the project site shall be repaired or replaced as required for the public health and safety as determined by the City Engineer or designee in accordance with City of Modesto Standard Specifications.

26. Prior to the issuance of a building permit, developer should provide for separate plumbing to the sanitary sewer to accommodate any grease generating uses (such as restaurants), medical procedure waste, or similar establishments identified as having wastewater pretreatment requirements to provide suitable monitoring and capture of potential wastewater discharges that impact the system.

27. Prior to issuance of a building permit, the applicant shall demonstrate sufficient water pressure to meet fire and building codes for a 7-story building, to the satisfaction of the City Engineer or designee. A booster pump may be required to meet these standards.

28. Prior to issuance of a grading or building permit, the developer shall provide storm drainage calculations, plans and/or reports as required per City of Modesto Standard Specifications. The onsite and offsite storm drain system shall be designed and improved per City of Modesto Standard Specifications and approved by City Engineer or designee.

STORMWATER QUALITY

29. Development Standards listed in the City's current NPDES Permit shall be applied to project at the time of Improvement Plan submittal.

SOLID WASTE

30. Prior to issuance of a building permit, the developer shall provide a comprehensive solid waste plan that demonstrates how solid waste will be disposal will function for tenants, the projected amount of garbage generated, storage capacity, size and location of trash bins, recycling bins and enclosures. The plan shall be reviewed and approved by Parks, Recreation and Neighborhoods Director or designee.

SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(590):

The entire construction program shall be accomplished in one phase, construction to begin on or before January 1, 2014 and completion to be not later than January 1, 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 10-2.1709 of the Modesto Municipal Code.

SECTION 4. COMPLIANCE WITH CODE PROVISIONS, ETC. In all other respects said planned development shall be accomplished in accordance with and in strict adherence to the provisions of Article 17 of Title 10 of the Modesto Municipal Code relating to Planned Development Zones and other applicable City laws, rules, regulations and procedures.

SECTION 5. EFFECTIVE DATE. This resolution shall not become effective unless and until the ordinance reclassifying the above-described property to Planned Development Zone, P-D(590), becomes effective.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of December, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

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

Notice of Intent to Adopt a Mitigated Negative Declaration and Draft Initial Study for the 10th and H Project

Prepared for:

City of Modesto Redevelopment Agency

Prepared by:

Adrienne Graham and Associates

May 2009

Notice of Intent to Adopt a Mitigated Declaration and Draft Initial for the 10th and H Project

Prepared for:

City of Modesto Redevelopment Agency

Prepared by:

Adrienne Graham and Associates

May 2009

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ENVIRONMENTAL CHECKLIST

I. BACKGROUND

1.	Project Title:	Modesto 10th & H Streets Project
2.	Lead Agency Name and Address:	City of Modesto Redevelopment Agency
3.	Contact Person and Phone Number:	Linda Boston Business Development Manager 1010 Tenth Street Suite 3300 Modesto, CA 95354
4.	Project Location:	Bounded by 9th and 10th Streets and G and H Streets
5.	Project Sponsor's Name and Address:	Centerra Capitol 1020 Tenth Street, Suite 300 Modesto, CA 95354
6.	General Plan Designation:	Redevelopment Planning District
7.	Zoning:	Commercial (C-2)
8.	Description of Project:	See below

9. Surrounding Land Uses and Setting (Briefly describe the project's surroundings):
   - North: Commercial
   - South: Commercial and Industrial
   - East: Mixed land uses comprised of industrial, commercial, and vacant lots
   - West: Highway 99, with mixed land uses to the west of the highway

10. Other Public Agencies Whose Approval is Required (e.g., permits, financing approval, or participation agreement):

Introduction

This Initial Study Checklist and Notice of Intent to Adopt a Mitigated Negative Declaration provides the California Environmental Quality Act (CEQA) environmental analysis for the Modesto 10th and H Streets Mixed Use Project (Proposed Project). The Modesto Redevelopment Agency is the Lead Agency for the Proposed Project. The Proposed Project is an urban infill project located within the City of Modesto. The Proposed Project includes construction and use of residential, office, and retail uses. The Proposed Project is described in more detail below.

Background

The project site is located in the City of Modesto's Redevelopment Plan Project Area. In November 1991, the Modesto Redevelopment Agency (RDA) adopted the Redevelopment Plan for an Amended Project Area of approximately 2,000 acres. As part of the project area adoption, an Environmental Impact Report was also approved. The Redevelopment Plan is a very general document providing the agency with maximum flexibility for public and private development. The Redevelopment Plan is a fundamental document governing a redevelopment agency's activities. It serves as the agency's charter. Adopted by the City of Modesto Redevelopment Agency, the Plan establishes long-term planning goals as well as implementation policies and procedures for the redevelopment of a designated project area. It also serves as the financial plan for the Agency.

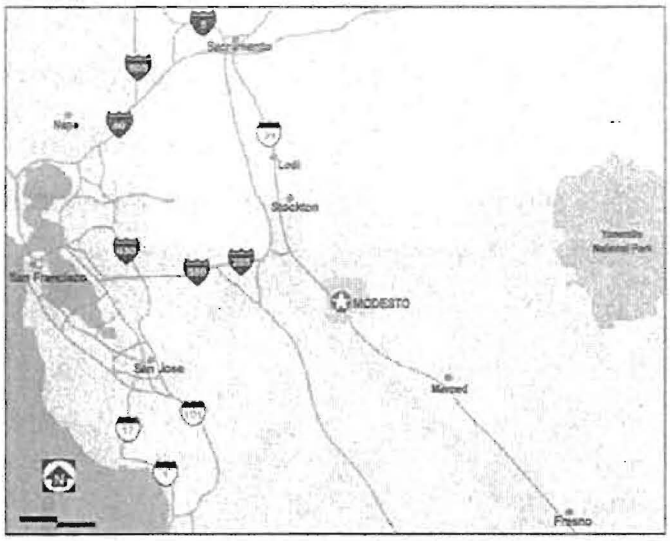
In 1994, a RDA Master Plan was adopted to implement the goals and objectives of the Redevelopment Plan. The purpose of a Master Plan is to provide a policy guideline document to identify specific types of land uses that the Agency should encourage and promote within the entire Project Area.

On July 6, 2004, the RDA set out to revise both the RDA EIR and Master Plan to reflect the current conditions and to ensure legal compliance. A Draft EIR was released in June 2007 for the Modesto Redevelopment Master Plan (RMP). The RMP was adopted and its EIR was certified in October 2007.

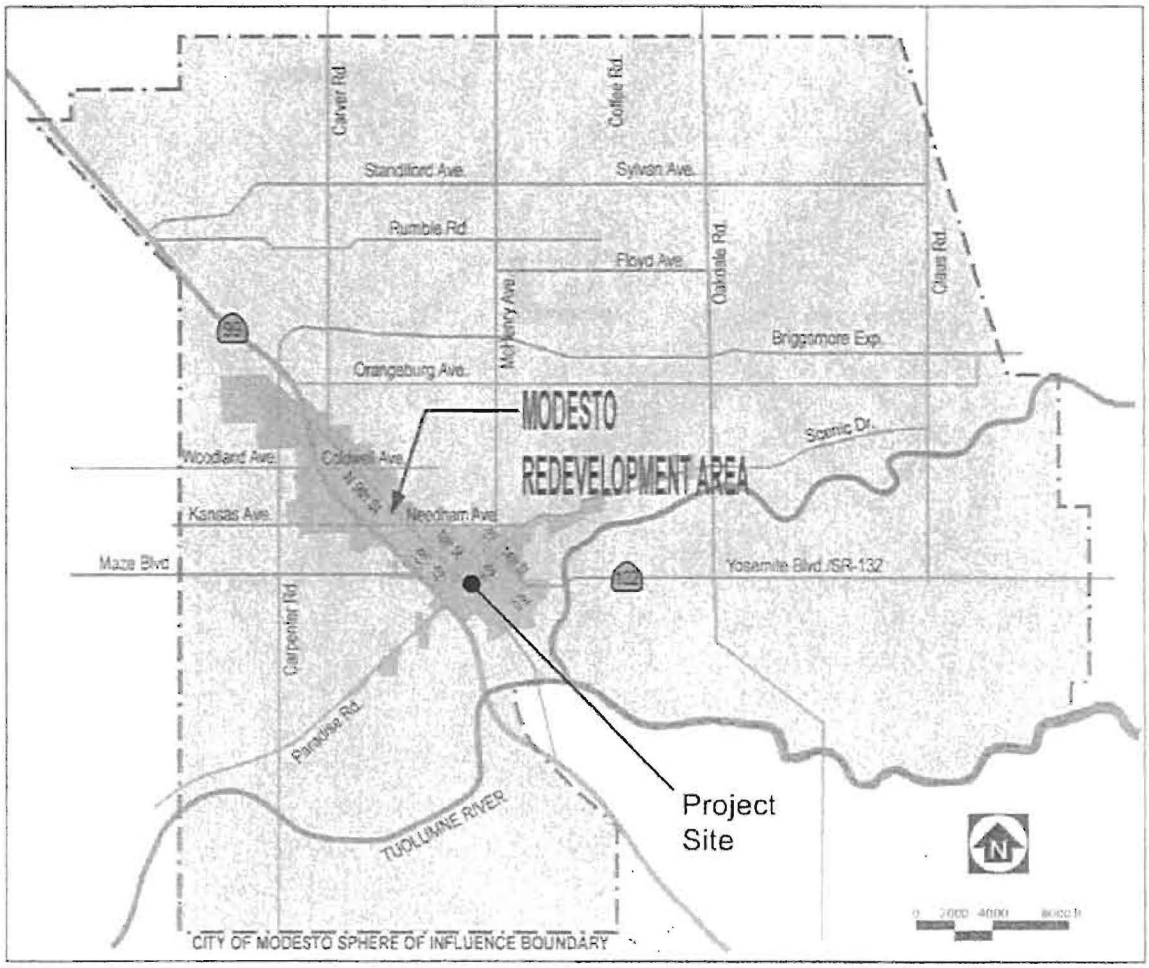
The 2007 RMP retained the land use and designation for the project site. While the Proposed Project is consistent with the RMP, the RMP EIR did not specifically address development of the project site. Therefore, this Initial Study is not tiered from the RMP EIR, and provides the project-specific and cumulative analyses for the Proposed Project.

Project Location

The project site is located in the City of Modesto, Stanislaus County (See Figure 1). The project site, is situated in downtown Modesto, bound by H Street to the north, 10th Street to east, G Street to the south, and an alley to the west (see Figure 2).

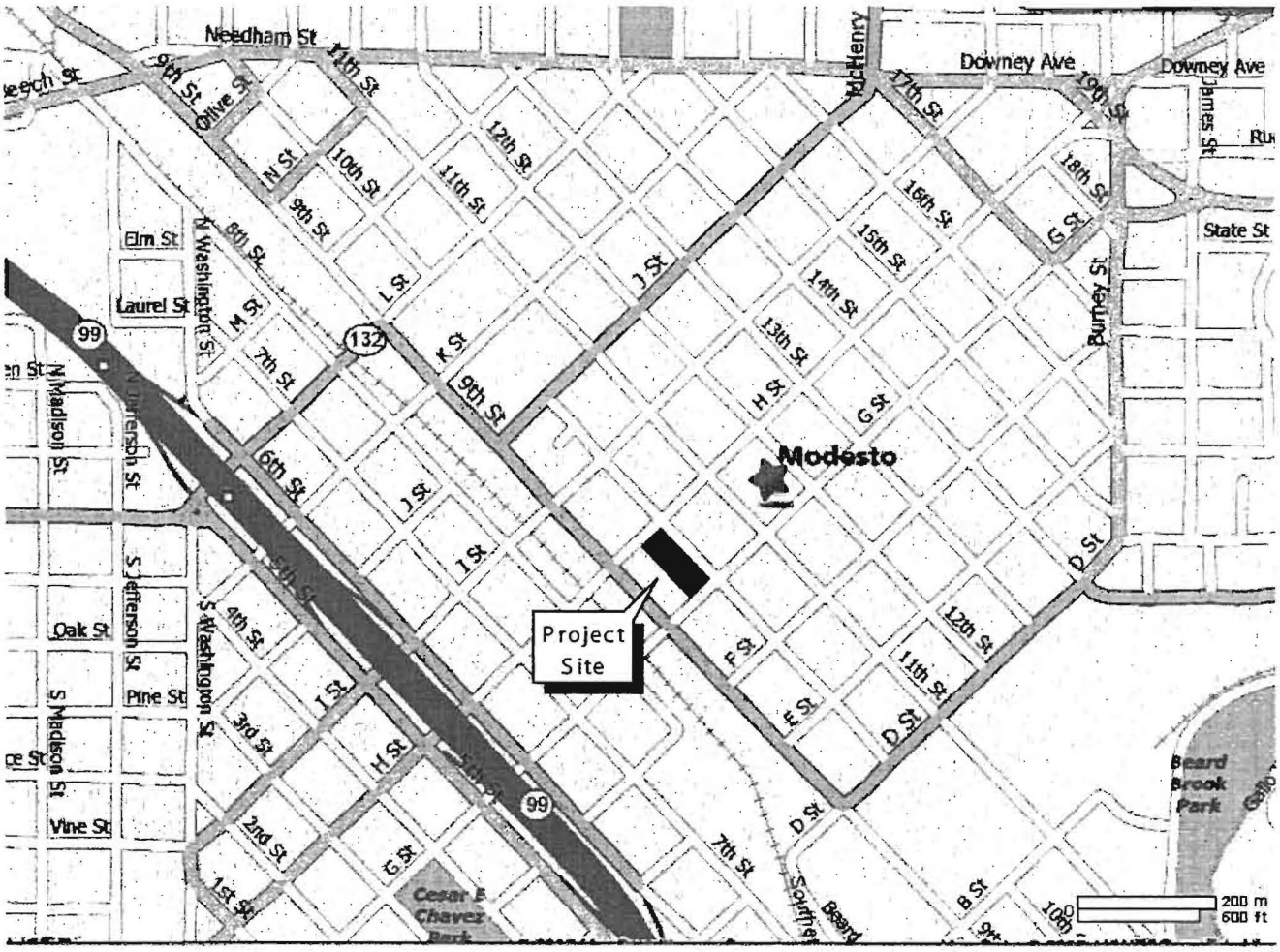


Modesto Area Regional Map



City of Modesto Sphere of Influence and Redevelopment Area Map

N Not to Scale	SOURCE: Modesto Redevelopment Master Plan DEIR, June 2007.	Figure 1 Regional Location



-N- Not to Scale	Project Site SOURCE: City of Modesto, 2008.	Figure 2 Project Location

Existing Conditions

The project site is located within a developed urban area within the City of Modesto Redevelopment Master Plan area. The project site is composed of a surface parking lot and several buildings. The project site is surrounded by two- to three-lane city streets (G, H, 9th and 10th Streets) with stop lights and crosswalks at the intersections. An alleyway through the block provides access to the west side of the site and to a small parking area behind the existing restaurant and shops on 9th Street.

Railroad tracks are located approximately one block away from the project site, southwest across 9th Street behind the buildings fronting 9th Street.

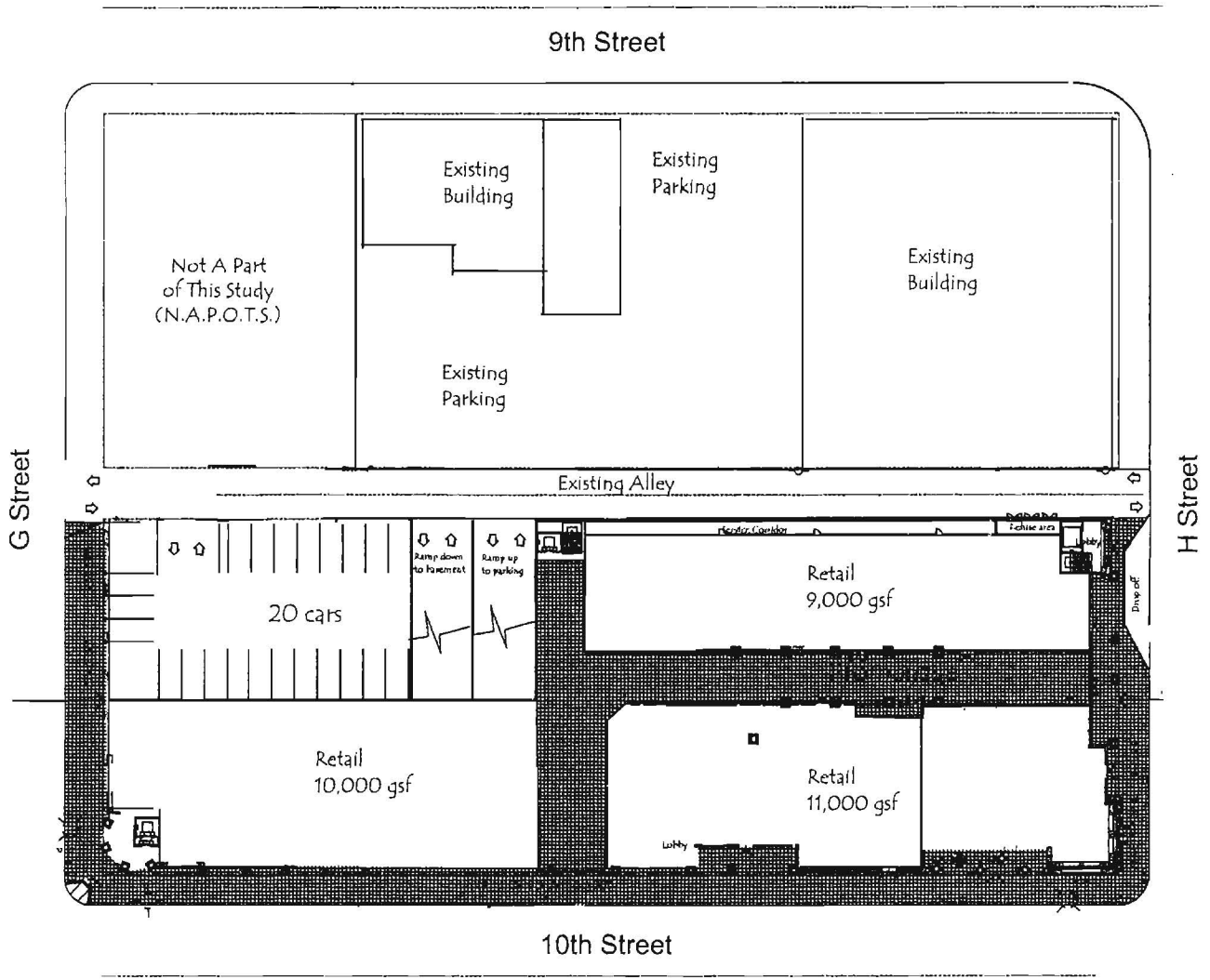
The project site is surrounded by existing urban uses in downtown Modesto. There are similar business uses to the north, east, and west of the project site along G, H, and 10th Streets. Business uses are located predominately in one- and two-story buildings and include existing restaurants, attorneys' offices, Napa Auto and Truck Parts, a chiropractor, a bank, and bail bonds business. The seven-story City Tower building is located on the corner of H Street and 10th Street. This building includes three stories of parking with offices above the parking levels, and contains the offices of Merrill Lynch and other small offices. The building across the alley to the southwest (the Turner Building), which fronts H Street, is a renovated hardware store dating back to 1906. At present, a CPA firm, attorney offices and StanCOG (Stanislaus Council of Governments) occupy the building. Existing uses to the southwest of the site across 9th Street include one-story buildings, including a Smart and Final store and the Crosswalk Community Church. The rest of the City block southwest of 9th Street contains the JS West Feed Store. This site includes the feed store and associated buildings, including a silo. The area at the opposite corner of 9th Street and G Street consists of an empty lot that is for sale and listed as "Office/Retail" space. At present, it is the temporary location of a truck driving school.

The closest residential neighborhood is located approximately one-fifth mile northwest of the project site, across 12th Street. The Modesto Police Department is located one block from the project site at 600 10th Street, and a Modesto Fire Department Station is located approximately two blocks from the project site at 600 11th Street.

The project site is designated commercial (C-2) in the City's zoning code. The parcels adjoining the project site are zoned commercial (C-2) to the north and northeast, commercial industrial zone (C-M) to the southeast, and light industrial (M-1) to the southwest. The project site and surrounding area are designated Redevelopment Planning District (RPD) in the General Plan.

Project Description

The Proposed Project is a seven-story building with residential, retail, office uses, parking and storage (see Figure 3 and Table 1). The project would construct up to 66 one- and two-bedroom residential units on the third through seventh levels, including two-story townhomes on the sixth and seventh floors. The ground floor would include 30,000 square feet of retail uses and parking for 20 cars. The second level would include 19,000 square feet of office uses and parking for 47 cars (see



Not to Scale

SOURCE: Johnson Lyman Architects, 2008.

Figure 3

Ground Floor Plan

TABLE 1 PROJECT LAND USES		
	Number/Gross Square Feet (sf)	Levels
Dwelling Units	66 units	3 through 7
Retail	30,000 sf	1
Office	19,000 sf	2
Parking Spaces	346 spaces	1 through 6

Figure 4). Parking for 346 cars would be provided on the basement level and levels 1 through 6. The basement would also include 16,000 square feet of storage space.

The height of the project building to the top of the parapet would be from 91 to 94 feet. The southern elevation of the building would be stepped back, and the portion adjacent to the alley would be two stories tall with a residential courtyard on the roof, adjacent to the seven-story residential portion of the building. The portion of the project adjacent to H Street would consist of a seven-story mixed-use building. The facade of the northeast elevation (adjacent to 10th Street) would vary with ground-level retail storefronts.

Public Services and Utility Providers

The project is proposed to be served by the following public service and utility providers:

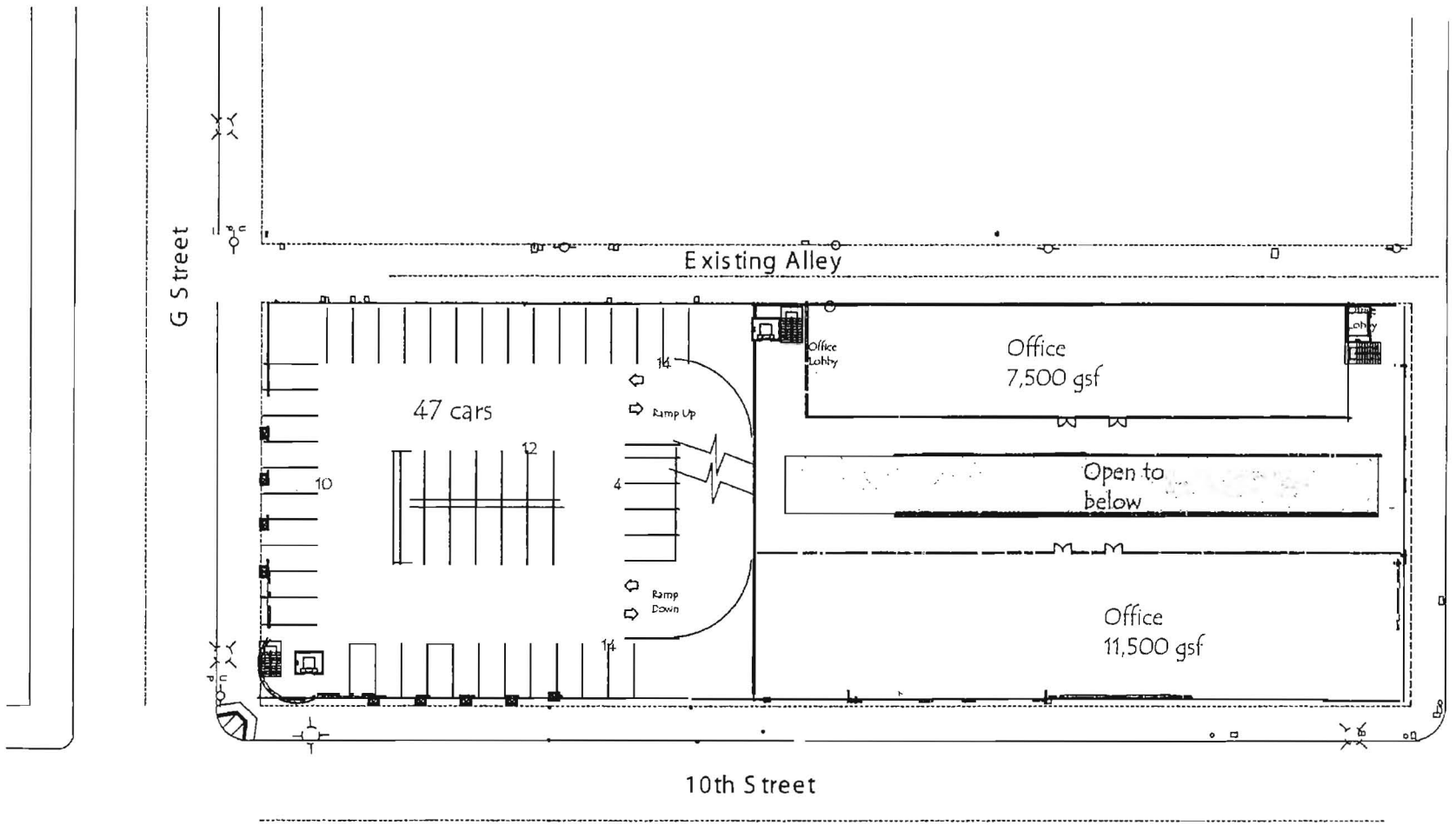
- Water, Wastewater, Storm Drainage: City of Modesto
- Police and Fire Protection: City of Modesto
- Solid Waste Disposal: Bertolotti
- Electricity: Modesto Irrigation District (MID)
- Gas: Pacific Gas and Electric (PG&E)
- Telephone: AT&T

Project Phasing and Schedule

Construction of the project site would occur during an approximate 12-month timeframe. Construction could begin in 2010, depending on market conditions.

Lead Agency

The City of Modesto Redevelopment Agency is the lead agency, pursuant to the State Guidelines for the California Environmental Quality Act (CEQA Guidelines Section 15050). In conformance with Sections 15050 and 15367 of the CEQA Guidelines, the Agency has been designated the "lead



Not to Scale

SOURCE: Johnson Lyman Architects, 2008.

Figure 4
Second Level Plan

agency", which is defined as the "public agency which has the principal responsibility for carrying out or disapproving a project."

Approvals

Prior to approving the Proposed Project, the City would have to approve this Initial Study/Mitigated Negative Declaration (MND) and adopt a Mitigation Monitoring Plan to reflect the measures required to mitigate significant impacts of the project (CEQA Guidelines, Section 15097).

Project approvals that would be required before construction of the Proposed Project consist of the following:

- Rezone to Planned Development (PD) zone,
- Disposition and Development Agreement between the RDA and the developer,
- Improvement plans (off-site and on-site),
- Demolition permit,
- Grading permit, and
- Building permit.

Public and Agency Review

This document will be circulated for public review and agency review from May 1, 2009, to June 1, 2009. Comments on this document should be submitted by 5:00 p.m. on June 1, 2009, to:

Linda Boston
Business Development Manager
1010 Tenth Street
Suite 3300
Modesto, CA 95354

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

□ Aesthetics	□ Agriculture Resources	□ Air Quality
□ Biological Resources	□ Cultural Resources	□ Geology/Soils
□ Hazards & Hazardous Materials	□ Hydrology/Water Quality	□ Land Use/Planning
□ Mineral Resources	□ Noise	□ Population/Housing
□ Public Services	□ Recreation	□ Transportation/Traffic
□ Utilities/Service Systems	□ Mandatory Findings of Significance	

III. DETERMINATION (To be completed by the Lead Agency)

On the basis of this initial evaluation:

- ☐ I find that the Proposed Project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

- ■ I find that although the Proposed Project could have a potential significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the applicant. A MITIGATED NEGATIVE DECLARATION will be prepared.

- ☐ I find that the Proposed Project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

- ☐ I find that the Proposed Project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

- ☐ I find that although the Proposed Project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR OR NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the Proposed Project, nothing further is required.

Linda C Boston
Signature

April 28, 2009
Date

Linda C. Boston
Printed Name

Modesto Redevelopment
For

IV. ENVIRONMENTAL CHECKLIST

Introduction

The following Checklist contains the environmental checklist form presented in Appendix G of the CEQA Guidelines. The checklist form is used to describe the impacts of the Proposed Project. A discussion follows each environmental issue identified in the checklist. Included in each discussion are project-specific mitigation measures recommended as appropriate as part of the Proposed Project.

For this checklist, the following designations are used:

Potentially Significant Impact: An impact that could be significant, and for which no mitigation has been identified. If any potentially significant impacts are identified, an EIR must be prepared.

Less than Significant With Mitigation Incorporated: An impact that requires mitigation to reduce the impact to a less-than significant level.

Less-Than-Significant Impact: Any impact that would not be considered significant under CEQA relative to existing standards.

No Impact: The project would not have any impact.

Issues		Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
1.	**AESTHETICS.** *Would the project:*				
	a. Have a substantial adverse effect on a scenic vista?	□	□	□	■
	b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway?	□	□	□	■
	c. Substantially degrade the existing visual character or quality of the site and its surroundings?	□	□	■	□
	d. Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	□	□	■	□

Discussion

a) Have a substantial adverse effect on a scenic vista?

b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway?

The project site is located in a developed area in downtown Modesto. There are no scenic resources or vistas, or designated scenic resources, within or surrounding the project site. The project is not located near a scenic highway. Therefore, ***no impact*** would occur.

c) Substantially degrade the existing visual character or quality of the site and its surroundings?

The visual character of the project area is typical of downtown Modesto. The area contains primarily business and retail uses. Older retail and office buildings are located adjacent to newer office complexes, renovated restaurants, and the Gallo Center for the Arts. The Doubletree Hotel and Gallo Center for the Arts are the predominant visual features in the downtown Modesto area.

Office buildings in the downtown area range in height from one to eight stories or more. Residential development in the downtown area is varied, with a greater concentration of residential uses northeast of 12th Street. Single- and two-story, single-family homes and two-story townhomes are also located throughout the downtown area. The overall visual quality of the downtown Modesto area is of facades, setbacks, mass and height that changes from block to block and even within blocks. The street trees that line most blocks also contribute to the visual character of the downtown

area and tend to soften the mass and hard surfaces of streets and taller buildings.

Building footprints in the project vicinity range from small, one-parcel buildings to the multi-story City Tower building located on approximately half a block across from the project site.

Figure 5 includes the Viewpoint Map and shows the location and direction of the viewpoints.

Views onto the Project Site

The City block containing the project site also contains retail and office buildings, including a pawnshop, restaurant, and the Turner building. These uses would remain in their current locations. At present, these buildings are visible looking through the project site from some vantage points. From the northwest corner of 10th and H Streets, looking onto the project site, views include the existing surface parking lot and the back portion of the Turner building (see Figure 6, Viewpoint 1). From the approximate middle of the block on 10th Street, looking across the street, views towards the southwest onto the project site include the surface parking lot and the Taco Bell corporate offices and Merrill Lynch, and the City Tower office building across from the project site (See Figure 6, Viewpoint 2). Views directly across 10th Street looking southwest include the furniture store located on the project site, the existing pawnshop across the alley, and the silos located at the JS West Feed Store, south of 9th Street (see Figure 7, Viewpoint 3). Views onto the project site from the corner of 10th and G Streets include the police department administrative building, street trees and the Napa Auto Parts Store (see Figure 9, Viewpoint 8). Views onto the project site from 9th Street include the existing surface parking areas adjacent to the Turner building and the Pawn Shop building (see Figure 8, Viewpoint 5). Views onto the project site from the corner of 9th and H Streets include the Turner building and the surface parking lot (see Figure 8, Viewpoint 6).

Views from the Project Site

Views from the project site include existing business and retail uses that are typical of downtown Modesto. The most striking nearby visual feature is the multi-story office building located across from the project site at the corner of 10th and H Streets (see Figure 9, Viewpoint 7). In the background, the Doubletree Hotel is visible from the north side of 10th Street.

Views from the project site to the southeast across 10th and G Streets include existing one- and two-story office uses, and one-story retail uses, such as the Napa Auto Parts store (see Figure 9, Viewpoint 8 and Figure 10, Viewpoint 9).

Views from the project site to the south across 9th Street are dominated by the JS West Feed Store (see Figure 10, Viewpoint 10). The Feed Store includes the office building and several silos that are located adjacent to the railroad tracks. The Feed Store is bordered by an empty lot to the southeast across G Street and the Community Church building. Views from the project site to the west include the Community Church building and one-story retail stores, such as the Smart and Final store.

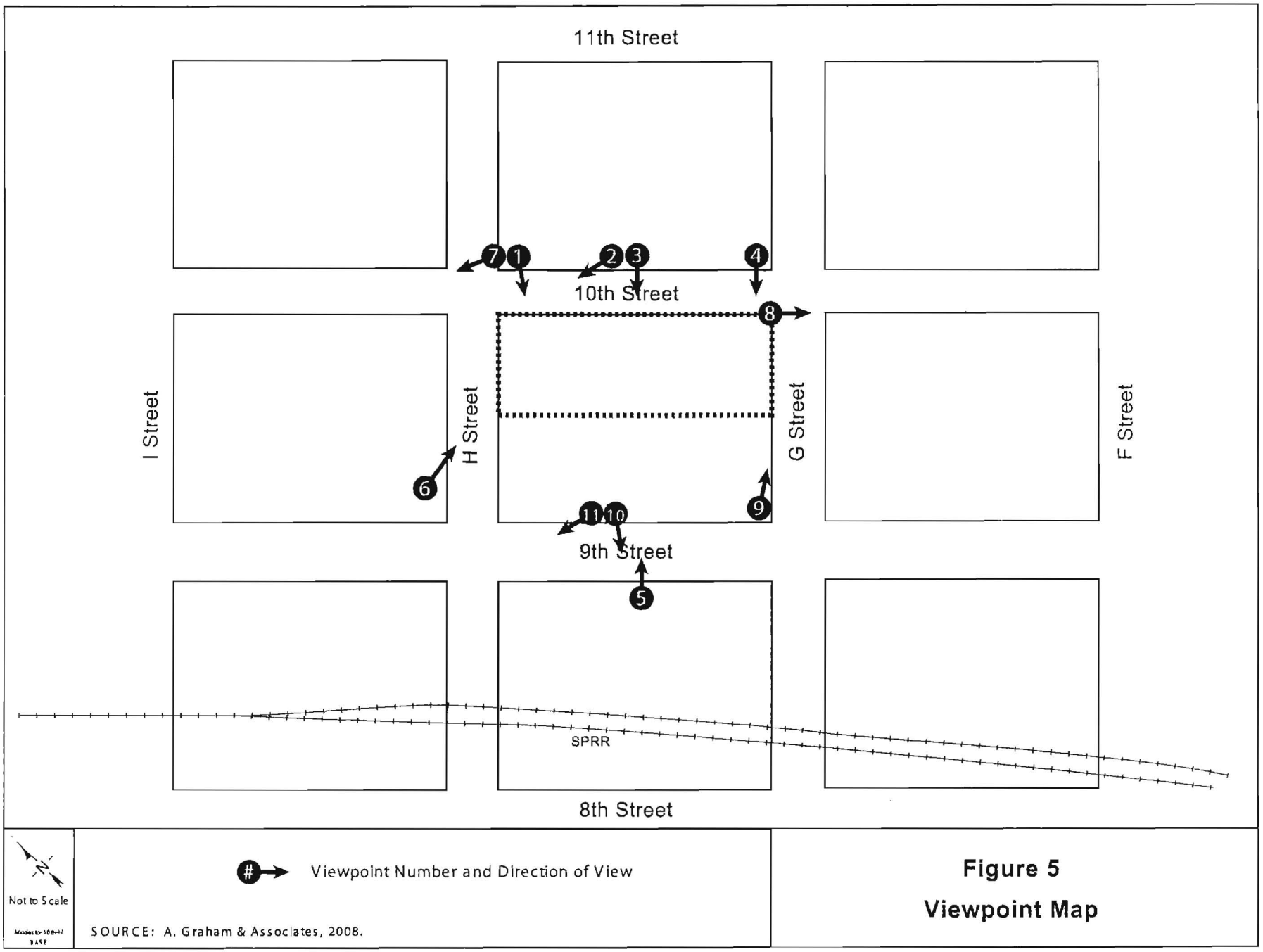


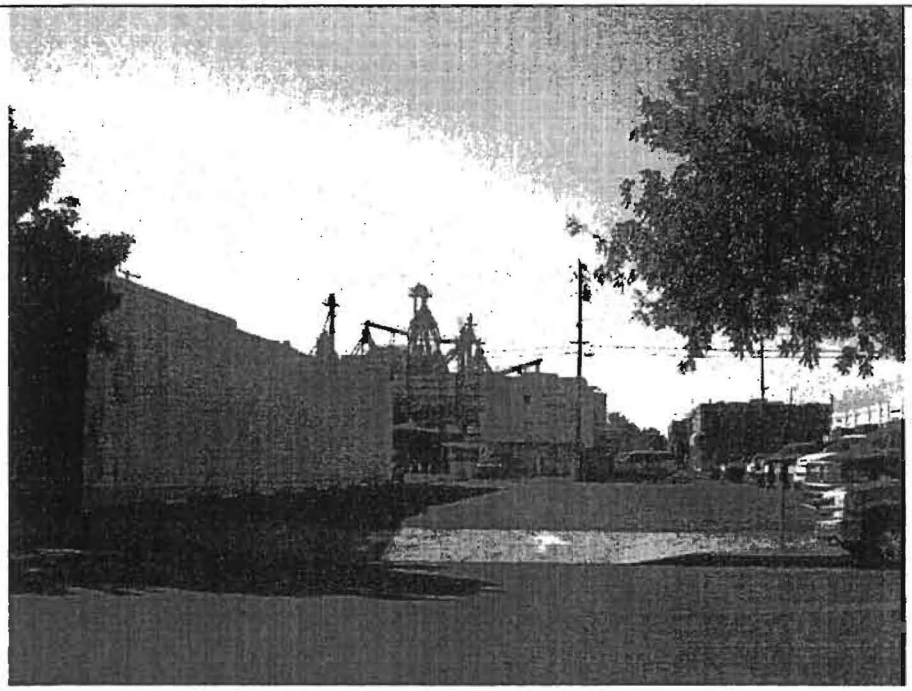
Figure 5
Viewpoint Map

Viewpoint 1

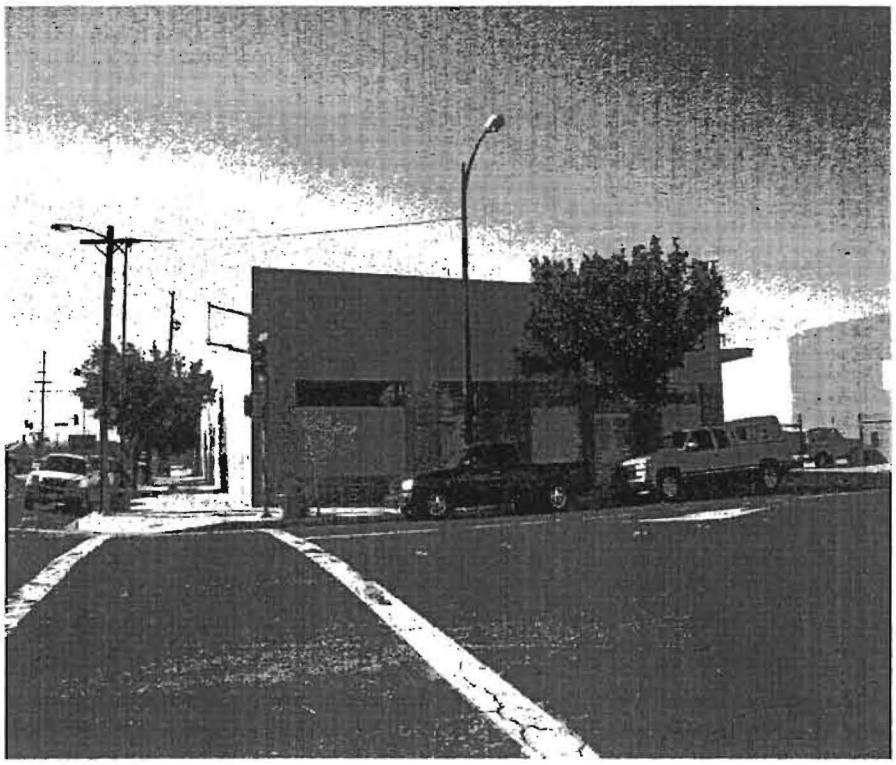
Viewpoint 2

SOURCE: A. Graham & Associates, 2007.

Figure 6
Viewpoint 1: Looking Onto Project Site From the Intersection of 10th and H Streets
Viewpoint 2: Looking Onto Project Site And Adjacent City Tower Building from 10th Street



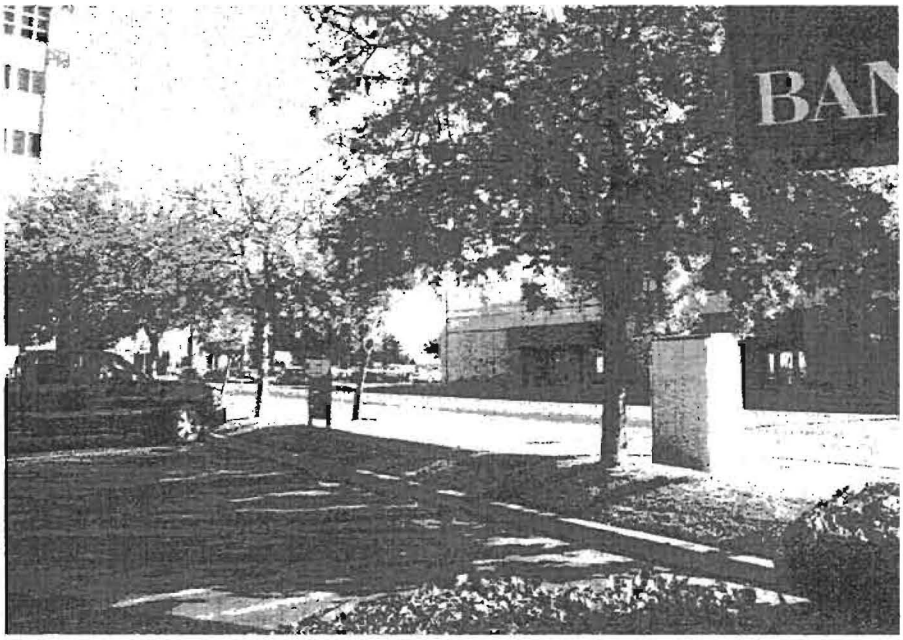
Viewpoint 3



Viewpoint 4

SOURCE: A. Graham & Associates, 2007.	Figure 7 Viewpoint 3: Looking Onto Project Site and Adjacent JS West Feed Store (Background) from 10th Street Viewpoint 4: Looking Onto Project Site from Intersection of 10th and G Streets

Viewpoint 5



Viewpoint 6

SOURCE: A. Graham & Associates, 2007.

Figure 8
Viewpoint 5: View Onto Project Site towards 10th Street and Across Project Site from 9th Street (mid-block)
Viewpoint 6: View Onto Project Site from Corner of 9th and H Streets

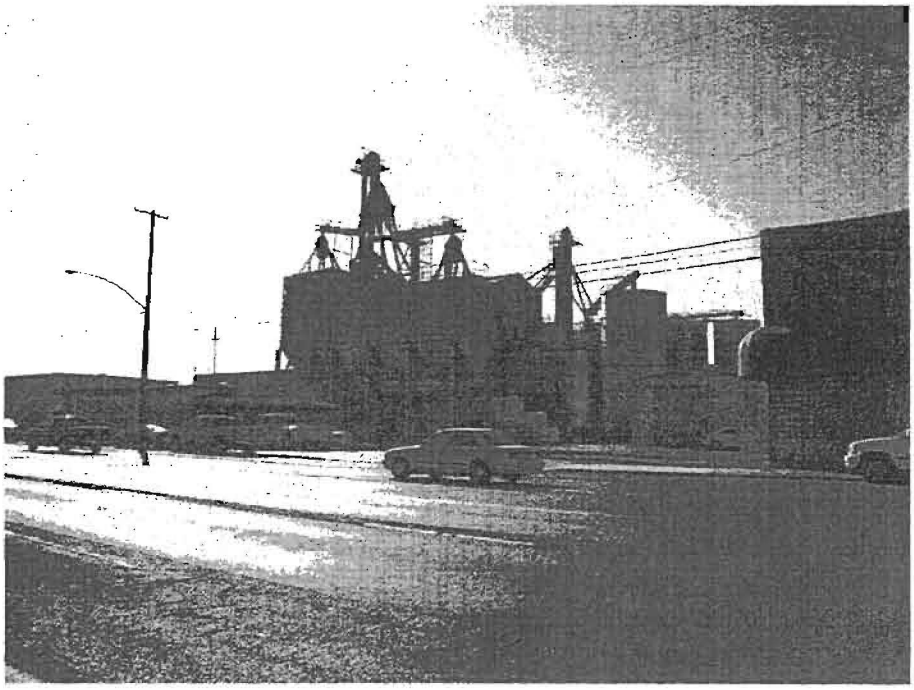
Viewpoint 7

Viewpoint 8

SOURCE: A. Graham & Associates, 2007.

Figure 9
Viewpoint 7: View from Project Site at 10th and H Streets Looking Northwest along 10th Street
Viewpoint 8: View from Project Site at 10th and G Streets Looking Southeast along 10th Street

Viewpoint 9



Viewpoint 10

SOURCE: A. Graham & Associates, 2007.

Figure 10
Viewpoint 9: Looking from 9th and G Street Intersection Across G Street
Viewpoint 10: Looking from 9th and H Street Intersection Across 9th Street to JS West Feed Store

Proposed Project Effects

The Proposed Project would alter the visual character of the project site by constructing a seven-story building on a site currently occupied by a surface parking lot and one- and two-story buildings. The proposed building would contain basement parking, one floor of retail uses on the ground level, one floor of offices on the second floor, and five floors of residential uses on the 3rd through 7th floors. The southern elevation of the building would be stepped back, and the portion adjacent to 10th and G Streets would be two stories tall with a residential courtyard on the roof, adjacent to the seven-story residential portion of the building.

Views from H Street would change from an existing surface parking lot to a seven-story mixed-use building. The facade of the north elevation would vary with ground-level retail storefronts. Views from 10th Street would change from an existing surface lot and one-story buildings to a large, half-block-long seven-story mixed-use building. The height at the tallest point of the building would be approximately 94 feet to screen the heating and air conditioning units located on the roof of the residential portion of the building. The retail floor would be approximately 14 feet high. The second story would start at 18 feet and be 10 feet high. The five residential stories would each be nine feet high.

The project would generally block views through the project site.

The proposed building would be consistent with the size and scale of mixed-use buildings in the downtown Modesto area. It would be located adjacent to larger buildings, such as the Gallo Center for the Arts and the City Tower building across H Street. The Proposed Project would have ground floor and design elements (e.g., awnings, windows at street level) that would be pedestrian friendly, and would locate residential and retail uses in an area that has existing retail, commercial and residential uses. In addition, the project would maintain the existing ornamental trees around the project site. Because the Proposed Project lies within an urban, developed area and the project is consistent with adjacent and nearby buildings, this would be a ***less-than-significant impact***.

d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

Glare is caused by light reflections from pavement, vehicles and building materials, such as reflective glass and polished surfaces. During daylight hours the amount of glare depends upon the intensity and direction of sunlight. At night, artificial lighting can cause glare. The project site is within a developed area. Approximately one-half of the site is developed with businesses that include paved areas and night lighting. Some of these businesses, and the associated lighting, would be removed as part of the Proposed Project and replaced with new development; therefore, the increase in the amount of light resulting from the Proposed Project would be less than if the site were undeveloped at present. The Proposed Project would not include large reflective surfaces and would not create new sources of glare.

The existing parking lot and buildings on the project site are presently lighted, and street lighting exists along the sidewalks. The Proposed Project would include residential units that would be

lighted at varying times during evening hours. Such lighting would be similar to that of surrounding office and retail uses. Therefore, project lighting would not substantially increase the amount of lighting in the downtown or reduce visibility of the night sky. There is no residential development adjacent to the project site, so no residents would be disturbed by project lighting. For these reasons impacts related to glare and lighting would be considered ***less than significant***.

Issues		Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
2.	**AGRICULTURE RESOURCES:** *In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:*				
	a. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program in the California Resources Agency, to non-agricultural use?	□	□	□	■
	b. Conflict with existing zoning for agricultural use, or a Williamson Act contract?	□	□	□	■
	c. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?	□	□	□	■

Discussion

a) **Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program in the California Resources Agency, to non-agricultural use?**

The Proposed Project is located in an urban, developed area. The site is partially developed and no farming operations currently exist on the site. The site is classified by the Farmland Mapping and Monitoring Program as Urban and Built-Up Land.[1] Therefore the Proposed Project would not convert farmland and there would be ***no impact***.

b) **Conflict with existing zoning for agricultural use, or a Williamson Act contract?**

1 California Department of Conservation, Division of Land Resource Protection, Farmland Mapping and Monitoring Program, *Stanislaus County Important Farmland 2004*, Sheet 1 of 2, April 2006.

The project site is not zoned for agricultural purposes or restricted by a Williamson Act Contract. The project site is zoned General Commercial Zone (C-2). The Proposed Project would not conflict with an agricultural zoning designation or a Williamson Act Contract; therefore, ***no impact*** would occur.

c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?

The project site is surrounded by developed, urban uses. The development of the Proposed Project would not cause the conversion of farmland to non-agricultural use. ***No impact*** would occur.

Issues		Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
3.	**AIR QUALITY.** *Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations:* *Would the project:*				
	a. Conflict with or obstruct implementation of the applicable air quality plan?	□	■	□	□
	b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	□	■	□	□
	c. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	□	□	■	□
	d. Expose sensitive receptors to substantial pollutant concentrations?	□	■	□	□
	e. Create objectionable odors affecting a substantial number of people?	□	□	■	□

Discussion

a) Conflict with or obstruct implementation of the applicable air quality plan?
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?
d) Expose sensitive receptors to substantial pollutant concentrations?

Air pollutant emissions associated with the Proposed Project would result from construction activities, increased residential population, and increased traffic volumes. The net increase in emissions generated by these activities and other secondary sources have been estimated and compared to thresholds of significance recommended by the San Joaquin Valley Air Pollution Control District (SJVAPCD).

The SJVAPCD is the primary local agency responsible for air quality in the San Joaquin Valley. The SJVAPCD Guide for Assessing and Mitigating Air Quality Impacts (GAMAQI) recommends standards for use by lead agencies when making a determination of significance for a project. The SJVAPCD standards of significance are based on science and have been promulgated to help protect public health. The SJVAPCD guidance establishes standards for three types of impacts – short-term impacts from construction, long-term impacts from project operation, and cumulative impacts.

Criteria air pollutants are a group of pollutants for which federal or State regulatory agencies have adopted ambient air quality standards. Criteria air pollutants include ozone (O_3), carbon monoxide (CO), nitrogen dioxide (NO_2), sulfur dioxide (SO_2), particulate matter (PM_{10} and $PM_{2.5}$), and lead. Table 2 lists the health effects associated with these pollutants. Most of the criteria pollutants are directly emitted. Ozone, however, is a secondary pollutant that is formed in the atmosphere by chemical reactions between oxides of nitrogen (NO_x) and reactive organic gases (ROG). According to the most recent emissions inventory data for Stanislaus County, mobile sources are the largest contributors of both ROG and NO_x.

Construction Impacts

The entire project site comprises approximately one acre, composed of an existing surface parking lot and several buildings. Some of the existing buildings would be demolished as part of the project. The Proposed Project, if adopted, is expected to be constructed within approximately 12 months.

Clearing, grading, and other construction activities would all generate criteria pollutants. When construction would occur in areas where there are existing structures, emissions from demolition of these structures could be of concern. To analyze impacts from construction, emissions were calculated by estimating the equipment that would be used during the most intensive periods of clearing and grading of the project site, excavating, and constructing proposed structures and their associated support facilities. Project emissions were modeled using the URBEMIS 2007 software, version 9.2.4.

Particulate matter is the primary pollutant of concern during construction activities. This is especially important in light of the Air Basin's nonattainment status for PM_{10}. Another pollutant of concern for construction activity is the NO_x that is generated by heavy-duty construction equipment.

The SJVAPCD GAMAQI states that to reduce PM_{10} levels during construction, projects must comply with SJVAPCD's "Fugitive Dust" rules (SJVAPCD Regulation VIII),2 and implement other appropriate enhanced PM_{10} mitigation measures in Table 6-3 of the GAMAQI. The GAMAQI also states that for very large projects, the District's 10-ton/year long-term NO_x and ROG thresholds could apply to the construction phase.

Preparation of the project site would include the demolition of existing buildings. Construction of the Proposed Project could result in the temporary generation of ROG, NO_x, and PM_{10} emissions from demolition of existing structures, site preparation, (e.g., excavation, grading, and clearing), off-

2 SJVAPCD, *Guide for Assessing and Mitigating Air Quality Impacts*, January 2002, page 64.

TABLE 2
HEALTH EFFECTS OF MAIN CRITERIA AIR POLLUTANTS

Pollutant	Adverse Effects
Ozone	- Ozone can irritate lung airways and cause inflammation much like a sunburn. Other symptoms include wheezing, coughing, pain when taking a deep breath, and breathing difficulties during exercise or outdoor activities. People with respiratory problems are most vulnerable, but even healthy people that are active outdoors can be affected when ozone levels are high. - Permanent lung damage to those with repeated exposure to ozone pollution. - Even at very low levels, ground-level ozone triggers a variety of health problems including aggravated asthma, reduced lung capacity, and increased susceptibility to respiratory illnesses like pneumonia and bronchitis. - Ground-level ozone interferes with the ability of plants to produce and store food, which makes them more susceptible to disease, insects, other pollutants, and harsh weather. - Ozone damages the leaves of trees and other plants, negatively impacting the appearance of urban vegetation, national parks, and recreation areas. - Ozone reduces crop yields and forest growth, potentially impacting species diversity in ecosystems.
Carbon Monoxide	- The health threat from lower levels of CO is most serious for those who suffer from heart disease. For a person with heart disease, a single exposure to CO at low levels may cause chest pain and reduce that person's ability to exercise; repeated exposures may contribute to other cardiovascular effects. - Healthy people can be affected by high levels of CO as well. People who breathe high levels of CO can develop vision problems, reduced ability to work or learn, reduced manual dexterity, and difficulty performing complex tasks. At extremely high levels, CO is poisonous and can cause death. - CO contributes to the formation of smog ground-level ozone, which can trigger serious respiratory problems.
Particulate Matter	- Particle pollution, especially fine particles, contains microscopic solids or liquid droplets that are so small that they can get deep into the lungs and cause serious health problems. Numerous scientific studies have linked particle pollution exposure to a variety of problems, including: • increased respiratory symptoms, such as irritation of the airways, coughing, or difficulty breathing; • decreased lung function, aggravated asthma, development of chronic bronchitis; • irregular heartbeat, nonfatal heart attacks; and • premature death in people with heart or lung disease. - Particles can be carried over long distances by wind and then settle on ground or water. The effects of this settling include: making lakes and streams acidic; changing the nutrient balance in coastal waters and large river basins; depleting the nutrients in soil; damaging sensitive forests and farm crops; and affecting the diversity of ecosystems.
Nitrogen Dioxide	- One of the main ingredients involved in the formation of ground-level ozone, which can trigger serious respiratory problems. - Reacts to form nitric acid and related particles. Human health concerns include effects on breathing and the respiratory system, damage to lung tissue, and premature death. Small particles penetrate deeply into sensitive parts of the lungs and can cause or worsen respiratory disease such as emphysema and bronchitis, and aggravate existing heart disease. - Contributes to formation of acid rain; to nutrient overload that deteriorates water quality; and to atmospheric particles that cause visibility impairment. - Reacts to form toxic chemicals and contributes to global warming.
Sulfur Dioxide	- Contributes to respiratory illness, particularly in children and the elderly, and aggravates existing heart and lung diseases. - Reacts with other chemicals in the air to form tiny sulfate particles. When these are breathed, they gather in the lungs and are associated with increased respiratory symptoms and disease, difficulty in breathing, and premature death. - Contributes to the formation of acid rain, which; damages trees, crops, historic buildings, and monuments; and makes soils, lakes, and streams acidic. - Contributes to the formation of atmospheric particles that cause visibility impairment, most noticeably in national parks.
Lead	- Lead causes damage to the kidneys, liver, brain and nerves, and other organs. Exposure to lead may also lead to osteoporosis (brittle bone disease) and reproductive disorders. - Excessive exposure to lead causes seizures, mental retardation, behavioral disorders, memory problems, and mood changes. Low levels of lead damage the brain and nerves in fetuses and young children, resulting in learning deficits and lowered IQ. - Lead exposure causes high blood pressure and increases heart disease, especially in men. Lead exposure may also lead to anemia, or weak blood. - Wild and domestic animals can ingest lead while grazing. They experience the same kind of effects as people who are exposed to lead. Low concentrations of lead can slow down vegetation growth near industrial facilities. - Lead can enter water systems through runoff and from sewage and industrial waste streams. Elevated levels of lead in the water can cause reproductive damage in some aquatic life and cause blood and neurological changes in fish and other animals that live there.

Source: Environmental Protection Agency, Six Common Air Pollutants, http://www.epa.gov/air/urbanair/6poll.html, November 2007.

road equipment, material delivery, and worker commute trips, and other activities (asphalt paving and the application of architectural coatings). Existing buildings that are renovated, partially demolished, or removed are subject to District Rule 4002 (National Emission Standards for Hazardous Air Pollutants).

Construction of the Proposed Project would require the use of heavy-duty construction equipment. Operation of this equipment would generate emissions of particulate matter, nitrous oxides, sulfur oxides, carbon monoxide, and reactive organic gases.

Construction emissions were modeled for the 12-month construction period. Projected construction emissions for the years 2010 and 2011 are shown in Table 3. Based on the time of construction activity that would occur (demolition, grading, paving, construction, architectural coatings), the SJVAPCD thresholds of 10 tons/year of ROG and NO_x would not be violated during project construction. PM_{10} emissions would be generated during site demolition and grading. As shown in Table 3, modeling indicates that NO_x emissions during construction could reach a maximum of 1.59 tons per year for construction during the 2010 construction year, while ROG emissions could reach a maximum of 0.98 tons per year during the 2011 construction year.

Compliance with SJVAPCD Rule 9510 and Regulation VIII, as required by law would result in a reduction in NO_X emissions and visible emissions from heavy-duty diesel equipment, and would reduce fugitive dust emissions. Rule 9510, the Indirect Source Review, would require the project applicant to submit an Air Impact Assessment to provide information that enables the District to quantify construction, area, and operational PM_{10} and NO_x emissions. This Assessment would be due to the District no later than seeking final discretionary approval, and payment of any applicable off-site mitigation fees would be required prior to issuance of the first building permit.

As shown in Table 3, PM_{10} construction emissions would total 0.19 tpy for 2010 and 0.01 tpy for 2011. Because of the project's size and estimated emissions, short-term construction-generated PM_{10} emissions would not result in or substantially contribute to emissions concentrations that exceed the CAAQS. In addition, the project would be required to comply with SJVAPCD Regulation VIII-Fugitive Dust Prohibitions, Rule 4601, and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations). Regulation VIII measures include pre-watering construction sites, limiting the speed of vehicles, and covering bulk materials and haul trucks. Rule 4601 (Architectural Coatings) would limit volatile organic compounds from architectural coatings. This rule specifies architectural coatings storage, clean-up, and labeling requirements. Rule 4641 would restrict the use of cutback, slow-cure, and emulsified asphalt paving materials.

Because the construction ROG and NO_x emissions would not exceed SJVAPCD thresholds, and emissions of PM_{10} would not contribute to emissions concentrations that exceed the CAAQS, the construction impact would be considered a ***less-than-significant impact***.

Operational Emissions

Operational emissions refer to the emissions that are generated from daily activity once the project is

TABLE 3
ESTIMATED MAXIMUM YEARLY CONSTRUCTION EMISSIONS (Tons per Year)
CONSTRUCTION YEARS 2010 AND 2011

POLLUTANT	ROG		NOx		CO		SO_2		PM_{10}		PM2.5		CO2	
SITE DEMOLITION, EXCAVATION AND GRADING PHASE														
YEAR	2010	2011	2010	2011	2010	2011	2010	2011	2010	2011	2010	2011	2010	2011
Fugitive and Fine Grading Dust	0.00	--	0.00	--	0.00	--	0.00	--	0.09	--	0.02	--	0.00	--
Off-Road Diesel	0.03	--	0.28	--	0.14	--	0.00	--	0.02	--	0.02	--	24.90	--
On-Road Diesel	0.02	--	0.27	--	0.09	--	0.00	--	0.01	--	0.01	--	36.17	--
Worker Trips	0.00	--	0.00	--	0.02	--	0.00	--	0.00	--	0.00	--	1.96	--
Total Grading Phase Emissions	*0.05*	--	*0.55*	--	*0.25*	--	*0.00*	--	*0.12*	--	*0.05*	--	*63.03*	--
CONSTRUCTION PHASE														
Building Construction Off-Road Diesel	0.11	0.01	0.84	0.09	0.44	0.05	0.00	0.00	0.05	0.01	0.05	0.01	81.74	9.83
Building Construction Worker and Vendor Trips	0.04	0.00	0.20	0.02	0.96	0.11	0.00	0.00	0.02	0.00	0.01	0.00	105.28	12.66
Architectural Coating	--	0.97	--	0.00	--	0.00	--	0.00	--	0.00	--	--	--	--
Coating Worker Trips	--	0.00	--	0.00	--	0.02	--	0.00	--	0.00	--	--	--	1.63
Total Construction Phase Emissions	*0.15*	*0.98*	*1.04*	*0.11*	*1.40*	*0.18*	*0.00*	*0.00*	*0.07*	*0.01*	*0.06*	*0.01*	*187.02*	*24.12*
TOTAL (All Phases)	**0.20**	**0.98**	**1.59**	**0.11**	**1.65**	**0.18**	**0.00**	**0.00**	**0.19**	**0.01**	**0.11**	**0.01**	**250.05**	**24.12**
Exceeds SJVAPCD Threshold?	**No**	**No**	**No**	**No**	-		-		-					

Notes:
0.00 means that emissions are below 0.00 tons
URBEMIS modeling data can be found in Appendix A.
Source: URBEMIS 2007, Version 9.2.4, November 2007.

completely built out. Operational activity would include motor vehicle use, operation of residential water heaters, and the use of consumer products by people living in the new homes.

Ozone precursor emissions are of primary concern during the operational phase of a project. The SJVAPCD GAMAQI specifies thresholds of significance of 10 tons/year for both ROG and NO_x.

Wood-burning fireplaces and wood stoves can potentially contribute large amounts of PM_{10} and ROG. However, wood-burning fireplaces and wood stoves are limited in the SJVAB through the provisions of SJVAPCD Rule 4901 – WOOD BURNING FIREPLACES AND WOOD BURNING HEATERS. These limitations on wood-burning stoves and fireplaces are accounted for in assumptions made for the URBEMIS 2007 model.

As the Proposed Project is constructed and occupied, activities associated with the varying uses would generate ozone precursors and other criteria pollutants. The largest source of these emissions would be the vehicle trips generated by people living and working in the project area. Smaller sources of precursors would be created by fuel-burning equipment such as that used for the heating and cooling of the buildings, and by various consumer products used by building occupants.

The operational emissions of the Proposed Project were modeled using URBEMIS 2007, version 9.2.4. Regional area and mobile source emissions were based on proposed land use types and sizes. The results of this modeling are shown in Table 4. As shown in the table, ROG and NO_x emissions would not exceed the SJVAPCD annual threshold of 10 tons per year. ROG emissions would be 3.89 tons per year, and NO_x emissions would be 6.32 tons per year. The Proposed Project would include stationary sources of pollutants that would be required to obtain permits to operate under SJVAPCD Rule 2201-New and Modified Stationary Sources. These sources could include, but not be limited to, diesel-engine or gas turbine generators for emergency power generation, central heating boilers, and kitchen equipment for restaurants. The permit process would ensure that these sources would be equipped with the required emission controls and that, individually, these sources would not cause a significant environmental impact. The Proposed Project would also be subject to SJVAPCD Rule 4102 (Nuisance), which prohibits the discharge from any source of such quantities of air contaminants or other materials which cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public. Therefore, this would be considered a ***less-than-significant impact***.

CO Emissions

The SJVUAPCD has established preliminary screening criteria to determine if project-generated long-term operational local mobile-source emissions of CO would result in, or substantially contribute to, emissions concentrations that exceed the 1-hour ambient air quality standard of 20 ppm or the 8-hour standard of 9 ppm, respectively. SJVAPCD's preliminary screening criteria include the following:

TABLE 4
PROPOSED PROJECT ESTIMATED YEARLY OPERATIONAL EMISSIONS (tons per year)

Emissions Source	ROG	NOx	CO	SO_2	PM_{10}	$PM_{2.5}$	CO_2
Natural Gas	0.01	0.15	0.09	0.00	0.00	0.00	192.80
Hearth	0.02	0.00	0.15	0.00	0.02	0.02	4.31
Landscape Maintenance	0.07	0.01	0.87	0.00	0.00	0.00	1.48
Consumer Products	0.43	-	-	-	-	-	-
Architectural Coatings	0.10	-	-	-	-	-	-
Motor Vehicles	3.26	6.16	37.47	0.02	2.56	0.62	2,996.88
Total Emissions (Unmitigated)	*3.89*	*6.32*	*38.58*	*0.02*	*2.58*	*0.64*	*3,195.47*
Exceeds SJVAPCD Threshold?	**No**	**No**	**-**	**-**	**-**		

Notes:
0.00 means that emissions are below 0.00 tons
URBEMIS modeling data can be found in Appendix A.
Source: URBEMIS 2007, Version 9.2.4.

- A traffic study for the project indicates that the Level of Service (LOS) on one or more streets or at one or more intersections in the project vicinity would be reduced to LOS E or F; or
- A traffic study for the project indicates that implementation would substantially worsen an already existing LOS F on one or more streets or at more or more intersections in the project vicinity.

According to the traffic analysis prepared for the Proposed Project, the Proposed Project would not cause any intersections to deteriorate from acceptable LOS (D or better) to unacceptable (LOS E or F) under existing plus project and cumulative plus project (2025) conditions in either the AM or PM peak hour (see Item 15 below). Nor would the Proposed Project contribute substantial traffic to intersections that predicted to operate at LOS E or F without the project. Thus, based on the screening criteria above, project-generated long-term operational local mobile-source emissions of CO would not result in or substantially contribute to emissions concentrations that exceed the 1-hour ambient air quality standard of 20 ppm or the 8-hour standard of 9 ppm, respectively. As a result, this impact would be ***less than significant.***

c) **Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?**

As discussed above, construction and operation of the Proposed Project would not emit emissions ozone precursors at levels that would exceed the SJVAPCD's thresholds. While these emissions would be temporary during the construction period, they would nevertheless be a part of overall ozone precursor emissions in the region. The San Joaquin Valley Air Basin is currently designated as nonattainment for State and federal ozone standards. During high ozone periods, such as the summer month the Proposed Project's construction emissions would add to the total amount of ozone precursors available for ozone production.

On any given day in Stanislaus County and the greater San Joaquin region, ozone precursors are generated by a large number of different sources. These sources include fuel combustion, waste disposal, architectural coatings, solvent evaporation, industrial processes, and natural sources. Ozone precursors from construction of the Proposed Project would combine with these other sources in the region to create a cumulative effect. As stated above, the construction emissions of ROG and NO_x associated with the Proposed Project would not exceed SJVAPCD thresholds of significance for construction. Operation of the Proposed Project would not exceed SJVAPCD thresholds of significance for ozone precursors. In addition, compliance with requirements of SJVAPCD Rule 9510 would result in reductions of NO_x and PM_{10} emissions. The thresholds of significance have been set at a level that will help ensure that construction emissions do not hinder the region's ability to meet attainment goals for ozone. Furthermore, the Proposed Project contains elements such as high density and a mix of retail and residential uses near the downtown core that should reduce reliance on vehicles, which would further reduce emissions.

Because Section 4.3 of Rule 4901 could allow up to two wood burning stoves in the development, the following mitigation measure is recommended to further reduce project emissions.

Mitigation Measure 1

Wood stoves shall be prohibited within the Proposed Project.

Because the thresholds would not be exceeded, construction impacts would be temporary, and the project would comply with the Indirect Source Review rule and Mitigation Measure 1, the Proposed Project's contribution to this cumulative impact would not be considerable. Consequently, the Proposed Project would have a ***less-than-significant cumulative impact.***

Climate Change

Climate change due to the increased production of greenhouse gasses (GHG) has become a State, national and global concern. Various gases in the Earth's atmosphere, classified as atmospheric greenhouse gases (GHGs), play a critical role in determining the Earth's surface temperature.

The Greenhouse Effect can be intensified by increases in GHGs. Among the prominent GHGs contributing to the Greenhouse Effect are carbon dioxide (CO_2), methane (CH_4), ozone (O_3), water vapor, nitrous oxide (N_2O), and chlorofluorocarbons (CFCs). Activities that emit these gasses, such as fossil fuel combustion, which emits CO_2, and certain landfilling and agricultural practices, which emit methane, are thought to create a trend toward unnatural warming of the Earth's climate, known as global warming or global climate change.[3] Emissions of GHGs contributing to global climate change are attributable in large part to human activities associated with the industrial/manufacturing, utility, transportation, residential, and agricultural sectors.[4] In California, the transportation sector is the largest emitter of GHGs, followed by electricity generation.[5]

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3 E.G. Nisbet, *Leaving Eden: to Protect and Manage the Earth,* Cambridge University Press, 1991, page 12.

4 California Energy Commission, *Inventory of California Greenhouse Gas Emissions and Sinks: 1990 to 2004*

California Global Warming Solutions Act

The California Global Warming Solutions Act of 2006 requires the California Air Resources Board to develop regulations and market mechanisms that will ultimately reduce California's greenhouse gas (GHG) emissions to 1990 levels by 2020, an estimated 25 percent reduction. Mandatory caps will begin in 2012 for significant GHG sources—such as utilities, industries, and large businesses—and ratchet down to meet the 2020 goals.

CARB was required to establish the statewide GHG emissions cap by January 1st, 2008; adopt mandatory reporting rules for significant GHG sources and adopt a plan for achieving GHG emissions reductions by January 1, 2009; and adopt its final GHG emission regulations by January 1, 2011. On June 26, 2008, CARB presented the initial draft of the AB 32 Scoping Plan for Board review. The AB 32 Scoping Plan contains the main strategies California will use to reduce GHGs. On June 30, 2007, CARB adopted a list of early action measures to be adopted by January 1, 2010 that can reduce emissions in the short term. In December, 2008, CARB adopted a scoping plan that outlined actions to reduce GHG enough to meet the 2020 cap, including a "cap and trade" system, in which carbon emissions credits or "allowances" in the amount of the cap are distributed and carbon emitters may buy and sell these credits.

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 Master EIR determined that new development in the Baseline Developed Area and Redevelopment Area of the City would not have a substantial direct impact on global climate change, but that future development under 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 Master EIR states that, in particular, 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 2,539,560 tons of CO_2 from vehicular traffic. This would be an increase of approximately 1,096,226.4 metric tons per year above 2005 emissions.

The UAGP Master EIR identifies City 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.

General Plan Policies CL-3 through CL-26 provide measures to further reduce GHG from new development by, among other things, the use of shade trees to reduce the need for air conditioning and the heat island effect of pavement; somewhat reduced residential and business emissions as a result of the most current energy-efficient building standards; and voluntary incentive-based program for energy providers and developers. The Proposed Project would result in CO_2 emissions that

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(Staff Final Report), publication CEC-600-2006-013-SF, December 2006, page 9.

5 California Energy Commission, *Inventory of California Greenhouse Gas Emissions and Sinks: 1990 to 2004 (Staff Final Report)*, publication CEC-600-2006-013-SF, December 2006, page 7.

represent less than one-percent of the total future emissions increases from the UAGP buildout.

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.

While mobile sources associated with the operation of the proposed development would contribute minimally to the overarching global climate change problem, it is not possible to quantify the project's exact contribution. As previously mentioned, the recently enacted California Global Warming Solutions Act of 2006 (AB 32) requires the California Air Resources Board to develop regulations and market mechanisms that will ultimately reduce California's greenhouse gas emissions to 1990 levels by 2020, an estimated 25 percent reduction. Early action measures developed by the CARB are expected to take effect in January 2010. Until such time that thresholds are established, the responsibility to minimize pollutant emissions remains squarely in the realm of local governmental regulators charged with the protection of public health.[6,7]

Climate change is an inherently cumulative impact because no single project can produce enough greenhouse gasses to substantially alter the global climate. No thresholds have been set for individual or cumulative greenhouse gas emissions. Nonetheless, the Proposed Project would result in GHG emissions due primarily to automobile travel and energy use for lighting, heating, cooling and other activities.

It is not possible to calculate all possible amounts of CO_2 emissions. As stated above, in California, transportation is the largest emitter of GHGs, followed by electricity generation. CO_2 emissions from these, and other sources, can be estimated. Potential CO_2 emissions from construction and operation of the Proposed Project can be determined using the URBEMIS air emission model. The URBEMIS model calculated future CO_2 emissions from area sources and operation, based on the proposed amount of residential, office, and retails uses. Area sources include natural gas heaters, landscape equipment, and consumer products. URBEMIS also estimates future operational emissions from vehicle trips generated by the Proposed Project. As shown in Table 3, project construction would result in approximately 250 tons per year of CO_2 in 2010 and approximately 24 tons in 2011. Total operational emissions of CO_2 from area sources and mobile sources would be approximately 3,200 tons per year (see Table 4).

Operational emissions of CO_2 can also be estimated from electricity and natural gas use. The generation of electricity through the combustion of fossil fuels typically yields CO_2 and, to a much smaller extent, CH^4 and N_2O. Using the estimated annual electricity and natural gas usage, the CO_2 emission factors for electricity use and natural gas combustion were obtained from the California Climate Action Registry (CCAR). The CCAR produced the *California Climate Action Registry General Reporting Protocol* (Protocol), which includes a five-step process to calculate indirect emissions from electricity use.

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6 CARB, *The Greenhouse Effect and California*, 2006.

7 Intergovernmental Panel on Climate Change, *Summary for Policymakers*, January, 2001.

The Proposed Project would generate a demand for approximately 0.45 megawatts of electricity annually (based on generation rates of 4.22 kilowatt (kW) per dwelling unit, 0.00046 kW per square foot of office use, and 0.0056 kW per square foot of retail use[8]). This would result in an energy use of 3,942 MWh per year (0.45 x 8,760). Based on the Protocol (see Table 5), the Proposed Project would generate approximately 1,910 metric tons of CO_2 from electricity use.

For natural gas use, the Proposed Project would generate a demand for approximately 166,583 therms annually (based on generation rates of 1.440 therms per dwelling unit, and 63,600 therms per acre of retail and office use[9]), resulting in approximately 2,180 metric tons of CO_2, as shown in Table 6. Total operational CO_2 emissions from electricity and natural gas use, mobile vehicles, landscaping, and hearth use would be approximately 7,300 metric tons of CO_2 equivalent per year.

At buildout, the Proposed Project is projected to have a total of approximately 66 dwelling units, 132 new residents, and up to 97 jobs. A portion of the project residents could be employed in downtown Modesto, which is within walking distance, but a portion would also be expected to commute by car to work. Those residents would generate CO2 and other GHG during their commute. Project residences and businesses would also generate GHG by using energy for heating, cooling and other activities.

The Proposed Project provides an opportunity for employees in downtown Modesto to live within walking distance of their jobs, thus potentially reducing commute distances. Most project residents could rely less on vehicles, due to the proximity of retail and other services in the vicinity of the project site, and the extensive pedestrian networks (e.g., sidewalks, crosswalks, a grid street pattern). For these reasons, the Proposed Project would likely generate less GHG then a similar project located at a greater distance from employment and commercial centers. In addition, the Proposed Project would replace existing uses, including a furniture store and surface parking lot. These uses are generating vehicle trips from customers and would be replaced by new residents and users of the Proposed Project retail and office uses.

As development increases, the change in climate will be exacerbated by increased GHG. The continued change in climate throughout the world is expected to have an adverse effect on a number of environmental conditions. Therefore, as recognized by the City Council when the UAGP was adopted, global climate change is considered a significant cumulative impact. Although the amount of GHG generated by the Proposed Project cannot be completely calculated at this time, the activities associated with the Proposed Project are not expected to generate substantial GHG (approximately 7,300 metric tons of CO_2 equivalent per year).

In addition, the Proposed Project by location and design would reduce GHG emissions by providing high density development within close proximity to a range of services, and by providing

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8 City of Sacramento, *Railyards Specific Plan Draft Environmental Impact Report*, prepared by PBS&J/EIP, August 2007, page 6.14-9.

9 City of Sacramento, *Railyards Specific Plan Draft Environmental Impact Report*, prepared by PBS&J/EIP, August 2007, page 6.14-9.

TABLE 5
PROJECT OPERATIONAL GREENHOUSE GAS EMISSIONS FROM ELECTRICITY USE

Emissions Source	Energy Use MWh/Year	N_2O (metric tons)[i, ii]	N_2O CO_2e (metric tons)[iii]	CO_2 (metric tons)[iv]	CH_4 M (metric tons)[iv]	CH_4 CO_2e (metric tons)[v]	Total CO_2e (Tons)[vi]
Proposed Project	3,942[vii]	0.007	2.17	1,906.8	0.012	0.252	1,909.22

Notes:
i Emissions Factor of 0.0037 was used for N_20 (see Protocol, Table C.3).
ii. Metric ton = 2,204.62 pounds
iii A Global Warming Potential (GWP) of 310 is used for N_20 (see Protocol, Table C.1)
iv Emissions Factor of 878.71 was used for CO^2 (see Protocol, Table C.2)
iv Emissions Factor of 0.0067 was used for CH_4.
v A GWP of 21 is used for CH_4 (see Protocol, Table C.1)
vi Total of N_20 CO_2e, CO_2, and CH_4 CO_2e
vii MWh/Year = MWof use annually x 8760

TABLE 6
PROJECT OPERATIONAL GREENHOUSE GAS EMISSIONS FROM NATURAL GAS USE

Energy Use Therms/Year	MWh/Year (29.3 KWh hour/Therm)	N_2O (metric tons)[i, ii]	N_2O CO_2e (metric tons)[iii]	CO_2 (metric tons)[iv]	CH_4 M (metric tons)[iv]	CH_4 CO_2e (metric tons)[v]	Total CO_2e (Tons)[vi]
166,583[vii]	4,880	0.008	2.48	2,179.2	0.015	0.315	2,182.0

Notes:
i Emissions Factor of 0.0037 was used for N_20 (see Protocol, Table C.3).
ii. Metric ton = 2,204.62 pounds
iii A Global Warming Potential (GWP) of 310 is used for N_20 (see Protocol, Table C.1)
iv Emissions Factor of 878.71 was used for CO^2 (see Protocol, Table C.2)
iv Emissions Factor of 0.0067 was used for CH_4.
v A GWP of 21 is used for CH_4 (see Protocol, Table C.1)
vi Total of N_20 CO_2e, CO_2, and CH_4 CO_2e
vii MWh/Year = MWof use annually x 8760

employment, as well as residential opportunities on the same site. The UAGP Master EIR recognizes that the Redevelopment Area of the City is already largely developed and that this area is the most walkable and bikeable area in Modesto, as well as having the best transit service in the City. For these reasons, although the Proposed Project would generate GHG, this contribution would not be considered considerable, and this is a ***less-than-significant cumulative impact.***

e) Create objectionable odors affecting a substantial number of people?

The perception of odors is subjective and not easily quantifiable. Atmospheric conditions including wind speed, wind direction and air temperature, in combination with local surface topography, determine odor impacts on sensitive receptors. During high winds, odors are usually diluted. However, during light or calm wind conditions, potential odor impacts are high because dilution is

minimized. In addition, odor becomes stronger during warmer weather due to the higher temperatures.

Employees working in close proximity to the project area could be exposed to odors from future land uses on the project site. Development of the Proposed Project could introduce odors typically associated with urban areas. However, odors that would be associated with the Proposed Project would not be significant since they are commonly found in all urban environments and generally do not elicit complaints from the public. Therefore, the project would not create objectionable odors affecting a substantial number of people, resulting in a ***less-than-significant*** impact.

Issues		Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
4.	**BIOLOGICAL RESOURCES.** *Would the project:*				
	a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	□	□	■	□
	b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	□	□	■	□
	c. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	□	□	□	■
	d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of wildlife nursery sites?	□	□	■	□
	e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	□	□	□	■
	f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Conservation Community Plan, or other approved local, regional, or state habitat conservation plan?	□	□	□	■

Discussion

a) **Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?**

b) **Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?**

The project site is composed of developed parcels with an existing surface parking lot, retail buildings, and street trees. The entire site has been disturbed. As a developed area, the project site does not provide wildlife habitat for any special-status species, but street trees in the project area could provide nesting habitat for migratory birds. No other natural communities exist on the project site. There are no significant native resident or migratory fish or wildlife species that use the project site for any portion of their lifecycle or for migration. The site is surrounded by developed land in downtown Modesto, which would limit migration of terrestrial wildlife.

City of Modesto General Plan Policy V.II-E.2(a), (shown below) states no further biological studies are warranted for proposed developments that are consistent with the adopted Urban Area General Plan on lands within the Redevelopment Area unless specific information concerning the known or potential presence of significant biological resources is identified in future updates of the California Natural Diversity Database (CNDDB).

> Policy
> V.II-E.2(a): For proposed development consistent with the adopted Urban Area General Plan on lands within the Baseline Developed Area and Redevelopment Plan Area, exclusive of lands within the Dry Creek and Tuolumne River Comprehensive Planning Districts, no further biological study is warranted unless specific information concerning the known or potential presence of significant biological resources is identified in future updates of the California Natural Diversity Database, or through formal or informal input received from resource agencies or other qualified sources.

There is no riparian habitat on the project site. The Modesto Redevelopment Master Plan EIR concluded that Swainson's hawk is the only special-status species with potentially suitable habitat that could be adversely affect by development in the Plan area.[10] However, the project site does not provide sufficient nesting or foraging habitat for the Swainson's hawk. There are no recorded occurrences of special status species on the project site, and the Proposed Project is consistent with the City's Urban Area General Plan Policy V.II-E.2(a).

For the above reasons, this would be a ***less-than-significant impact***.

c) **Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?**

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10 City of Modesto Redevelopment Agency, *Modesto Redevelopment Master Plan Final EIR*, prepared by EDAW, September 2007, page 4.2-9.

The project site is developed with existing uses, including a surface parking lot. Because the site is paved and developed, there are no wetlands on the project site. Therefore, the project would have ***no impact.***

d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of wildlife nursery sites?

The project site is developed with existing buildings and a parking lot, and there are no significant native resident or migratory fish or wildlife species that use the project site for any portion of their lifecycle or for migration. In the Modesto Redevelopment Plan area, sensitive habitats are limited to the Tuolumne River and Dry Creek corridors, which support sensitive aquatic and riparian habitats.[11] These habitats are not located in the Proposed Project area. The site is bordered by existing urban uses, which would limit migration of terrestrial wildlife. Therefore, this impact is ***less than significant.***

e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Conservation Community Plan, or other approved local, regional, or state habitat conservation plan?

The City of Modesto does not have specific ordinances protecting biological resources, including trees. There are no adopted habitat conservation plans or natural community conservation plans in the City of Modesto or Stanislaus County. Therefore ***no impact*** would occur.

11 City of Modesto Redevelopment Agency, *Modesto Redevelopment Master Plan Final EIR*, prepared by EDAW, September 2007, page 4.2-7.

Issues		Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
5.	**CULTURAL RESOURCES.** *Would the project:*				
	a. Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	□	□	■	□
	b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	□	■	□	□
	c. Directly or indirectly destroy a unique paleontological resource or unique geologic feature?	□	■	□	□
	d. Disturb any human remains, including those interred outside of formal cemeteries.	□	■	□	□

Discussion

A records search was conducted with the Central California Information Center (CCIC) at the California State University, Stanislaus. The records search was made for the project area, located on the Riverbank USGS 7.5-minute quadrangle map in Stanislaus County. The search included review of the CCIC's maps for the specific project area and the immediate vicinity of the project area, review of the National Register of Historic Places (NRHP), the California Register of Historical Resources (CRHR), the *California Inventory of Historic Resources* (1976), the *California Historical Landmarks*, the California Points of Historical Interest listing, the Directory of Properties in the Historic Property Data File, the Caltrans State and Local Bridge Survey, the *Survey of Surveys* (1989), GLO Plats, and other pertinent historic data available at the CCIC. No historic properties or historic districts have been reported to the CCIC.[12]

Archaeological Resources

The records search indicated there are no recorded archeological resources within the project site.[13] The report concluded that there is a moderate sensitivity for historical archaeological resources that might be found under the surface during excavation for the project (e.g. foundations and historic debris and historic artifacts over 45 years old associated with buildings and structures that were

12 Robin Hards, Assistant Research Technician, Central California Information Center, California Historical Resources Information System, written correspondence to Adrienne L. Graham, October 4, 2007.

13 Robin Hards, Assistant Research Technician, Central California Information Center, California Historical Resources Information System, written correspondence to Adrienne L. Graham, October 4, 2007.

formerly on that block).

The project site is not within a City-identified archeological resources study area.[14] Therefore, no further research for prehistoric deposits is warranted without specific information indicating the need for further investigation.

Historic Buildings

Based on the data in the CCIC files, it was concluded that the project area has moderate sensitivity for standing buildings and structures on the block that are over 45 years old and not yet evaluated or documented by a cultural resources professional. The records search also stated that, although it is not listed in the Historic Property Data File, the sandstone building at 726 10th Street (across the street from the project area) was built in 1894 for the Modesto News Herald, and is a City of Modesto Landmarks Preservation Site. Other nearby buildings that are potentially significant include the former Modesto Arena and Ballroom building at 708 10th Street, and the building at 724 10th Street (now over 60 years old). Neither of these buildings has been formally evaluated for the NRHP or the CRHR or local designation.

None of the buildings on the project site are on the City's list of designated landmark preservation sites. However, the building at 701 10th Street, a former greyhound bus station, was identified as a property that might be eligible for listing on the National Register of Historic Places.[15] Therefore, a historic resource evaluation report (HRER) was conducted by Carey & Co. for the property located at 701 10th Street (February 2008). The HRER is available for review at the City of Modesto Redevelopment Agency, 1010 Tenth Street, Suite 3300, Modesto, CA 95354. The evaluation was prepared by reviewing documents and other information related to the property and conducting a reconnaissance-level survey of the site on January 28, 2008. During the site visit, Carey & Co. evaluated the existing conditions, historic features, and architectural significance of the property. Carey & Co. then undertook archival research at local and regional repositories to develop a historic context statement for the property and the neighborhood. The following sources were consulted: building permit records at the City of Modesto Community and Economic Development Department of Building Inspection, assessor parcel maps and deed records at the County of Stanislaus Assessor Office and Clerk-Recorder Office, Sanborn Fire Insurance Maps, newspaper articles, city directories, the United States Census, and archival materials at the Modesto Public Library's California History Center.

Greyhound Bus Station

According to the HRER, Pacific Greyhound began running lines from 701 10th Street in 1933. In 1941, the bus station at 701 10th Street was expanded to include the adjacent lot (703), which served

14 City of Modesto Community and Economic Development Department, *Master Environmental Impact Report for the City of Modesto Urban Area General Plan and Related Amendments to the Urban Area General Plan,* prepared by Jones & Stokes, February 2003, Figure V-8-2, Archaeological Resources Zones.

15 Carey & Co., Inc, *Downtown Historic Buildings, Survey Update and Prioritization, Modesto, California,* November 15, 1997, DPR 523A-Test (6-94) form for Former Greyhound Bus Station and Appendix 7.

as a restaurant for the bus station for over fifty years. The architect and construction date of the existing building is unclear. This bus station was apparently one of several located in Modesto at the time. In the early 1940s, Pacific Greyhound Lines was the largest division of the nationwide Greyhound system, serving 18 million passengers in 1941, over 29 million passengers in 1942, and about 40 million passengers by 1943. The design of the former bus station reflects a commercial vernacular style common to the twentieth century. Like many bus depots constructed in the twentieth century, the Greyhound station was located within a central core of the City and near the train station. Its layout followed a standard "island" form with open-aired loading at the rear of the building and a streamlined façade emphasizing that it was a public facility. The Greyhound Station at 701 10th Street remained active until 1993. In 1996 the structure was sold and has since been used only for storage and parking.

According to the HRER, while the building at 701 10th Street may have been an important hub of transportation in early Modesto and during World War II, it was not the first, the only, or the most important Greyhound station in Modesto, and does not meet the significance criteria for the National or California Register of Historical Resources. Even were it to possess historic significance, the structure's lack of integrity would leave it ineligible for listing on the either Register. For these reasons, the property is not considered a significant historic resource.

a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?

Construction of the Proposed Project would include the demolition of the buildings on the project site adjacent to 10th Street. As discussed above, none of the buildings on the project site are considered historically significant.

The Proposed Project would construct a seven-story building in proximity to several buildings that are historic, including the Modesto News Herald, a City of Modesto Landmarks Preservation Site. These historic buildings are typical of relatively low-scale (one- to two-story buildings on streets with multiple store fronts), downtown commercial development. The Proposed Project would be larger than these buildings. However, because it would be separated by 10th Street, it would not substantially alter the context of the existing buildings. Furthermore, the first two floors of the Proposed Project would be occupied by small retail and office uses, similar to the businesses across 10th Street. For these reasons, the Proposed Project would not create an adverse change in the significance of identified and/or potentially historically significant resources.

For the above reasons, this would be a ***less-than-significant impact.***

b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?

c) Directly or indirectly destroy a unique paleontological resource or unique geologic feature?

General Plan Policies VII-F.2(b) and (e), shown below, are designed to protect archeological resources within the City. The Modesto General Plan Master EIR Update states that archaeological resources include material remains indicating the presence of Native Americans. Material remains include artifacts that were made, used, or altered by people, such as lithic material, groundstone,

discarded artifacts, and human remains.[16] City of Modesto Policy VII-F.2(b) requires consultation by an archeologist if previously unknown archeological resources are discovered during construction of a project.

Policies

VII-F.2 (b): For proposed development outside an identified archaeological resource study area (as depicted on Figure V-8-2 in the 2003 Master EIR), no further research for prehistoric deposits is warranted unless specific information concerning the known or potential presence of significant cultural resources is identified in future updates at the applicable cultural resource information repository or through formal or informal input received from a qualified source. If previously unknown subsurface cultural resources are discovered during excavation activities, excavation would be temporarily halted and an archaeologist consulted as to the importance of the resources. Should the archaeologist determine that the resources are important; the project sponsor would follow the procedure described in Policy 2(a), above.

VII-F.2 (e): If archaeological resources are discovered at any time during construction, all activity shall cease until the site is surveyed by a qualified archaeologist. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria presented in Appendix K of the State CEQA Guidelines.

VII-F.2(g) The unearthing of prehistoric items during construction can be mitigated by halting the construction activities and by applying mitigation measures developed by a qualified archaeologist.

Mitigation a: Whenever possible, the City should seek to avoid disturbing or damaging archaeological resources. Preservation is the preferred manner of mitigating impacts to archaeological sites. Preservation may be accomplished by:

1. Planning construction to avoid archaeological sites;
2. Incorporating sites within parks, greenspace, or other open space;
3. Covering the sites with a layer of chemically stable soil;
4. Deeding the site into a permanent conservation easement.

Mitigation b: When in-place mitigation is not feasible, data recovery through excavation ,may be necessary. A data recovery plan, which makes provisions for adequately recovering scientifically consequential information about the site, shall be prepared and adopted prior to any excavation being undertaken. Such studies must be deposited with the Central California Information Center in Turlock, California. Special rules apply to any archaeological sites known to contain human remains (Health and Safety Code sec 7050.5; Guidelines sec 15126.4[b]).

Data recovery shall not be required if the lead agency determines that testing or studies already completed have adequately recovered the necessary data, provided that the data have already been documented in another EIR and are available for review at the California Historical Resource Regional Information Center (Guidelines sec. 15126.4[b]).

Paleontological resources include fossil remains, as well as fossil localities and rock or soil

16 City of Modesto Community and Economic Development Department, *Master Environmental Impact Report for the City of Modesto Urban Area General Plan and Related Amendments to the Urban Area General Plan,* prepared by Jones & Stokes, February 2003, page V-8-4.

formations that have produced fossil material. Fossils are the remains or traces of prehistoric animals and plants. Fossils are important scientific and educational resources because of their use in (1) documenting the presence and evolutionary history of particular groups of now extinct organisms, (2) reconstructing the environments in which these organisms lived, and (3) determining the relative ages of the strata in which they occur and of the geologic events that resulted in the deposition of the sediments that formed these strata and in their subsequent deformation.

Paleontological resources are classified as non-renewable scientific resources and are protected by federal and State statutes, most notably by the 1906 Federal Antiquities Act. Professional standards for assessment and mitigation of adverse impacts on paleontological resources have been established by the Society of Vertebrate Paleontology (SVP) (1995, 1996).[17]

There are no known archaeological or paleontological resources or unique geologic features on the project site; however, the records search concluded there is a moderate sensitivity for historical archaeological resources, and previously undiscovered resources could be found and damaged or destroyed during the required earth moving activities resulting in a potentially significant impact. Implementation of the following mitigation measure would reduce this impact to a ***less-than-significant level*** by ensuring that previously unidentified archeological and paleontological resources are handled in a manner consistent with current professional standards.

Mitigation Measure 2

(a) *In the event that any prehistoric or historic subsurface archeological features or deposits, including locally darkened soil ("midden"), that could conceal cultural deposits, animal bone, obsidian, and/or mortar, are discovered during construction-related earth-moving activities, all work within 50 feet of the resource shall be halted and the City shall consult with a qualified archeologist or paleontologist to assess the significance of the find. If the find is determined to be significant by the qualified archaeologist/paleontologist, then representatives of the City and the qualified archaeologist/ paleontologist shall meet to determine the appropriate course of action, consistent with General Plan Policy VII-F.2(g).*

(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, fossils or other cultural materials from the project area.*

(c) *If paleontological resources are discovered, a qualified paleontologist shall evaluate the resource and prepare a mitigation plan in accordance with Society of Vertebrate*

17 The SVP has established standard guidelines (SVP 1995, 1996) that outline acceptable professional practices in the conduct of paleontological resource assessments and surveys, monitoring and mitigation, data and fossil recovery, sampling procedures, and specimen preparation, identification, analysis, and curation. Most practicing professional paleontologists in the nation adhere closely to the SVP's assessment, mitigation, and monitoring requirements as specifically provided in its standard guidelines. Most California state regulatory agencies accept the SVP standard guidelines as a measure of professional practice.

Paleontology guidelines. The mitigation plan may include a field survey of additional construction areas, sampling and data recovery procedures, museum storage coordination for any specimen recovered, and a report of findings. Recommendations determined by the City to be necessary and feasible shall be implemented before construction activities can resume.

d) Disturb any human remains, including those interred outside of formal cemeteries.

There are no known prehistoric or historic human burials on the project site; therefore, it is not anticipated that human remains would be discovered during construction. If human remains are found, Section 7050.0(b) of the California Health and Safety Code specifies the protocol to be followed. Because it is not anticipated that human remains will be encountered on the project site and, if such resources are uncovered State law describes the appropriate steps, the impact is ***less than significant*** with the implementation of the following mitigation measure.

Mitigation Measure 3

(a) *During all phases of project construction, and prior to any ground disturbance, the project applicant or developer shall notify contractors that they are required to watch for human remains.*

(b) *In the event of the discovery of a burial, human bone, or suspected human bone, all excavation or grading in the vicinity of the find shall halt immediately and the area of the find shall be protected and the contractor shall immediately notify the County Coroner of the find and comply with the provisions of Cal. Health and Safety Code Section 7050.5, and Cal. Public Resources Code Section 5097.98, if applicable. If human remains are identified, the project sponsor shall also retain a Native American monitor from the appropriate Native American Tribe(s) as determined by the Native American Heritage Commission. No further disturbance of the site may be made except as authorized by the County Coroner. The Coroner shall make the determination within two working days from the time the person responsible for the excavation, or authorized representative, notifies the Coroner of the discovery or recognition of the human remains.*

Issues		Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
6.	**GEOLOGY AND SOILS.** *Would the project:*				
	a. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
	i. Rupture of a known earthquake fault, as delineated on the most recent Alquist - Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	□	□	■	□
	ii. Strong seismic ground shaking?	□	□	■	□
	iii. Seismic-related ground failure, including liquefaction?	□	□	■	□
	iv. Landslides?	□	□	■	□
	b. Result in substantial soil erosion, or the loss of topsoil?	□	□	■	□
	c. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on-or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	□	□	■	□
	d. Be located on expansive soils, as defined in Table 18-1-13 of the Uniform Building Code (1994), creating substantial risks to life or property?	□	□	■	□
	e. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	□	□	□	■

Discussion

a) **Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:**

- i. **Rupture of a known earthquake fault, as delineated on the most recent Alquist - Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.**
- ii. **Strong seismic ground shaking?**
- iii. **Seismic-related ground failure, including liquefaction?**
- iv. **Landslides?**

There are no known active faults in the Modesto Area. The Uniform Building Code (UBC) assigned Modesto to Zone 3, the lower risk zone for seismic activity;[18] however, earthquakes in other areas can lead to groundshaking within the City. General Plan Policies VI-B.2(a) through (c) require compliance with building codes, including the UBC, as the primary tool for reducing seismic risk in structures and seismic-related ground failure. The policies are intended to ensure that new buildings in the City resist major earthquakes of the intensity or severity of the strongest experienced in California, without collapse. In most structures it is expected that structural damage could be limited to repairable damage, even in a major earthquake.

Policy VI-B.2 states that the City may require a geotechnical analysis prior to approval of the tentative map. If such a report were deemed necessary, the analysis would address the seismic safety of new structures and make a determination of the potential of the on-site soils being subject to liquefaction during seismic events. The Proposed Project would be required to comply with the findings in the report related to construction or installation of project improvements.

There is minimal potential for slope failure due to seismic activity because the City is generally level, with a regional slope of 0.001 vertical foot of change per foot of horizontal distance.[19] Because a geotechnical analysis would be prepared for the project site, and all recommendations from that analysis would be complied with, and because the Proposed Project would be required to comply with General Plan policy VI-B.2(a) through (c), the Proposed Project would have a ***less-than-significant impact*** with regard to seismic activity.

b) **Result in substantial soil erosion, or the loss of topsoil?**

The project site is not subject to landslides and seismic activity that could threaten public health and safety.[20] Wind or rain can cause erosion when soils are exposed during construction activities; however, because the Modesto Urban Area is generally flat, erosion caused by rain is minimal.[21]

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18 Modesto Redevelopment Agency, *Modesto Redevelopment Master Plan, Draft Program Environmental Impact Report,* prepared by EDAW, June 2007, page 3-21.

19 City of Modesto, *Final Master Environmental Impact Report for the Urban Area General Plan and Related Amendments to the Urban Area General Plan,* March 2003, pages V-17-3 and 4.

20 City of Modesto, *Final Master Environmental Impact Report for the Urban Area General Plan and Related Amendments to the Urban Area General Plan,* March 2003, pages V-17-9.

The Proposed Project would disturb an area greater than one acre and would, therefore, be required to obtain a National Pollutant Discharge Elimination System (NPDES) permit from the California Water Resources Control Board (CWRCB). This permit requires the preparation of a plan to address the potential for soil erosion during construction and the implementation of Best Management Practices (BMPs) to control soil erosion. In addition, City of Modesto Policies VI-E2(a) and (b) require an erosion control program, including BMPs, that specifically addresses the conditions of the project site and include a construction erosion control program. Policy LSA-14 requires sediment control basins to capture eroded sediments and contain them on the project site Implementation of these policies and plans would result in a ***less-than-significant impact*** by minimizing soil erosion.

c) **Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on-or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?**

d) **Be located on expansive soils, as defined in Table 18-1-13 of the Uniform Building Code (1994), creating substantial risks to life or property?**

See Item 6(a), above, regarding lateral spreading and liquefaction. Urban land consists of areas covered by roads, driveways, sidewalks, parking lots, buildings, and other structures. The sediments comprising the San Joaquin Valley originated predominately from the Sierra Nevada and were transported and deposited by the streams draining that range of mountains.[22] Modesto predominately lies on young alluvial fans and, to a much lesser extent, on the recent alluvial flood plains of the Tuolumne River and Dry Creek. The alluvial fan soils of Modesto are highly fertile. The soils are composed of material derived from Sierran granitic terraces. Two soil associations on the recent alluvial fans have been mapped in Modesto. The Hanford-Tujunga Association is a sandy loam that is well drained. The Modesto-Chular Association is less extensive, being located in the inter-fan areas between the Stanislaus and Tuolumne Rivers, and consists of soils varying from sandy to clay loams less well drained than Hanford-Tujunga Association soils inundation.

Certain clay minerals within some soils will swell when they become wet and shrink when they dry; this swelling and shrinking are expansive soil properties. Expansive soils can affect the integrity of structures and cause downslope creep. The Modesto Urban Area is not reported to have soils with a great potential for expansion.[23]

Because soils in the vicinity of the project site have a low to moderate shrink-swell potential, the Proposed Project is not likely to be subject to unstable soil conditions such as settlement or expansion. To meet the City's design standards for grading and comply with the California Building Code (Title 24 of the California Code of Regulations), a site-specific evaluation of soil conditions would be required by the City (see Item 6(a), above) and would contain recommendations for ground preparation and earthwork specific to the project site. These recommendations would become an

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21 City of Modesto, *Final Master Environmental Impact Report for the Urban Area General Plan and Related Amendments to the Urban Area General Plan*, March 2003, page V-17-3.

22 City of Modesto, *Final Master Environmental Impact Report for the Urban Area General Plan and Related Amendments to the Urban Area General Plan*, March 2003, pages V-17-2.

23 City of Modesto, *Final Master Environmental Impact Report for the Urban Area General Plan and Related Amendments to the Urban Area General Plan*, March 2003, pages V-17-3.

integral part the project design and engineering. Because the Proposed Project would not involve groundwater withdrawal, land subsidence is not expected to occur as a result of the Proposed Project. For these reasons, the Proposed Project's impacts or risk to life and property associated with subsidence or soil collapse would be ***less than significant.***

e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

Wastewater flows generated by the Proposed Project would be conveyed to the municipal wastewater treatment plant for treatment. No septic tanks would be used. Therefore, ***no impact*** would occur.

Issues		Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
7.	**HAZARDS AND HAZARDOUS MATERIALS.** *Would the project:*				
	a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	□	□	■	□
	b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	□	□	■	□
	c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	□	□	■	□
	d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	□	■	□	□
	e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	□	□	■	□
	f. For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	□	□	□	■
	g. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	□	□	■	□

Issues		Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
h.	Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	□	□	□	■

Discussion

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

Construction of the Proposed Project would involve site preparation activities, such as excavation and grading at the project site. During construction of the Proposed Project, oil, diesel fuel, gasoline, hydraulic fluid, and other liquid hazardous materials would be used at the project site and, if spilled, these substances could pose a risk to the environment or human health. Project operations would include residential, office and retail uses, which would not require the use of hazardous substances that could result in a risk of an accidental explosion. The design and construction of the project would comply with the California Uniform Building Code (CUBC) and the Uniform Fire Code (UFC). Laws and regulations that govern the use and storage of hazardous materials include, but are not limited to, Chapter 6.95 of the California Health and Safety Code (inventory and emergency response), Title 8 of the Code of California Regulations (CCR) (workplace safety), and Titles 22 and 26 of the CCR (hazardous waste). Delivery of hazardous materials to the site and along public roadways would be required to comply with Title 49 of the Federal Code of Federal Regulations (CFR), as monitored and enforced by the California Highway Patrol (CHP) and California Department of Transportation (Caltrans). In addition, storage of all flammable materials at the project site would be subject to the regulations of Title 19 of the CCR and the Uniform Fire Code. General Plan Policy VM-2(b) also requires that each project that would generate hazardous waste prepare a hazardous material transportation program to be approved by the City's Fire Department. The transportation of hazardous materials is controlled by State, county, and city policies and regulations, which are designed to minimize the risk of exposure. For these reasons, the impacts due to the transport of hazardous materials would be ***less than significant.***

b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

The Proposed Project would result in the construction and use of a seven-story building in downtown Modesto for retail, office, and residential uses. Project construction would include in ground disturbance, excavation, building removal, and building of new structures. The project site, along with adjacent parcels in the project area, has a history of urban uses, including uses that use, handle,

and/or store hazardous materials. A material is considered hazardous if it appears on a list of hazardous materials prepared by a federal, state, or local agency, or if it has characteristics defined as hazardous by such an agency. Federal and state laws require detailed planning to ensure that hazardous materials are properly handled, used, stored, and disposed of, and in the event that such materials are accidentally released, to prevent or to mitigate injury to the public and the environment Because land uses proposed under the project (including commercial) would potentially store or involve the handling of hazardous materials, there would be the potential for upset and/or accident conditions resulting in the release of hazardous materials into the environment.

General Plan Policy HM-3 discusses the State Hazardous Materials Release Response Plan and Inventory Act of 1985. This Act requires businesses using hazardous materials to prepare a plan that describes their emergency response plans. The State Unified Program Agency (UPA) program regulates a number of State programs at the local level. Stanislaus County is the local Certified UPA, and regulates hazardous materials within the incorporated (inside the City limits) and unincorporated borders. Included in this role are the implementation of risk management and prevention laws to minimize chemical releases into the community, maintain a hazardous materials response team to assist agencies during chemical spills, and preparation of the Area Plan for emergency response to chemical spills. Because the release of hazardous materials is controlled through adherence to State, County, and City policies and regulations, this would be a ***less-than-significant impact***.

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

The project site is not within one-quarter mile of an existing or proposed elementary, middle, or high school. The site is located approximately one mile from Pearson Elementary School and Modesto High School. It is not anticipated that construction and occupancy of the Proposed Project would involve the types of activities that would result in hazardous air emissions or the handling of hazardous materials, substances, or waste in sufficient amounts that could adversely affect human populations. As stated above, hazardous materials use would be limited and would be subject to federal, State, and County regulations. Therefore, this would be a ***less-than-significant impact.***

d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

Project Vicinity

There are no properties in the vicinity of the project site that are on the Cortese List.[24] A search of the project zip code brought up a list of three properties, including the Modesto Convention Center, a groundwater investigation around 10th and L Streets, and Modesto Steam Laundry and Cleaners. The Department of Toxic Substances Control database also stated that a former Pacific Gas and Electric (PG&E) gas plant was located on the block bounded by F and G Streets and 10th Street and the

24 State of California, Department of Toxic Substances Control, *Hazardous Waste and Substances List (Cortese List)*, EnviroStor Database, http://www.envirostor.dtsc.ca.gov/public/, accessed September, 2007.

alleyway northeast of 10th Street, on a site currently occupied by the City of Modesto Police Department. According to the site report, PG& E completed a "Historical Overview of the Former Manufactured Gas Plants in Northern and Central California", dated 1987, which stated that gas manufacturing first began at this location in 1876 and continued until 1911 when a new plant was opened at a different location. The facility used coal until 1902, when it began using oil to manufacture the gas. Other uses for the site have included an auto dealership and an auto repair facility. Site screening completed in 1991 stated that the site was never used for gas plant activities. Previous site uses include brewery, printing shop, and various retail stores.

In addition, groundwater monitoring has been conducted around the area of the police headquarters at the corner of 10th and G Streets. During the Phase 1 and demolition work at the site, various underground tanks/vaults were discovered that contained oil, diesel, and/or residue from the coal gas manufacturing operation.[25] Contaminated soil was excavated in April 1999, and samples were collected at excavation bottom and side walls. After the new police facility was built, three groundwater monitoring wells were installed in the fall of 2002, which have been routinely monitored since that time. Laboratory analyses of the groundwater samples collected during the June 2006 monitoring event indicate that all monitoring wells sampled were non-detect for all analyzed constituents, except for trace levels of chloroform two wells. Chloroform is a common by-product of chlorinating drinking water supplies.[26]

There are several sites in the project vicinity that are on the list of Leaking Underground Storage Tanks (UST), which is kept by the Central Valley Regional Water Quality Control Board.[27] Approximately 36 sites are located within one-half mile of the project site. Of those 36, 31 sites are closed (remediation complete), one is completing post-remediation monitoring, three are undergoing remediation, and one has an approved Final Remediation Plan completed. There are no landfills located in the project area.

Project Site

Portions of the project site have been subject to Phase 1 Environmental Site Assessments. In 2000, a Phase 1 ESA was prepared for the northern portion of the project site (APNs 106-42-01, 02, 03 and 04). The Phase 1 ESA found that the site had been used commercially since 1888, and that a two-story building (the Union Block-Odd Fellows Building) had been located on the northwest border of the site from 1888 to 1957. The building contained retail stores, such a photo shop, meat shop, grocery store and furniture store. Lodging was provided on the second floor. City Hall and a fire station had also been located within the site. A PG&E Manufacturing Gas Plant had been listed on the site, but according to DTSC, no gas works were located on the subject site, and the Phase 1 concluded that additional evaluation of the PG&E facility was not warranted. Because it had not been used agriculturally for over 100 years, the Phase 1 ESA concluded that no investigation related

25 Raymond Kabanow II, PhD., Geological Technics Inc., written communication to Mr. Kris Ohlson, City of Modesto Public Works Department, November 19, 2007.

26 2nd *Quarter 2006 Groundwater Monitoring, City of Modesto New Police Headquarters Facility*, prepared for Mr. Robert Snell, Supervising Construction Inspector City of Modesto, prepared by Geological Technics Inc., July 3, 2006, page 2.

27 Central Valley Regional Water Quality Control Board, *Leaking Underground Storage Tanks--Quarterly Report*, April 2007, http://www.swrcb.ca.gov/rwqcb5/water_issues/underground_storage_tanks/LUST.pdf, accessed October 2007.

to agricultural practices was necessary. At the time of the Phase 1 ESA, the site was entirely paved and did not contain any structures. Motor oil stains were identified on the site. The Phase 1 ESA concluded that the oil stains did not warrant further evaluation because they appeared to meet the definition of a "de minimus" condition.[28]

The Phase 1 ESA did recommend additional evaluation in the following areas:

- Automobile repair facility: According to Sanborn Maps, an automobile repair facility was located at 719 10th Street. It was not known whether the facility had underground storage structures. Therefore, the Phase 1 recommended additional evaluation.
- Underground Storage Tank: The 1919 Sanborn Map indicated that an underground storage tank was located approximately 15 feet east of the site. No records of this UST were found. Because of the age of the Sanborn Map, the Phase 1 concluded that the precise location is unknown, and recommended a geophysical investigation in the area.
- Groundwater contamination: Groundwater contamination had been identified in the project vicinity. While the Phase 1 concluded that the contaminated groundwater would be unlikely to pose a hazard, groundwater sampling was recommended prior to any excavation that would require dewatering. As discussed above, groundwater monitoring was conducted in 2006 for a nearby parcel, and the only constituent that exceeded thresholds was chloroform, which is a by-product of drinking water treatment.

In December 2003, a Phase 1 Environmental Site Assessment was prepared for APN 104-042-006 (711 10th Street), which is also within the project boundaries. This parcel contains a single building, currently occupied by a furniture store, and a small paved area in the rear. The Phase 1 concluded that the parcel did not contain asbestos, radon gas, underground storage tanks or transformers containing PCBs.

No Phase 1 ESAs or other site-specific hazards-related studies were available for two parcels within the project site: APNs 104-042-005 (713 10th Street) and 104-042-007 (701 10th Street, the former bus station). Although site-specific information is not available for these parcels, the assessments discussed above indicate that there is some potential for underground storage tanks and/or contaminated soil to be present. Contaminated soils, if present, would likely be limited to oil stains associated with the bus terminal, since it was not a maintenance facility.

The existing structures to be demolished were constructed prior to 1978, when laws were enacted restricting the use of asbestos in buildings. Asbestos was often used for insulation and other purposes in residential buildings. Left alone, it is not dangerous. However, when removed, asbestos dust and particles can settle in the lungs, causing lung disease. If asbestos are present in the buildings, construction workers could be exposed to asbestos during demolition. The SJVUAPCD has regulations that require compliance with asbestos demolition and renovation techniques developed by the U.S. EPA to ensure that asbestos-containing materials are identified prior to

28 Kleinfelder, Inc., *Phase 1 Environmental Site Assessment, Proposed Office and Parking Tower, South Corner of 10th and H Streets, Modesto, California,* May 9, 2000, page 30.

demolition, and that they are removed and disposed of in a manner that minimizes potential exposure. Once the asbestos-containing materials are removed, there would be no threat of exposure within the project site.

If construction workers or occupants of nearby properties are exposed to hazardous materials, their health could be affected. The following measures would protect human health by ensuring that contaminated soils, if present, would be identified and remediated prior to or during construction, and that any potential contamination that is discovered during construction is handled properly. With mitigation, this impact would be ***less than significant***.

Mitigation Measure 4

(a) *Prior to approval of Improvement Plans, a Phase 1 Environmental Site Assessment shall be prepared for parcels 104-042-005 (713 10th Street) and 104-042-007 (701 10th Street, the former bus station). The recommendations of the Phase 1 ESA will be fully implemented prior to construction of the project.*

(b) *Prior to approval of Improvement Plans, a geotechnical investigation for the entire project site will be undertaken to determine whether any underground storage tanks are present. If such tanks are present, they shall be removed, and any associated soil contamination shall be remediated prior to onset of project grading or excavation.*

(c) *Where any activity would be performed at a contaminated site or where hazardous materials are suspected, a project-specific Health and Safety Plan shall be prepared prior to any site work. The Health and Safety Plan shall be prepared by the contractor(s) and filed with the City and regulatory agencies, as required. The Plan shall include required worker health and safety provisions for all workers potentially exposed to contaminated materials at the site, identification of hazardous materials present, monitoring to be performed during site activities, required training for workers, identification of appropriate personal protective equipment and emergency response procedures, and designation of personnel responsible for Plan implementation.*

(d) *The contractor(s) shall prepare a Waste Disposal and Hazardous Materials Transportation Plan prior to construction activities where hazardous wastes or materials requiring off-site disposal would be generated. The Plan shall include a description of analytical methods for characterizing wastes and handling methods required to minimize the potential for exposure and shall establish procedures for the safe storage of contaminated materials and stockpiling of soils, as required. The required disposal method for contaminated materials (e.g., lead-based paint, asbestos, other hazardous materials requiring disposal) and the approved disposal site shall be indicated in the Plan. The Plan shall also identify specific routes to be*

used for transport of hazardous materials and waste to and from the project site, or specific routes to be avoided during transport. Routes shall be selected to minimize proximity to sensitive receptors to the greatest practical degree. Elements of the Plan regarding transportation of hazardous materials and wastes shall be reviewed and approved by the City Fire Department.

(e) *In the event that previously unidentified contamination is encountered (e.g., identified by odor or visual staining) during soil disturbing activities, or any underground storage tanks, abandoned drums, or other hazardous materials or wastes are encountered during construction, the contractor(s) shall immediately notify the City, and the City shall then notify the County. The contractor(s) shall have prepared a Contingency Plan for Sampling and Analysis of potentially hazardous substances and coordination with appropriate regulatory agencies. The Plan shall be submitted to the City prior to soil disturbing activities. Any site investigations or remedial activities shall be performed in accordance with applicable laws under the direction of a regulatory agency and the City, in accordance with Mitigation Measures 4(c) and 4(d).*

(e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?

The Modesto City-County Airport is located approximately two miles southeast of the project site. The project site is located in Zone 4 of the Airport Land Use Compatibility Listing: Other Lands Within Airport Planning Boundary. Residential, institutional, and commercial uses are considered compatible uses in this compatibility listing. The proposed building would be seven stories tall and from 91 to 94 feet, which is not tall enough to interfere with existing airport operations. The project would not result in a safety hazard for people residing or working in the area, and this would be a ***less-than-significant impact***.

f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?

The project site is not within the vicinity of a private airstrip; therefore, ***no impact*** would occur.

g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

The City of Modesto has an Emergency Operations Plan, which was approved by the U.S. Department of Homeland Security on January 12, 2006. The plan provides direction on how public officials and emergency responders should act and what steps should be taken in order to respond to and recover from a major emergency or disaster. It is an extension of the California and the Stanislaus County Emergency Plans. The project site is located in an urban area and is considered an infill project. The road system in the vicinity of the project site is established and the project does not propose to remove or close any streets. Street improvements that are part of the Proposed Project would be built in accordance with City requirements. The Proposed Project would therefore not

interfere with any adopted emergency response or evacuation plan. For these reasons, the impacts related to emergency response and evacuation plans would be ***less than significant***.

h) **Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?**

The project site is within an urban area, and no wildlands are adjacent to, or near, the site. Therefore, ***no impact*** would occur.

	Issues	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
8.	**HYDROLOGY AND WATER QUALITY** *Would the project:*				
	a. Violate any water quality standards or waste discharge requirements?	□	□	■	□
	b. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (i.e., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	□	□	■	□
	c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	□	□	■	□
	d. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	□	□	■	□
	e. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	□	□	■	□
	f. Otherwise substantially degrade water quality?	□	□	■	□
	g. Place housing within a 100-year flood hazard area, as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	□	□	■	□

Issues	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
h. Place within a 100-year floodplain structures which would impede or redirect flood flows?	□	□	■	□
i. Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	□	□	■	□
j. Inundation by seiche, tsunami, or mudflow?	□	□	□	■

Discussion

a) Violate any water quality standards or waste discharge requirements?
f) Otherwise substantially degrade water quality?

The project site includes buildings and a surface parking lot with very little landscaping. The entire project site has been previously disturbed and is almost entirely covered with buildings, pavement and other impervious surfaces.

Construction

Construction activities (e.g., grading and trenching) could expose soil to increased rates of erosion, which could result in increased deposition of sediments, potentially degrading receiving water quality. Another potential source of water quality degradation during project construction is the inadvertent release of petroleum-based fluids and/or heavy metals used in heavy equipment.

Construction activities involving disturbance of more than one acre require a California General Construction Storm Water Permit issued by the Central Valley Regional Water Quality Control Board (RWQCB) for storm water discharges associated with construction. Permit applicants are required to prepare a Storm Water Pollution Prevention Plan (SWPPP) that describes the site, erosion and sediment controls, means of disposal of storm water, implementation of approved local plans, and control of post-construction water management controls. Dischargers are also required to inspect construction sites to identify and implement controls where necessary.

The City of Modesto is located within the jurisdiction of the Central Valley RWQCB. The State Water resources Control Board (SWRCB) adopted a statewide general NPDES permit in August 1999 for stormwater discharges associated with construction activity. Performance standards for obtaining and complying with the General Permit are described in NPDES General Permit No.

CAS000002, Waste Discharge Requirements (WDRs), Order No.99-08-DWQ. The General Permit was modified in April 2001 (SWRCB Resolution No. 2001-046) to require permittees to implement specific sampling and analytical procedures to determine whether the best management practices (BMPs) used at the construction site are effective. Under the General Permit, the State requires that any construction activity affecting one acre or more obtain a General Construction Activity Stormwater Permit Waste Discharge Identification Number.

Substantial earth moving activities and soil erosion would not occur under project demolition or construction, and all activities would be contained within the paved areas of the project sites and/or adjacent staging areas. Given the temporary nature of demolition and construction activities, potential erosion impacts due to project construction would be short-lived. The project site would be covered under the State's General Permit for Stormwater Discharges. Preparation of a SWPPP and a monitoring plan for the Proposed Project under NPDES regulations would ensure that runoff during construction of the Proposed Project would be minimal. Therefore, this impact is considered ***less than significant.***

Operation

The City obtained an NPDES stormwater permit in 2002 to comply with federal stormwater runoff quality regulations. The NPDES permit required the City to implement many new BMPs to control water runoff quality.[29] Under this permit, the City was required to develop, administer, implement, and enforce a Comprehensive Stormwater Management Program (CSWMP) to reduce pollutants in urban runoff to the maximum extent practicable. The CSWMP implemented by the City is a multifaceted, dynamic program that emphasizes all aspects of pollution control, including public awareness and participation, source control, regulatory restrictions, water quality monitoring, and treatment control.

The City of Modesto submitted a Report of Waste Discharge on April 2, 2007, and requested reissuance of Waste Discharge Requirements under the NPDES area-wide municipal separate storm sewer system permit to discharge storm water runoff from storm drains and watercourses, and to implement a Storm Water Management Plan (SWMP) for the City. Order No. R5-2008-0092 was certified on June 12, 2008. The NPDES Order includes a Planning and Land Development Program to incorporate water quality and watershed protection principals into the City's policies and planning procedures and to provide a comprehensive review of development plans to ensure that stormwater quality controls are properly selected to minimize stormwater quality impacts.

The Proposed Project would not increase impervious surfaces on the project site, because the site is currently paved and developed with existing buildings and a surface parking lot. Nonetheless, runoff from the project site could contain oil, grease, and heavy metals from vehicles and pesticides and herbicides from landscape maintenance activities. These constituents could adversely affect receiving water quality if not properly managed. Controlling urban runoff pollution from new development during and after construction is critical to the success of Modesto's CSWMP. The New Development Management Program (NDMP) is an element of the CSWMP being implemented by

29 Tetra Tech, Inc., *Program Evaluation Report, City of Modesto Storm Water Program*, report prepared June 1, 2004.

the City to specifically control post construction urban runoff pollutants from new development and redeveloped areas. The goal of the NDMP is to minimize runoff pollution typically caused by land development and protect the beneficial uses of receiving waters by employing a sensible combination of pollutant source control and site-specific treatment control measures. The NDMP envisions reducing stormwater pollutants from new development by employing on-site control measures for commercial, industrial, multifamily, and single-family residential land uses.[30]

The 2008 NPDES Order includes Water Quality Planning and Design Principals, which must be incorporated into new projects, as applicable, in order to reduce pollutants and runoff. Required measures include minimizing the amount of impervious surfaces and directly connected impervious surfaces, where feasible, to maximize on-site infiltration of runoff; implementing pollution prevention methods supplemented by pollutant source and treatment controls; coordinating with local traffic management programs to reduce pollutants associated with vehicles and increased traffic resulting from development; and implementing source and structural controls as necessary and appropriate to protect downstream receiving water quality from increased pollutant loads and flows. In addition, the City requires developers to implement the concepts of Low Impact Development (LID) for all new development and redevelopment projects, as established in the City's *Guidance Manual for New Development Stormwater Quality Control Measures*. LID is a stormwater management strategy concerned with maintaining or restoring the natural hydrologic functions of a site to achieve natural resource protection objectives and fulfill environmental regulatory requirements. LID uses a variety of mechanisms to retain as much stormwater runoff on each individual site as possible. Runoff is infiltrated through the use of swales, vegetation, pervious pavement, French drains, rockwells, and other methods. The Guidance includes source control measures and treatment control measures, which are best management practices (BMPs) and features incorporated in the design of a land development or redevelopment project to prevent and/or reduce pollutants in stormwater runoff from the project. Source control measures include posting notices regarding discharge prohibitions at storm drain inlets, designing wash areas for restaurant equipment/accessories to prevent or reduce pollutants, and providing trash receptacles in common areas of multi-family developments for waste removal.

The reduction of stormwater discharge pollutants to the maximum extent practicable through the use of LID principals and BMPs required by the City would ensure that the Proposed Project would not substantially degrade water quality. Therefore, this would be a ***less-than-significant impact.***

b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (i.e., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?

The project site is not located in an area that has been identified as having a moderate to high recharge potential, and the Proposed Project would not increase impervious surface cover.

30 City of Modesto, City of Modesto Stormwater Management Program, *Guidance Manual for New Development Stormwater Quality Control Measures*, January 2001, page 1-1.

Therefore, project development would not be anticipated to result in a loss of groundwater recharge potential.

Under natural conditions, groundwater recharge results from precipitation and infiltration of excess irrigation water and other applications (i.e., car washing). However, the rate and quantity of water reaching the Modesto groundwater basin depends on factors that include the amount and duration of precipitation, soil time, moisture content of the soil, and vertical permeability of the unsaturated zone. The project site is already developed with urban uses and considerable impervious surfaces. Therefore, a ***less-than-significant*** impact would occur.

See Item 16d below for a discussion of water demand and use of groundwater.

c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?

d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?

There are no rivers or streams within the vicinity of the project site, which is already developed with impervious surfaces. The proposed changes in land uses for the project would not affect the amount of drainage flow contributed to the existing storm drainage system because the area is already developed and highly impervious. There would be no change in stormwater runoff from the Proposed Project.[31] Furthermore, the project design must comply with the City's Municipal NPDES Permit (No. R5-2008-0092), including BMPs that would minimize urban pollutants in storm water from reaching surface waters. For these reasons, the Proposed Project would not increase flood flows or elevations beyond existing levels, and the impacts related to flooding and storm water quality would be ***less than significant.***

e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?

The Proposed Project would not substantially affect the amount of drainage flow contributed to the existing storm drainage system because the project site is already developed and highly impervious.

The City's Storm Drainage Master Plan (SDMP) includes plans for drainage infrastructure needed to effectively accommodate stormwater drainage under existing and developed conditions. Storm water in the City of Modesto discharges from the City drain to detention/retention basins (13 detention and 11 retention basins in the City), approximately 18 major outfalls to receiving waters (Tuolumne River or Dry Creek), Modesto Irrigation District laterals/drains, or rock wells.[32]

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31 Dennis E. Wilson, written communication to Linda Boston, City of Modesto, September 18, 2007.

32 California Regional Water Quality Control Board, Central Valley Region, *Waste Discharge Requirements for City of Modesto, Storm Water Discharge from Municipal Separate Storm Sewer System, Stanislaus County*, Order No. R5-2008-0092, June 12, 2008.

Storm water runoff originating from the project area discharges to the Tuolumne River, which is considered an impaired water body under Section 303(d) of the Clean Water Act. Impaired water bodies do not meet, or are not expected to meet, water quality standards. The affected waterbody, and associated pollutant or stressor, is then prioritized in the 303(d) list. The Clean Water Act further requires the development of a Total Maximum Daily Load for each listing. The 2008 NPDES Order states that additional control to reduce pollutants from new and existing development may be necessary for areas adjacent to or discharging to an environmentally sensitive area, such as a 303(d) impaired water body. The Order requires revisions to the City's *Guidance Manual for New Development Stormwater Quality Control Measures* to ensure that stormwater quality and watershed principals in the Order are integrated, including the identification of pollutants and/or activities of concern for each new development or significant redevelopment project. The City will identify the pollutants of concern by considering, among other factors, the receiving water quality, including pollutants for which receiving waters are listed as impaired under Clean Water Act 303(d). In addition, the City's SDMP includes plans for drainage infrastructure needed to effectively accommodate stormwater drainage under existing and developed conditions.

The Proposed Project would not contribute storm water runoff beyond existing conditions, because it would not substantially increase the amount of impervious surface. The Proposed Project would connect to the existing drainage system, and would implement LID measures and BMPs to minimize pollutants in runoff. In addition, the City will implement water quality planning and design principles included in the 2008 NPDES Order to reduce pollutants and runoff flows from redevelopment. Therefore, this would be a ***less-than-significant impact***.

g) Place housing within a 100-year flood hazard area, as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?

h) Place within a 100-year floodplain structures which would impede or redirect flood flows?

Due to the level topography in the City, the floodplain generally occupies a confined area that follows the river channel.[33] As shown on the Flood Potential Diagrams in the 2003 MEIR, the project site is outside of the flood potential study areas.[34] Therefore, the potential impacts due to flooding would be ***less than significant***.

i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?

There are no federal flood control facilities in the City of Modesto area.[35] The City of Modesto is downstream from the Don Pedro Dam on the upper Tuolumne River, the La Grange Dam on the Tuolumne River, and the New Melones Dam on the Stanislaus River. Much of the city, including the project site, is within a dam inundation zone. Dam failures can result from any one or a number of natural causes such as prolonged periods of rainfall, flooding, earthquake, inadequate spillway

33 City of Modesto, *Final Master Environmental Impact Report for the Urban Area General Plan and Related Amendments to the Urban Area General Plan*, March 2003, page V-10-2.

34 City of Modesto, *Final Master Environmental Impact Report for the Urban Area General Plan and Related Amendments to the Urban Area General Plan*, March 2003, Figures V-10-1a through 1d.

35 City of Modesto, *Final Master Environmental Impact Report for the Urban Area General Plan and Related Amendments to the Urban Area General Plan*, March 2003, page V-10-2.

capacity, or design or maintenance problems. Two factors that influence the potential severity of a full or partial dam failure are the amount of water impounded and the density, type, and value of development downstream in the inundation area. The possibility of a dam failure exists, but the likelihood as a result of natural hazards is low. Accordingly, this impact is considered ***less than significant***.

j) Inundation by seiche, tsunami, or mudflow?

The project site is not located in close proximity to any large water bodies, such as lakes or oceans. Therefore, there would be ***no impact*** due to seiche, tsunami, or mudflow.

Issues		Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
9.	**LAND USE AND PLANNING** *Would the project:*				
	a. Physically divide an established community?	□	□	□	■
	b. Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating on environmental effect?	□	□	■	□
	c. Conflict with any applicable habitat conservation plan or natural community conservation plan?	□	□	□	■

Discussion

a) Physically divide an established community?

The Proposed Project would be compatible with the existing uses in the project area. The project site is located in downtown Modesto in a developed area. The project site is currently developed with a surface parking lot and buildings. Development of the project is considered infill. The site is bounded by existing urban uses, including commercial uses and institutional uses, such as City Police Department facilities. Business uses across 10th Street to the northeast and east are one- and two-story buildings. Existing uses to the northwest include the seven-story City Tower building and the multi-story Gallo Center for the Arts at 10th and I Streets (see Figure 11). These multi-story buildings have large footprints that cover half a City block.

The Proposed Project would replace existing one- and two-story retail and office uses with a seven-story mixed-use building containing retail, office, and residential uses, along with a parking garage. Ground-floor retail uses would be similar to existing uses on the project site. Office uses would be compatible with existing lawyers' offices, and the City Tower building across H Street. The residential portion of the Proposed Project would include one- and two-bedroom units. The residences would be located on the third through seventh floors of the building. The introduction of additional residential uses into the downtown area would be compatible with the existing

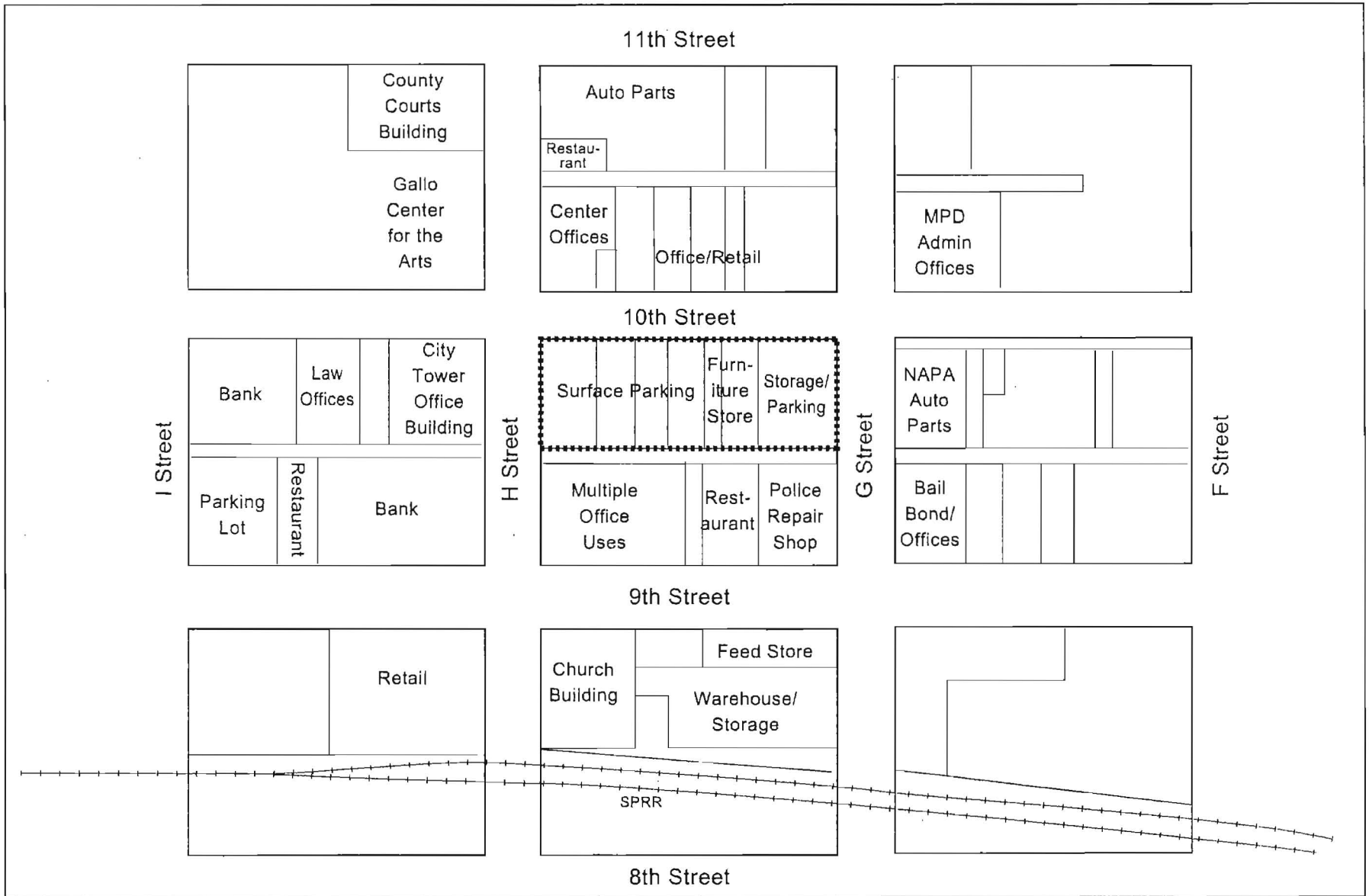

Figure 11

Surrounding Land Uses

neighborhood, because it provides for extensive pedestrian access and retail and office uses befitting a mixed-use downtown.

Because the project site and surrounding area are developed, and the proposed land use would be compatible with the surrounding land uses, the Proposed Project would not divide an established community and there would be ***no impact.***

b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating on environmental effect?

The City's General Plan designates the site and surrounding area as a Redevelopment Planning District (RPD). The Proposed Project would maintain the current General Plan designation. The site is currently general commercial zone (C-2) (see Figure 12). The Proposed Project would rezone the site to Planned Development Zone. This zoning designation is used to encourage creative and effective land uses for mixed and multi-purpose development. Planned Development Zones are individually tailored to specific parcels. According to the Zoning Regulations, the following are permitted uses in the P-D Zone:

(a) Any use specified in the ordinance establishing a P-D zone;
(b) Condominiums, community apartment projects and stock cooperatives, whether residential or otherwise. These uses are permitted only in a P-D zone;
(c) Theater (indoor). Except as set forth in Section 10-2.1102.1, this use is permitted only in a P-D zone.

The proposed uses include retail, office, and residential and would be consistent with the Planned Development Zone.

The final determination of consistency with the City's General Plan can only be made by the City Council. The policies that would guide development of the Proposed Project are found in the Chapter 3 of the General Plan, which addresses land use patterns and types of development.

The purpose and intent of the Redevelopment Planning District is to provide economic development and community development to create the focal point of community life and the social, cultural, business, governmental, and entertainment center of the northern San Joaquin Valley. The Proposed Project would develop residential, office, and retail uses in downtown Modesto adjacent to existing business, retail, and cultural uses. The office and retail uses would integrate with the existing City Tower office uses to the northwest of the project site. Residential uses on the project site would contribute to the General Plan goal that housing will be an integral part of the Redevelopment Area.

In addition, the Proposed Project would be consistent with the Neotraditional Planning Principles listed in the Modesto General Plan. Principle A of the Neotraditional Planning Principles states that communities and neighborhoods should be designed so that housing, jobs, daily needs, and other activities are within easy walking distance of each other. The Proposed Project would contribute to this goal by providing a mix of housing, retail and office development in proximity to other commercial and residential areas.

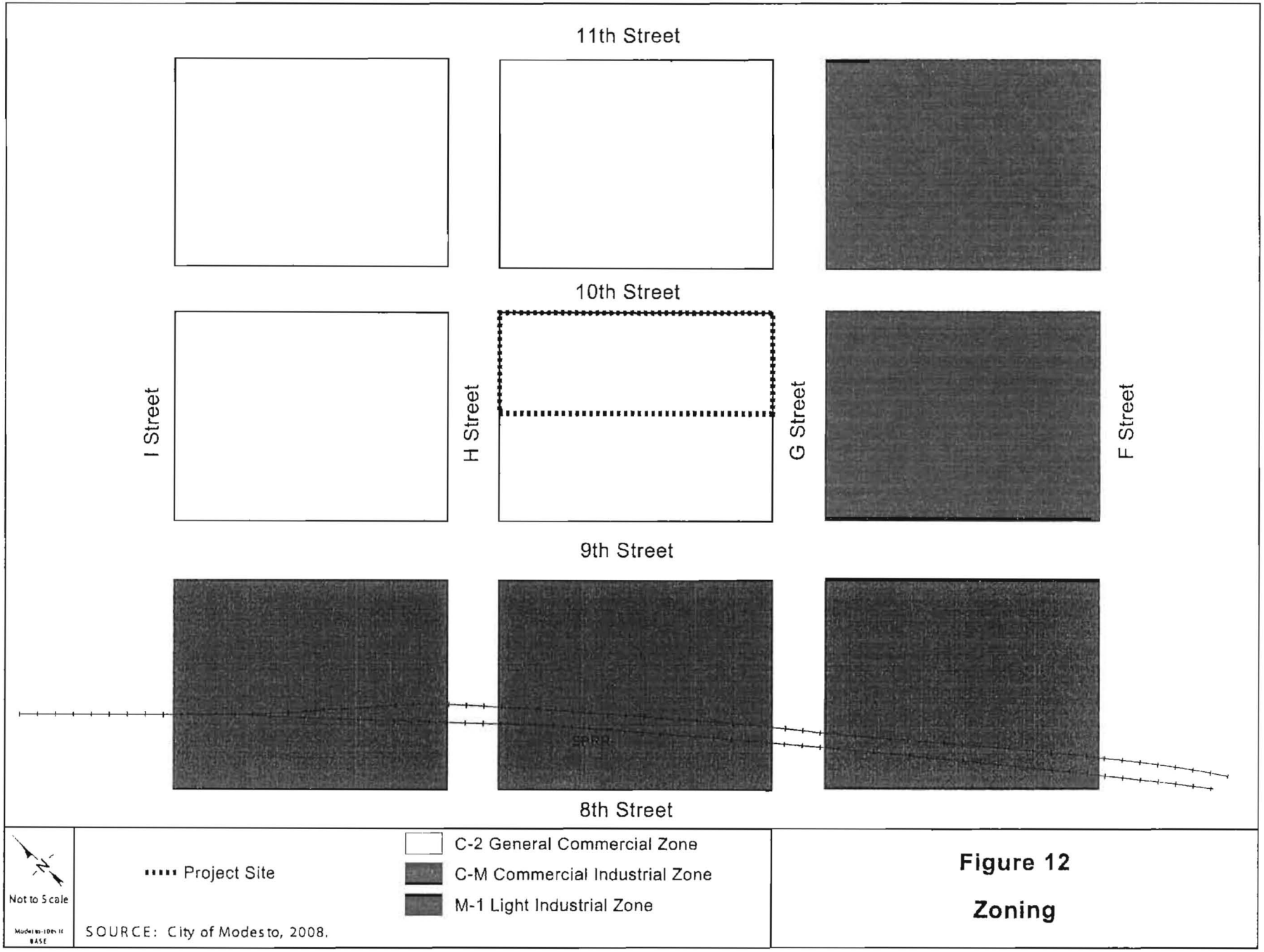

Figure 12

Zoning

Conformance with the City's Redevelopment Plan, Municipal Code, and Standard Specifications would be required. The project site would develop with land uses that are consistent with the City's land use policies and regulations; therefore, the impact would be ***less than significant***.

c) Conflict with any applicable habitat conservation plan or natural community conservation plan?

The City of Modesto has not adopted a habitat conservation plan or natural community conservation plan; therefore, ***no impact*** would occur.

Issues		Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
10.	**MINERAL RESOURCES.** *Would the project:*				
	a. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the State?	□	□	□	■
	b. Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	□	□	□	■

Discussion

a) **Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the State?**

b) **Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?**

The Modesto Urban Area is not reported to have abundant mineral resources and there are no special minerals in the City.[36] There are no mining or other mineral operations on, or adjacent to, the project site. Therefore, there would be ***no impact.***

36 City of Modesto, *Final Master Environmental Impact Report for the Urban Area General Plan and Related Amendments to the Urban Area General Plan*, March 2003, pages V-17-2 and V-17-3.

Issues		Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
11.	**NOISE**				
	Would the project result in:				
	a. Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	□	■	□	□
	b. Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	□	■	□	□
	c. A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	□	■	□	□
	d. A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	□	■	□	□
	e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	□	□	□	■
	f. For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	□	□	□	■

Discussion

a) **Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?**

c) **A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?**

d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?

The Proposed Project would result in the construction and occupation of new residential, office, and retails uses in the City of Modesto. All activities during construction and operation of the Proposed Project must, by law, conform to the requirements of the City's Noise Ordinance. An Environmental Noise Assessment was conducted for the Proposed Project and is included as Appendix B. The following discussions are summarized from the May 2008 noise study. The Environmental Noise Assessment includes a discussion of the properties of noise and the terms of measurement (see Appendix B).

According to the State Land Use Compatibility Standards for Community Noise Environment (Figure VII-2 of the 2003 General Plan), a noise exposure of 65 dB L_{dn} is considered acceptable for multi-family residential development. An exposure of 70 dB L_{dn} is normally acceptable for office buildings and commercial uses, such as those proposed for the project. General Plan Policies VII-G.3(a), (b) and (e) through (h), shown below, and the City's Noise Ordinance, require that noise attenuation measures be implemented for new projects to reduce, to acceptable levels, noise generated by each project.

VII.G-3(a): 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:

1. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.
2. Equipment that is quieter than standard equipment should be utilized.
3. Haul routes that affect the fewest number of people should be selected

VII-G.3(e): For proposed non-residential uses, where noise mitigation is deemed necessary for new developments to meet the exterior noise land use compatibility guidelines (Figure VII-2 [of the General Plan]), the City of Modesto shall require developers to demonstrate that the proposed development will incorporate measures to reduce noise impacts to a less-than-significant level, as follows:

1. Where feasible and consistent with General Plan policy, incorporate setbacks and/or locate less-sensitive uses between a noise source and noise-sensitive uses.
2. Provide (to the extent feasible and consistent with General Plan policy) berms, barriers, or other techniques to shield noise-sensitive uses from noise sources.
3. Incorporate construction techniques to achieve an interior noise limit. One source that can be used for such specifications is the *Noise Control Manual for Residential Buildings (Builder's Guide) by David A. Harris* (1997).

VII-G.3(f): With road extension, widening and upgrade projects, the City of Modesto shall implement, as feasible, techniques to minimize noise impacts on adjacent uses. Potentially available techniques may include:

1. Widened right-of-way;
2. Depressed roadway alignments;
3. Earthen berms or earthen/wall combination;
4. Walls;
5. Acoustical retrofitting to affected parties.

VII-G.3(h): The City of Modesto shall limit trucking to specific routes, times and speeds that minimize adverse effects to sensitive land uses such as schools and residential areas.

Existing Noise Conditions

Noise at the project site, in downtown Modesto, is typical of an urban city environment. The primary noise sources are associated with traffic on surface streets. Temporary sources such as construction are also common, and can affect adjacent uses for extended periods. Key noise sources in the vicinity of the project site include vehicular noise along 9th and 10th Streets, a rail line 300 feet to the west of the project site, and the JS West Feed and Supply to the southwest across 9th Street. Traffic noise is the dominant noise source at the project site; however, during train passages ambient noise can be dominated by the train movement. Trains were noted to generate significant maximum noise levels during warning horn usage.

Existing Noise Receptors

Some land uses are considered more sensitive to ambient noise levels than others. Land uses often associated with sensitive receptors generally include residences, schools, libraries, hospitals, and passive recreational areas. Noise sensitive land uses are typically given special attention in order to achieve protection from excessive noise. Sensitivity is a function of noise exposure (in terms of both exposure duration and insulation from noise) and the types of activities involved. These land uses would potentially experience noise impacts associated with project construction and/or increased traffic from project operation.

Noise exposure levels in the City of Modesto varies dramatically depending on the level of noise buffering from adjacent buildings in addition to proximity of intersecting streets. There are no existing sensitive noise receptors in the immediate project vicinity. However, noise sensitive uses are located within approximately two to three blocks of the project site.

Existing Ambient Noise Levels

To generally quantify existing ambient noise levels in the project vicinity, a short-term ambient noise survey was conducted at four locations surrounding the project site on December 12, 2007. A continuous noise-monitoring site was also placed on the rooftop of the existing 2-story office building located at 900 H Street, at the northwest corner of the project site. The ambient noise measurement sites are shown on Figure 13.

Figure 13
Project Site and Noise Measurement Locations

△ : Short Term Noise Measurement Location

□ : Continuous Noise Measurement Location

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The sound level meters were programmed to record the maximum, average, and median noise levels at each site during the survey. The maximum value, denoted L_{max}, represents the highest noise level measured. The average value, denoted L_{eq}, represents the energy average of all of the noise received by the sound level meter microphone during the monitoring period. The median value, denoted L_{50}, represents the noise level exceeded 50 percent of the time in an hour.

Table 7 summarizes the noise measurement data, which indicate that noise levels at or near the project site average 76 dB L_{dn}.

TABLE 7
EXISTING NOISE MONITORING RESULTS

Site	Notes	Date	Time	Average Measured Hourly Noise Levels (dBA)						
				24-hr Ldn	Daytime (7:00am - 10:00 pm)			Nighttime (10:00 pm - 7 am)		
					Leq	L50	Lmax	Leq	L50	Lmax
Continuous Noise Measurement Site										
A	Traffic on 9th St. was the primary noise source with noise from J.S. West Feed and Supply and railroad passages.	12/12/07 – 12/13/07	24-hr	76 dB	70 dB	67 dB	87 dB	70 dB	62 dB	89 dB
Short-Term Noise Measurements										
1	Traffic on G St. was the primary noise source with contributions from 9th St.	12/12/07	11:36 am	NA	69 dB	65 dB	82 dB	NA		
2	Traffic on 10th was the primary noise source with contributions from G St.	12/12/07	11:59 am	NA	65 dB	60 dB	83 dB	NA		
3	Traffic on H St. was the primary noise source.	12/12/07	12:14 pm	NA	66 dB	64 dB	77 dB	NA		
4	Traffic on 9th St. was the primary noise source with occasional noise from J.S. West Feed and Supply.	12/12/07	12:31 am	NA	70 dB	68 dB	83 dB	NA		
Source - j.c. brennan & associates, Inc. 2007.										

Existing Roadway Noise Levels

Table 8 shows the existing traffic noise levels in terms of L_{dn} at a reference distance of 100 feet from the centerlines of the existing project-area roadways (please see Appendix B for noise calculation methodology). The table also shows the distances to existing traffic noise contours. Predicted noise levels and contours do not account for shielding that could occur at some location or elevated receiver locations which can experience higher noise levels. A complete list of the FHWA Model input data is contained in Appendix B.

TABLE 8
EXISTING TRAFFIC NOISE LEVELS

Roadway	Segment	Traffic Noise Level, Ldn (dBA) @ 100'	Distance to Contours (feet)[1]		
			70 dB Ldn	65 dB Ldn	60 dB Ldn
9th Street (SR132)	L Street to K Street	66.1	55	119	255
9th Street (SR132)	K Street to J Street	65.8	53	113	244
9th Street (SR132)	J street to I Street	66.5	58	126	271
9th Street (SR132)	I Street to H Street	65.9	53	114	245
9th Street (SR132)	H Street to G Street	66.2	56	120	259
9th Street (SR132)	G Street to F Street	66.4	57	124	267
H Street	11th Street to 10th Street	62.2	30	65	140
H Street	10th Street to 9th Street	61.9	29	62	134
H Street	9th Street to 8th Street	61.9	29	62	134
G Street	8th Street to 9th Street	60.2	22	48	102
G Street	9th Street to 10th Street	60.4	23	49	106
G Street	10th Street to 11th Street	60.2	22	48	103
10th Street	I Street to H Street	54.3	9	19	42
10th Street	H Street to G Street	54.9	10	21	45
10th Street	G Street to F Street	51.6	6	13	27
SR 99	L Street to I Street	79.3	418	900	1939
SR 99	I Street to H Street	79.0	401	864	1862
SR 99	H Street to F Street	79.1	403	869	1872
SR 99	F St to Tuolumne Blvd	79.6	440	947	2041

[1] Traffic noise levels are predicted at a standard distance of 100 feet from the roadway centerline and do not account for shielding from existing noise barriers or intervening structures. Traffic noise levels may vary depending on actual setback distances and localized shielding affects.

Source: FHWA-RD-77-108 with inputs from KD Anderson & Associates, Inc. and j.c. brennan & associates, Inc. 2008.

Existing Freight Train Noise Levels

Existing railroad noise levels were calculated using measured sound exposure (SEL) levels for trains collected at the project site. The results of the SEL measurements indicate that a typical freight train generated an SEL of 101 dB at a distance of approximately 300 feet (the approximate edge of the project site). Maximum noise levels were found to be 99 dB at a distance of approximately 300 feet.

Existing train noise contours were calculated. It was assumed that trains were evenly distributed between daytime and nighttime hours. The 65 dB Ldn railroad noise contour is calculated to be located at a distance of 334 feet from the centerline of the rail line, which would fall within the project site.

Existing Industrial Noise Levels

The JS West Feed and Supply facility is located at 9th & G Street, immediately southwest of the project site. Based upon discussions with the retail supervisor, the facility operates during the hours of 7:00 a.m. to 3:30 p.m., and does not run equipment during nighttime hours. Based upon measurements conducted on the rooftop of 900 H Street, the facility was measured to generate noise levels of 64 dB L_{eq} at a distance of approximately 240 feet from the primary noise-generating equipment. Based upon 8.5 hours of daytime operations, this would correspond to a day/night average (L_{dn}) noise exposure of 57 dB L_{dn} at a distance of 240 feet.

Proposed Project Impacts

Construction

Noise from construction activities would add to the noise environment in the immediate project vicinity. Activities involved in typical construction would generate maximum noise levels, as indicated in Table 9, ranging from 80 to 90 dB at a distance of 50 feet. The applicant has not determined whether pile driving would be necessary at this time. Pile-driving activities would result in much higher noise levels, ranging from 96 to 101 dB.

TABLE 9
CONSTRUCTION EQUIPMENT NOISE

Type of Equipment	Maximum Level, dB at 50 feet
Air Compressor	81
Backhoe	80
Compactor	82
Concrete Pump, Mixer, Vibrator	82, 85, 76
Crane - Mobile, Derrick	83, 88
Dozer	85
Generator	81
Grader	85
Jack Hammer	88
Loader	85
Pile Driver – Impact, Sonic	101, 96
Rail Saw	90
Truck	88

Source: *Transit Noise and Vibration Impact Assessment*, Federal Transit Administration, 1995.

Noise would also be generated during the construction phase by increased truck traffic on area roadways. This noise increase would be of short duration, and would likely occur primarily during daytime hours.

Because construction would occur during hours when buildings surrounding the project site are occupied, construction noise could affect these uses. This would be especially true during those periods where pile-driving would occur. As shown in Table 9, pile-driving could produce peak

levels of up to 101 dBA L_{eq} at 50 feet. Because noise from a point source usually attenuates at approximately 6 dBA per doubling of distance, this would result in pile-driving noise of about 95 dBA L_{eq} at 100 feet and 89 dBA L_{eq} at 200 feet.

There are various retail, restaurant, office, and commercial buildings within 200 feet of the Proposed Project that could be affected during pile driving activities. If used, pile-driving noise at the nearby noise-sensitive uses would most likely be loud enough to cause annoyance to the occupants of these buildings, especially considering that pile-driving does not produce continuous noise, but sharp, intermittent noise peaks.

The City of Modesto noise ordinance exempts from noise standards construction during the hours of 7:00 a.m. to 9:00 p.m. Monday through Friday and from 9:00 a.m. to 9:00 p.m. on Saturday and Sunday. Generally, if a construction project adheres to the construction times identified in the noise ordinance, construction noise is exempted. Although the City of Modesto Municipal Code exempts construction activities from the City's noise standards, pile driving activities would be severe enough to be considered a significant noise impact.

The following mitigation measures would reduce the magnitude and severity of construction noise impacts to a ***less-than-significant level*** by requiring noise attenuation measures during construction and, if undertaken, pile driving.

Mitigation Measure 5

The project contractor shall implement the following measures:

(a) *Erect a solid 8-foot-tall plywood construction/noise barrier along the exposed project boundaries. The barrier shall not contain any significant gaps at its base or face, except for site access and surveying openings.*

(b) *Comply with the City of Modesto Noise Ordinance and General Plan Policy Vii-G.3(a). Demolition and pile-driving activities shall be coordinated with adjacent land uses in order to minimize potential disturbance of planned activities.*

(c) *If pile driving occurs, pile holes shall be pre-drilled to the maximum feasible depth. This would reduce the number of blows required to seat the pile, and would concentrate the pile driving activity closer to the ground where noise can be attenuated more effectively by the construction/noise barrier.*

(d) *Locate fixed construction equipment such as compressors and generators as far as possible from sensitive receptors. Shroud or shield all impact tools, and muffle or shield all intake and exhaust ports on power construction equipment.*

(e) *Designate a disturbance coordinator and conspicuously post this person's number around the project site and in adjacent public spaces. The disturbance coordinator would receive all public complaints about construction noise disturbances and would*

be responsible for determining the cause of the complaint, and implement any feasible measures to be taken to alleviate the problem.

Operational Noise Impacts

Traffic Noise

To assess noise impacts due to project-related traffic increases on the local roadway network, traffic noise levels are predicted at a representative distance for existing, baseline and future, project and no-project conditions. To describe existing and projected noise levels due to traffic, the Federal Highway Administration Highway Traffic Noise Prediction Model (FHWA RD-77-108) was used. The model is based upon the Calveno reference noise factors for automobiles, medium trucks and heavy trucks, with consideration given to vehicle volume, speed, roadway configuration, distance to the receiver, and the acoustical characteristics of the site. The FHWA model was developed to predict hourly L_{eq} values for free-flowing traffic conditions. To predict traffic noise levels in terms of L_{dn}, it is necessary to adjust the input volume to account for the day/night distribution of traffic.

Traffic volumes for existing, baseline, and cumulative conditions and scenarios were based on an earlier version of the traffic study than the study shown in Appendix C. Since the noise study was completed, the project was revised to include fewer residential units. Therefore, the noise study is based on a higher level of traffic than would occur under the project as currently proposed. The differences in noise traffic noise levels under the previous project and the Proposed Project would not be substantial (since a doubling of traffic is typically needed to increase traffic noise by a noticeable amount). Nonetheless, the noise study represents a conservative analysis because it is based on a higher level of development.

A 3 dB increase in traffic noise levels at noise sensitive uses is typically considered to be the threshold of significance for increases in traffic noise levels, because smaller increases are not typically noticeable.

The a.m. peak hour traffic volumes were compiled into segment volumes and converted into daily traffic volumes using a factor of 10. Truck usage and vehicle speeds on the local area roadways were estimated from field observations and Caltrans, where available.

Table 10 shows the predicted increases in traffic noise levels on the local roadway network for existing, baseline and cumulative conditions that could result from the Proposed Project. The data are provided in terms of L_{dn} at a standard distance of 100 feet from the centerlines of the project-area roadways. Appendix B provides the complete inputs and results of the FHWA traffic noise prediction model.

The Proposed Project would generate slight increases in traffic on the existing roadway network. The project is expected to result in traffic noise level increases over existing baseline levels of less than 1 dB on the existing project area roadways, as indicated in Table 10. Because the predicted increase in traffic noise levels that would result from the Proposed Project would not exceed the 3 dB

TABLE 10
EXISTING, BASELINE AND CUMULATIVE TRAFFIC NOISE LEVELS WITH AND WITHOUT PROJECT

Roadway	Segment	Noise Levels (Ldn) 100 Feet From Centerline[1]								
		Existing, dB	Existing + Project, dB	Change, dB	Baseline, dB	Baseline + Project dB	Change, dB	Cumulative 2025, dB	Cumulative 2025 + Project, dB	Change, dB
9th St. (SR132)	L St. to K St.	66.1	66.2	0.1	66.5	66.6	0.1	68.3	68.3	0.0
9th St. (SR132)	K St. to J St.	65.8	65.9	0.1	66.5	66.6	0.1	68.4	68.5	0.1
9th St. (SR132)	J St. to I St.	66.5	66.6	0.1	66.9	66.9	0.0	69.4	69.4	0.0
9th St. (SR132)	I St. to H St.	65.9	65.9	0.0	66.0	66.1	0.1	69.0	69.0	0.0
9th St. (SR132)	H St. to G St.	66.2	66.2	0.0	66.3	66.3	0.0	69.2	69.2	0.0
9th St. (SR132)	G St. to F St.	66.4	66.4	0.0	66.5	66.5	0.0	68.8	68.8	0.0
H Street	11th St. to 10th St.	62.2	62.2	0.0	62.2	62.3	0.1	64.0	64.0	0.0
H Street	10th St. to 9th St.	61.9	62.0	0.1	61.9	62.0	0.1	63.6	63.7	0.1
H Street	9th St. to 8th St.	61.9	62.0	0.1	61.9	62.0	0.1	64.4	64.4	0.0
G Street	8th St. to 9th St.	60.2	60.2	0.0	60.2	60.3	0.1	62.2	62.3	0.1
G Street	9th St. to 10th St.	60.4	60.5	0.1	60.4	60.5	0.1	61.7	61.8	0.1
G Street	10th St. to 11th St.	60.2	60.3	0.1	60.2	60.3	0.1	61.5	61.6	0.1
10th Street	I St. to H St.	54.3	54.7	0.4	54.3	54.7	0.4	57.3	57.6	0.3
10th Street	H St. to G St.	54.9	55.0	0.1	54.9	55.0	0.1	57.9	58.0	0.1
10th Street	G St. to F St.	51.6	52.2	0.6	51.6	52.2	0.6	55.1	55.4	0.3
SR 99	L St. to I St.	79.3	79.3	0.0	79.6	79.6	0.0	80.2	80.3	0.1
SR 99	I St. to H St.	79.0	79.0	0.0	79.3	79.3	0.0	79.9	79.9	0.0
SR 99	H St. to F St.	79.1	79.1	0.0	79.4	79.4	0.0	80.5	80.5	0.0
SR 99	F St to Tuolumne Blvd.	79.6	79.7	0.1	79.9	79.9	0.0	81.1	81.1	0.0

[1] Traffic noise levels are predicted at a standard distance of 100 feet from the roadway centerline and do not account for shielding from existing noise barriers or intervening structures. Traffic noise levels may vary depending on actual setback distances and localized shielding affects.

Source: FHWA-RD-77-108 with inputs from KD Anderson & Associates, Inc. and j.c. brennan & associates, Inc. 2008.

threshold of significance, the operational traffic noise impact is considered less than significant.

Exposure of New Sensitive Receptors

The Modesto General Plan specifies an acceptable exterior noise level of 65 dB L_{dn} for outdoor areas of multi-family uses. Outdoor areas for the residential portion of the Proposed Project would include the third floor residential courtyard area, which would include a swimming pool, spa and fitness area. This would be the primary area for outdoor recreation associated with the Proposed Project. Based upon the analysis contained in Table 11, the third floor residential courtyard is predicted to be exposed to traffic and railroad noise levels that exceed the City of Modesto normally acceptable 65 dB L_{dn} exterior noise level standard under the Proposed Project.

TABLE 11
PREDICTED FUTURE EXTERIOR TRAFFIC AND RAILROAD NOISE LEVELS (Ldn)

Location(s)	Railroad Noise	Traffic Noise	Industrial	Total
3rd Floor Residential Courtyard/Facades (Railroad, 9th Street Traffic, JS West Feed and Supply)	68 dB	69 dB	57 dB	72 dB
10th Street – 3rd Floor Facades	NA	62 dB	NA	62 dB
G Street – 3rd Floor Facades	NA	66 dB	NA	66 dB
H Street – 3rd Floor Facades	NA	73 dB	NA	73 dB

Notes: Noise propagation was considered to occur under acoustically "hard" site conditions. Railroad and industrial noise measurements were conducted at the second floor rooftop elevation to account for elevated receivers.

A complete listing of FHWA Model inputs and results is provided in Appendix B. Light Rail noise prediction methodology is provided in Appendix B.

To determine the future traffic noise levels on the project site, j.c. brennan & associates, Inc. used the predicted future traffic data for the year 2025 provided by KD Anderson Transportation Engineers in the previous traffic analysis. Appendix H in the Environmental Noise Assessment (Appendix B of this Checklist) provides the inputs and results of the traffic noise prediction model.

Railroad and industrial noise levels were predicted based upon field measurements conducted at the site by j.c. brennan & associates, Inc., as discussed earlier. The railroad noise prediction methodology is provided in Appendix I of the Environmental Noise Assessment. Table 11 shows the predicted future traffic, railroad, and industrial noise levels on the project site.

As shown in Table 11, exterior noise levels would be as high as 73 dB L_{dn}, which would be in excess of the City of Modesto exterior noise level standards. Modern residential construction typically provides a 25 dB exterior-to-interior noise level reduction, which would bring interior levels to a

maximum of 48 dB L_{dn},, which also exceeds the City's interior standard of 45 dB L_{dn}. This impact is considered potentially significant.

The following mitigation measures would reduce the impact on new residents to *less-than-significant levels* by ensuring that interior and exterior noise levels in the courtyard do not exceed 65 dB L_{dn}.

Mitigation Measure 6

(a) Construct a solid roof line screen barrier 5 feet in height to shield the third floor courtyard area from traffic and railroad noise. The barrier shall be continuous along the roof line without significant gaps or openings that would compromise the acoustical performance of the barrier. The barrier shall be constructed of a solid material that blocks airflow to the full 5 foot height. Appropriate materials include concrete, masonry, various steel and glass panels (depending on stiffness and thickness). The acoustical screen shall be reviewed by an acoustical consultant prior to construction.

(b) All residential units facing 9th Street or H Street shall be constructed with materials that will achieve an interior noise level of 45 dB L_{dn} or less.

Interior noise standards can be achieved by using construction materials that provide more sound attenuation than typical construction materials. For example, windows with an STC rating of 34 would ensure that interior noise levels were below 45 dB L_{dn}. The use of a screen wall barrier at the roof line of the third floor residential courtyard was analyzed as a form of exterior noise mitigation. In order to estimate the shielding provided by a solid screen wall barrier, j.c. brennan & associates, Inc. conducted a noise barrier analysis. A complete listing of the noise barrier effectiveness inputs and results is shown in Appendix J of the Environmental Noise Assessment (Appendix B of this report). The results of the barrier analysis are summarized in Table 12.

TABLE 12
PREDICTED NOISE LEVELS WITH VARIOUS NOISE BARRIER HEIGHTS (Ldn)

Noise Source	Location	Noise Level with Varying Property Line Barrier Heights		
		4'	5'	6'
Railroad	Third Floor Courtyard	63 dB	63 dB	62 dB
9th Street		62 dB	62 dB	61 dB
Total		**66 dB**	**65 dB**	**65 dB**

Source: j.c. brennan & associates, Inc. 2008.

The results of the barrier analysis indicate that a roof line screen wall 5 feet in height would be adequate to reduce traffic and railroad noise levels to a state of compliance with the City of Modesto 65 dB Ldn exterior noise level standard.

b. Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?

Vibration is like noise in that it involves a source, a transmission path, and a receiver. While vibration is related to noise, it differs in that noise is generally considered to be pressure waves transmitted through air, whereas vibration usually consists of the excitation of a structure or surface. As with noise, vibration consists of an amplitude and frequency. A person's perception of the vibration would depend on his or her individual sensitivity to vibration, as well as the amplitude and frequency of the source and the response of the object that is vibrating. Vibration can be measured in terms of acceleration, velocity or displacement. A common practice is to monitor vibrations in terms of peak particle velocities using units of inches per second. Certain construction-related activities, such as pile driving, can generate substantial vibration levels. Human and structural response to different vibration levels is influenced by a number of factors, including ground type, distance between the source and receptor, duration, and the number of perceived vibration events.

Existing Groundborne Vibration

Generally, the most common existing source of groundborne vibration at a project site is roadway truck and bus traffic. Based upon Caltrans research, the maximum vibration levels from truck traffic would not be expected to exceed 0.08 in/sec Peak Particle Velocity (PPV) at a distance of 16 feet from the centerline of the nearest lane of travel. The Proposed Project property lines are located approximately 20 feet from the centerlines of the adjacent City streets. At this distance, the Caltrans research indicates that PPV vibrations from truck passages would not be expected to exceed 0.07 in/sec. This level is considered to be barely in the range of perceptibility, and is well below the levels required to cause architectural or structural damage to buildings.

Railroad lines also generate groundborne vibrations while passing through the project area. However, the rail line is located over 300 feet from the project site. At this distance groundborne vibrations are not expected to be in the range of perceptibility.

Vibration Standards

Certain construction-related activities, such as pile driving, can generate substantial vibration levels. Human and structural response to different vibration levels is influenced by a number of factors, including ground type, distance between source and receptor, duration, and the number of perceived vibration events. Table 13 indicates that the threshold for damage to structures ranges from 0.2 to 0.6 in/sec. The threshold for architectural damage to buildings is 0.2 in/sec. The threshold of human annoyance is considered to be 0.1 in/sec. However, depending on the activity (or inactivity) a person is engaged in, vibrations can be annoying at much lower levels those shown in Table 13. Elderly, retired, or ill people staying mostly at home, people reading in a quiet environment, people involved in vibration sensitive hobbies or other activities are but a few examples of people that are potentially annoyed by much lower vibration levels. To people in this category, even vibrations near the threshold of perception can be annoying. Therefore, one-half of the threshold of human annoyance, or .05 in/sec PPV, is considered a reasonable criterion that would protect against human annoyance in most cases.

Construction activities can generate ground-borne vibrations. These vibrations can pose a risk to nearby structures. Constant or transient vibrations can weaken structures, crack facades, and disturb occupants. Construction vibrations can either be transient, random, or continuous. Transient construction vibrations occur from blasting, impact pile driving, and wrecking balls. Continuous vibrations result from vibratory pile drivers, large pumps, and compressors. Random vibrations can result from jack hammers, pavement breakers, and heavy construction equipment.

TABLE 13
EFFECTS OF VARIOUS VIBRATION LEVELS ON PEOPLE AND BUILDINGS

Peak Particle Velocity (p.p.v.) inches/second	Peak Particle Velocity (p.p.v.) mm/second	Human Reaction	Effect on Buildings
.006-.019	0.15-0.30	Threshold of perception; possibility of intrusion	Vibrations unlikely to cause damage of any type
0.08	2.0	Vibrations readily perceptible	Recommended upper level of vibration to which ruins and ancient monuments should be subjected
0.10	2.5	Level at which continuous vibrations begin to annoy people	Virtually no risk of "architectural" damage to normal buildings
0.20	5.0	Vibrations annoying to people in buildings (this agrees with the levels established for people standing on bridges and subjected to relative short periods of vibrations)	Threshold at which there is a risk of "architectural" damage to normal dwellings – houses with plastered walls and ceilings.
0.4-0.6	10-15	Vibrations considered unpleasant by people subjected to continuous vibrations and unacceptable to some people walking on bridges.	Vibrations at a greater level than normally expected from traffic, but would cause "architectural" damage and possibly minor structural damage.

Source: *Transportation Related Earthborne Vibrations (Caltrans Experiences)*, Technical Advisory, Vibration TAV-02-01-R9601, Caltrans 2002.

The most significant source of ground-borne vibrations would from pile-drivers during periods of construction on the project site. Based upon research published by the Federal Transit Administration, pile-driving can result in peak particle velocity (PPV) values up to 1.158 in/sec with more typical values around 0.644 in/sec at a distance of 25 feet. The closest listed buildings to the project site are located immediately adjacent to the project site adjacent to the proposed parking structure and approximately 25 feet from the proposed mixed-use tower. Table 13, above, indicates that pile driving could generate vibration levels exceeding safe levels (0.2 in/sec) at these distances.

The following mitigation measures would reduce the potential for vibration damage to adjacent structures to a *less-than-significant level* by requiring protective measures.

Mitigation Measure 7

(a) *Implement Mitigation Measures 5(a) and 5(c) above.*

(b) *If pile driving occurs, provide protective coverings or temporary shoring of on-site or adjacent historic features as necessary, in consultation with the Preservation Director.*

(c) *If pile driving occurs, the pre-existing condition of all buildings within a 50-foot radius would be recorded in order to evaluate damage from construction activities. Fixtures and finishes within a 50-foot radius of construction activities susceptible to damage shall be documented (photographically and in writing) prior to construction. All damage shall be repaired back to its pre-existing condition.*

(d) *If pile driving occurs and fire sprinkler failure failures are reported in surrounding buildings to the disturbance coordinator, the contractor shall provide monitoring during construction and repairs to sprinkler systems shall be provided.*

(e) *Should damage occur despite the above mitigation measures, construction operations shall be halted and the problem activity shall be identified. A qualified engineer shall establish vibration limits based on soil conditions and the types of buildings in the immediate area. The contractor shall monitor the buildings throughout the remaining construction period and follow all recommendations of the qualified engineer to repair any damage that has occurred to the pre-existing state, and to avoid any further structural damage.*

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?

The project site is approximately two miles from the Modesto City-County Airport and is not located within the noise contours for the Airport.[37] In addition, there are no private airstrips within the vicinity of the project site. Therefore, there would be ***no impact*** to people residing or working in the project area to excessive noise levels caused by aircraft.

37 Stanislaus County, *Airport Land Use Commission Plan*, amended May 20, 2004.

Issues		Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
12.	**POPULATION AND HOUSING.** *Would the project:*				
	a. Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure)?	□	□	■	□
	b. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	□	□	□	■
	c. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	□	□	□	■

Discussion

a) **Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure)?**

The Proposed Project would result in the construction of up to 66 new residential units in a seven-story building in downtown Modesto. The project would also include up to 30,000 square feet of retail, and up to 19,000 square feet of office uses on one acre.

California Department of Finance data indicate that there are, on average, approximately 2.9 persons per household in the City of Modesto.[38] The residential component of the Proposed Project consists only of multifamily units, which would have fewer persons per household then the city-wide average (which includes all types of homes, including single family). Therefore, this analysis assumes that the Proposed Project would have two persons per household. Using this rate, the Proposed Project would result in the generation of 132 new residents.

Using an employee generation rate of 502 square feet per employee for neighborhood retail and office uses,[39] the Proposed Project would result in up to 97 new jobs.

38 City of Modesto Redevelopment Agency, *Modesto Redevelopment Master Plan Draft Program Environmental Impact Report*, prepared by EDAW, June 2007, page 3-46.

39 City of Modesto, *Draft Environmental Impact Report for the Tivoli Specific Plan Project*, October 12, 2006, page IV.N.11, footnote 38.

Between 1990 and 2000, the population in the City of Modesto grew by 14.6 percent, from 164,730 to 188,856 persons, according to California Department of Finance (DOF) data.[40] Total population in Modesto in January 2006 was estimated at 208,107 persons, which represents an estimated 10.2 percent increase over the population in 2000. Based on data presented in the City's General Plan housing element, the population in the city is estimated to increase to 302,546 by 2010. By 2020, the population is estimated to reach 418,562. Based on current population, this level of growth by 2010 is not expected. The City bases the estimates contained in its housing element on Stanislaus County Council of Governments data. Additional population data in the housing element projects a holding capacity of 400,000 residents within the planned urbanizing area by 2025. This lower estimate for 2020 probably reflects a growth scenario anticipated by the City that considers the City's infrastructure capacity, resource constraints, and the desire to maintain and enhance the quality of life in the community.

The Proposed Project is located within the *Modesto Redevelopment Master Plan* redevelopment area (RDA). A draft market evaluation was prepared for the Modesto Redevelopment Agency in support of the effort to identify development potential within the RDA.[41] The market evaluation identified residential development as the most viable of all candidate uses within the RDA and as the use that would have the most dramatic impact on the downtown area. Based on anticipated growth in the city, the market evaluation estimated that approximately 21,700 units of new housing would be required by 2008, which represents an average of 4,300 units per year. The demand over the longer term, based on the anticipated population growth through 2015, would require approximately 4,600 units per year. A small portion of the growth anticipated in the city is planned to occur within the RDA. The draft market evaluation resulted in development of a working hypothesis that proposes a residential base of approximately 500–750 new dwelling units in the downtown area, including a mix of condominiums, townhomes, and lofts.

The increase of 66 dwelling units and 132 new residents would be consistent with the growth that is expected to occur in the RDA, which represents a portion of the growth that is planned to occur within developed areas of the City, as addressed in the City of Modesto Urban Area General Plan. The addition of retail and office uses on the project would replace existing business uses on the project site. Additional retail use would serve the existing and planned residential population in the downtown area and would not induce additional population growth. Because the Proposed Project would contribute to redevelopment of the downtown as envisioned by the Redevelopment Master Plan, this impact on population levels and growth would be ***less than significant***.

b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?

c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?

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40 City of Modesto Redevelopment Agency, *Modesto Redevelopment Master Plan Draft Program Environmental Impact Report*, prepared by EDAW, June 2007, page 3-45.

41 City of Modesto Redevelopment Agency, *Modesto Redevelopment Master Plan Draft Program Environmental Impact Report*, prepared by EDAW, June 2007, page 3-45.

There is no housing on the project site, nor would the required off-site infrastructure for the Proposed Project require removal of existing housing. Therefore, there would be ***no impact*** due to the displacement of houses or people.

Issues		Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
13.	**PUBLIC SERVICES.** *Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:*				
	a. Fire protection?	□	□	■	□
	b. Police protection?	□	□	■	□
	c. Schools?	□	□	■	□
	d. Parks?	□	□	■	□
	e. Other public facilities?	□	□	■	□

Discussion

Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

(a) Fire Protection?

The Modesto Fire Department (MFD) provides fire and life safety services throughout the City of Modesto. These services include fire suppression, fire prevention, emergency medical services, emergency preparedness, and hazardous materials response and mitigation. The MFD operates 11 fire stations throughout the city with a minimum of 50 staff members on duty at all times.[42] The goal of the Modesto Fire Department is to be on the scene of emergency incidents within six minutes or less more than 90 percent of the time. The current average response time is about 4.5 minutes. The area currently served by MFD has a population of approximately 215,000. The ISO rating for fire protection service within the city of Modesto is 2, with 1 being the best rating possible and 10 being the worst.[43]

The project site is served by the Fire Department, and implementation of the project would not alter the existing boundaries or service area of the MFD. A MFD Fire Station is located approximately

42 City of Modesto Redevelopment Agency, *Modesto Redevelopment Master Plan Draft Program Environmental Impact Report*, prepared by EDAW, June 2007, page 4.10-5.

43 City of Modesto Redevelopment Agency, *Modesto Redevelopment Master Plan Draft Program Environmental Impact Report*, prepared by EDAW, June 2007, page 4.10-5.

two blocks away at 600 11th Street. City policy requires that fire protection be in place concurrent with construction in the Planned Urbanizing Area. There is a fire station near the project site, and access to the project site would be available from the adjacent streets, as well as the alley. The Proposed Project would increase the amount of residents and commercial activity served by the Fire Department. However, the project would be required to pay its fair share of Public Facilities Impact Fees, which would offset this increased demand.[44] For these reasons, there would be a ***less-than-significant impact*** on fire protection services.

(b) Police protection?

Police services for the project site would be provided by the City of Modesto. The Modesto Police Department (MPD), which provides police protection for the City of Modesto, operates from two main facilities: the department headquarters at 601 11th Street and leased office space at 12th and F Streets. The MPD is organized into three divisions: support, investigations, and operations.[45]

Services provided by the MPD includes emergency response to in progress calls, Crime Prevention, Youth Services, and Narcotic and Gang Enforcement. The MPD has 286 sworn personnel and 110 non-sworn personnel. The goal of the MPD is to respond to Priority 1 calls in less than 5 minutes. The MPD meets this goal each month. The area served by MPD has a population of approximately 215,000. There are currently 1.3 sworn officers per thousand capita. The target of MPD is 1.8 sworn officers per capita by 2010.

General Plan Policy PS-3 states that the City "should maintain an adequate personnel level, to organize patrol areas and provide investigative responses to achieve a comfortable and safe community climate conducive to a high quality of life and to maintain an active and growing commercial and business environment. To the maximum economic extent feasible, police operations should include proactive law enforcement and administrative efforts, all to be expanded as the City's population grows.[46] The project site is currently served by the Police Department, and implementation of the project would not alter the existing boundaries or service area of the Modesto Police Department. The addition of residents to the downtown area would add "eyes on the street" in the City of Modesto, thereby potentially reducing certain crimes in redevelopment areas. The proposed commercial activity would replace existing commercial businesses on the project site. In addition, development fees are required for all subsequent developments that would alleviate potential police department impacts. For these reasons, this would be a ***less-than-significant impact.***

(c) Schools?

The Proposed Project would result in the construction of up to 66 condominium units in a seven-story structure, along with retail and office space, and parking uses. New residential units could

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44 City of Modesto Redevelopment Agency, *Modesto Redevelopment Master Plan Final Program Environmental Impact Report*, prepared by EDAW, September 2007, page 4.10-10.

45 City of Modesto General Plan Update Final EIR, prepared by ICF Jones & Stokes, October 2003, page V-13-2.

46 City of Modesto, *Final Master Environmental Impact Report for the Urban Area General Plan and Related Amendments to the Urban Area General Plan*, March 2003, page V-13-3.

generate additional children. New students from the project site would attend Wilson Elementary School, La Loma Junior High School, and Johansen High School.[47] District-wide, the Modesto City Schools has a capacity of 30,424 students. Wilson Elementary has a capacity of 312 students, La Loma Junior High has a capacity of 840 students, and Johansen High School has a capacity of 2,760 students.[48] During the 2006-2007 school year, Wilson Elementary had a student enrollment of 272 students and Johansen High School had an enrollment of 2,621 in grades 7 through 12.[49] During the 2007-2008 school year, La Loma Junior High had an enrollment of 784 students.[50]

As shown in Table 14, the Proposed Project would generate up to 13 elementary, one middle school, and six high school students.

TABLE 14
MULTI-FAMILY STUDENT GENERATION FACTORS

Type of School	Generation Rate	Number of DU	Number of Students Generated
Elementary	0.199	66	13
Middle	0.021	66	1
High School	0.096	66	6

SOURCE: Dana McGarry, Director of Planning and Research, Modesto City Schools, personal communication, October 3, 2007.

Even with adequate school sites, funds would be needed for constructing and staffing new schools. School funding typically has a number of sources, such as property tax, State General Funds, special taxes and developer fees. The assessment of developer fees is regulated through the State Government Code. Proposition 1A/Senate Bill 50 (Chapter 407, Statutes of 1998) establishes the base amount that developers can be assessed per square foot of residential and non-residential development. If a district meets certain standards, the base adjustment can be adjusted upward a certain amount. Under SB 50, payment of the identified fees by a developer is deemed to be "full and complete mitigation" of impacts on schools resulting from new development. In addition, the number of students generated by the Proposed Project would be relatively small and would not require the construction of any new school facilities that would result in physical environmental impacts. Because the existing schools have capacity to serve the project and because the Proposed Project would pay school mitigation fees and would not result in the construction of new facilities that would themselves result in physical environmental impacts, potential impacts due to increased school enrollment would be ***less than significant***.

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47 Dana McGarry, Director of Planning and Research, Modesto City Schools, personal communication, October 3, 2007.

48 City of Modesto Redevelopment Agency, *Modesto Redevelopment Master Plan Draft Program Environmental Impact Report*, prepared by EDAW, June 2007, page 4.10-9.

49 *School Accountability Report Card*, reported for school year 2006-2007, http://www.monet.k12.ca.us/mesnew/schools/selectschool.asp, accessed June 2008..

50 Toni Weber, Registrar, La Loma Junior High School, personal communication, September 10, 2008.

(d) Parks?

The City's Park Maintenance Division maintains 70 city parks, Tuolumne River Regional Park (TRRP), Dry Creek Regional Park, Hetch Hetchy Trail, John Thurman Field, road median planters, transportation sites, and bus stops. Parks in the plan area are administered and maintained by Modesto's Parks, Recreation and Neighborhoods Department. Parks in the RDA include McClatchy Square, Beard Brook Park, Pike Park, Graceada Park, Marshall Park, Cesar Chavez Park, and Moose Park, and Kewin Park. TRRP is also located at the southern end of the RDA. The Proposed Project site is located approximately one-half mile away from Beard Brook Park, located along Dry Creek. The park includes ball fields, a picnic area, and playground. Parks in the immediate area include 17th and G Street Park, Beard Brook Park, and Cesar Chavez Park.

The *City of Modesto Urban Area General Plan* requires that neighborhood parks be centrally located and serve an area of 0.5 to 0.75 miles around the park, with a minimum of two acres of community parkland to be provided for every 1,000 persons.[51]

The Proposed Project, along with future development in the City, would require additional park facilities. Upon build out and occupation of the Proposed Project, there would be approximately 36 new employees and 132 residents on the project site. These new employees and residents could use area parks. The required minimum acreages of park required for development in the City of Modesto Planned Urbanzing Area can be met through the application of existing policies and regulations, including Government Code Section 66474, which requires developers to pay parks capital facilities fees to fund acquisition of appropriate parkland acreage.[52] Therefore, would be a ***less-than-significant impact***.

(e) Other public facilities?

The Proposed Project would result in a minor increase in demand for public facilities and services, which would be funded through taxes and fees. The project demand would not be great enough to result in the need for new, unanticipated facilities. For these reasons, the impact on public facilities and services would be ***less than significant.***

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51 City of Modesto Redevelopment Agency, *Modesto Redevelopment Master Plan Final Program Environmental Impact Report*, prepared by EDAW, September 2007, page 4.10-7.

52 City of Modesto, *Draft Master Environmental Impact Report for the City of Modesto Urban Area General Plan Update*, prepared by Jones and Stokes, March 2008, page V-11-11.

Issues		Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
14.	**RECREATION.**				
	a. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	□	□	■	□
	b. Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	□	□	■	□

Discussion

a) **Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?**

b) **Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?**

See Item 13d.

Issues		Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
15.	**TRANSPORTATION/TRAFFIC** *Would the project:*				
a.	Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?	□	■	□	□
b.	Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	□	■	□	□
c.	Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	□	□	■	□
d.	Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	□	□	■	□
e.	Result in inadequate emergency access?	□	□	■	□
f.	Result in inadequate parking capacity?	□	□	■	□
g.	Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	□	□	■	□

Discussion

a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?

b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?

A traffic study was prepared for the Proposed Project by KD Anderson Transportation Engineers. The traffic study is provided in Appendix C. The traffic study evaluates the impacts of the project under the following conditions:

- existing conditions,
- short term future conditions 5 years in the future assuming development of other approved projects and continuing regional growth, and
- future traffic volume forecasts developed using the City of Modesto travel demand forecasting model for year 2030 conditions.

The following existing intersections and associated roadway segments were studied:

1. L Street / 0th Street
2. K Street / 9th Street
3. J Street / 9th Street
4. I Street / 5th Street
5. I Street / 6th Street
6. H Street / 5th Street
7. H Street / 9th Street
8. H Street / existing alley
9. H Street / 10th Street
10. G Street / 6th Street
11. G Street / 9th Street
12. G Street / existing alley
13. G Street / 10th Street

Intersection lane configurations and volumes for each analysis scenario are provided in Appendix C.

Existing Street System

As an infill downtown project, many streets on the Modesto grid system provide access to the project site. These facilities are described below.

Primary access would be via the G Street and H Street couplet, which links the site with SR 99, and via 9th Street within provides access to the north and south.

9th Street is a major north-south minor arterial street serving central Modesto. 9th Street originates at the Hatch Road interchange on SR 99 in Ceres and extends north across the Tuolumne River into downtown Modesto before terminating at an intersection on Carpenter Road near the SR 99/Briggsmore Road interchange. The portion of 9th Street between L Street and R Street is part of State Route 132. State Route 132 enters Modesto from the west on Maze Boulevard, and exits to the west via D Street and Yosemite Blvd. In downtown Modesto, 9th Street is a four lane facility with a continuous two way left turn (TWLT) lane. On street parking is permitted on 9th Street.

The volume of traffic on 9th Street varies along its length. The California Department of Transportation (Caltrans) reports that SR 132 carries an *Average Annual Daily Traffic (AADT)* volume of 19,200 vehicles per day north of D Street and 15,300 ADT south of L Street. Caltrans data suggest that trucks

comprise 3.4% of the daily traffic on SR 108 in this area.

H Street is an east-west minor arterial street that links downtown Modesto with streets that extend outward from the central community. On the west, H Street extends Paradise Road, and on the east, H Street continues easterly as via Scenic Drive. H Street is one of five routes across SR 99 and across the UPRR. In the vicinity of the project site, H Street is a three-lane one-way street in the westbound direction. On street parking is permitted along H Street. Traffic counts available from the City of Modesto indicate that H Street carries 16,800 vehicles per day in the area of the Proposed Project.

G Street is the complimentary eastbound minor arterial street in the G Street-H Street couplet. G Street begins at an intersection with Sierra Drive near First Street, continues across SR 99 and the UPRR and proceeds across the downtown area to Burney Street. G Street is also a three lane street with on-street parking. City of Modesto traffic counts suggest that this road carries 15,000 vehicles per day in the vicinity of the Proposed Project.

10th Street is a local street that forms a portion of the City of Modesto's downtown grid system. This two lane road originates at an intersection with D Street south of the project and continues north to an intersection with J Street. At that point the road is discontinuous through the downtown mall but continues north of L Street to an intersection on Needham Street. Left turn lanes have been striped at intersections, and on street parking is permitted along 10th Street. City of Modesto traffic counts suggest that 10th Street carries 2,160 vehicles per day.

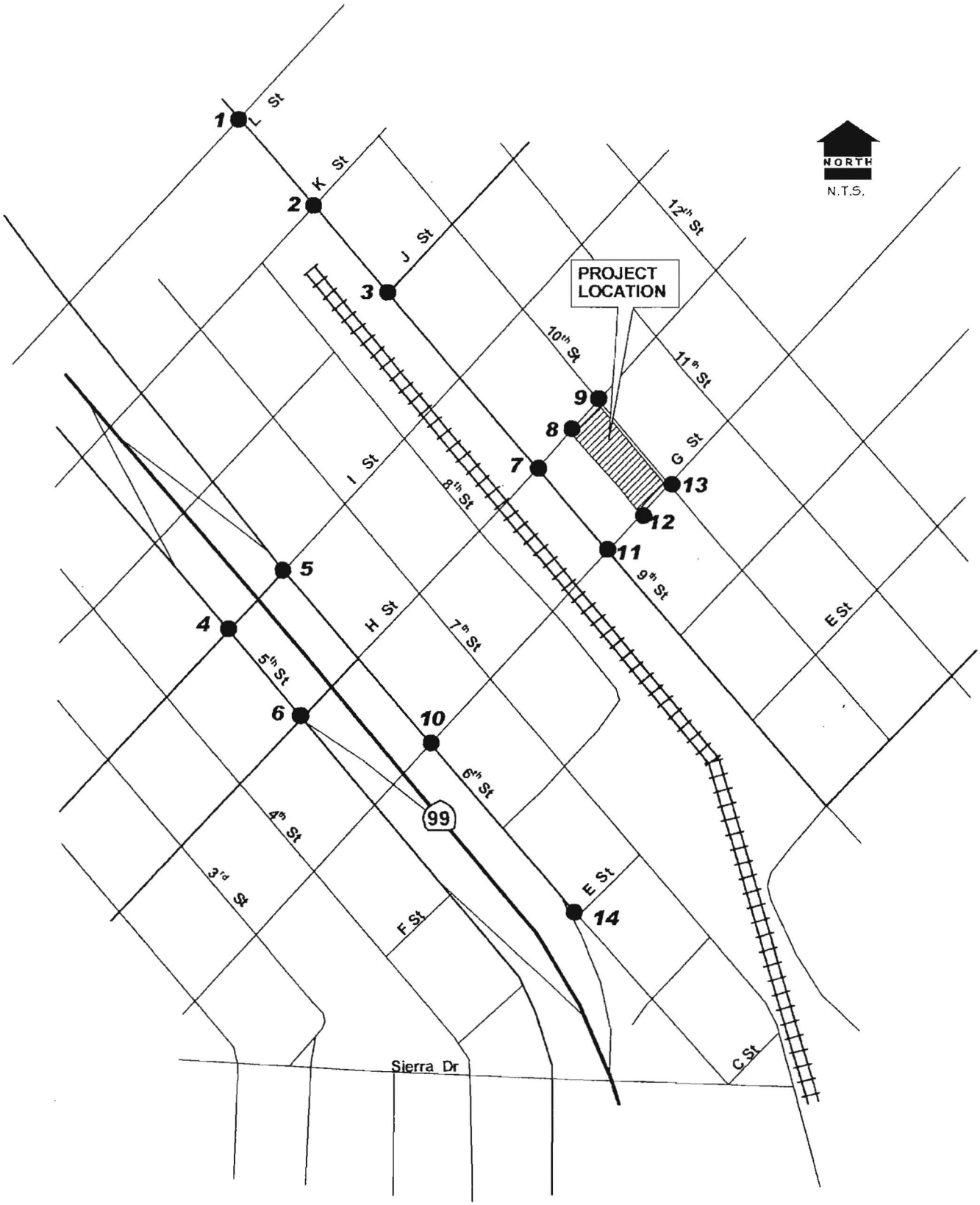
State Route 99 (SR 99) is a six-lane, north-south freeway located approximately one-quarter mile west of the project site. This freeway extends most of the length of California. The interchanges on SR 99 at H Street - 5th Street and I Street - 6th Street provide the main freeway access to the project site. Traffic volume data available from the California Department of Transportation indicate that SR 99 carries an *Annual Average Daily Traffic (AADT)* volume of 123,000 vehicles per day in the area of the H Street interchange. Trucks comprise 13% of the daily volume on SR 99, and the speed limit on SR 99 is 65 miles per hour (mph).

Existing Peak Hour Traffic Volumes

To quantify existing traffic conditions, new a.m. and p.m. peak hour traffic counts were made at study intersections in December 2007 to supplement data contained in the *Modesto Redevelopment Master Plan EIR.* The weekday a.m. and p.m. peak hours were selected as being representative of typical "worst case" background traffic conditions and based on the highest hours of project trip generation. This approach is consistent with the analyses prepared for other projects in Modesto. Study area intersections are shown in Figure 14. Observed traffic volumes are presented in Appendix C.

Methodology

The operations of roadway facilities are described using the term "level of service" (LOS). LOS is a qualitative description of traffic flow based on factors such as speed, travel time, delay, and freedom



KD Anderson & Associates, Inc.
Transportation Engineers

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Figure 14

to maneuver. LOS ranges from LOS A, which indicates free flow or excellent conditions with short delays, to LOS F, which indicates congested or overloaded conditions with extremely long delays and stop-and-go conditions. Typically, LOS E and LOS F represent unacceptable Levels of Service. Level of service definitions for intersections are provided in Table 15. The different methodologies used to assess operating conditions for the various types of roadways, including signalized intersections, stop-controlled intersections, and roadway segments, are described in Appendix C.

TABLE 15
LEVEL OF SERVICE DEFINITIONS

Level of Service	Signalized Intersection	Unsignalized Intersection	Roadway (Daily)
"A"	Uncongested operations, all queues clear in a single-signal cycle. Delay ≤ 10.0 sec.	Little or no delay. Delay ≤ 10 sec/veh.	Completely free flow. Volume /Capacity (v/c) < 0.60
"B"	Uncongested operations, all queues clear in a single cycle. Delay > 10.0 sec and ≤ 20.0 sec.	Short traffic delays. Delay > 10 sec/veh and ≤ 15 sec/veh.	Free flow, presence of other vehicles noticeable. 0.60 <v/c <0.70
"C"	Light congestion, occasional backups on critical approaches. Delay > 20.0 sec and ≤ 35.0 sec.	Average traffic delays. Delay > 15 sec/veh and ≤ 25 sec/veh.	Ability to maneuver and select operating speed affected. 0.70< v/c <0.80
"D"	Significant congestions of critical approaches but intersection functional. Cars required to wait through more than one cycle during short peaks. No long queues formed. Delay > 35.0 sec and ≤ 55.0 sec.	Long traffic delays. Delay > 25 sec/veh and ≤ 35 sec/veh.	Unstable flow, speeds and ability to maneuver restricted. 0.80 < v/c < 0.90
"E"	Severe congestion with some long standing queues on critical approaches. Blockage of intersection may occur if traffic signal does not provide for protected turning movements. Traffic queue may block nearby intersection(s) upstream of critical approach(es). Delay > 55.0 sec and ≤ 80.0 sec.	Very long traffic delays, failure, extreme congestion. Delay > 35 sec/veh and ≤ 50 sec/veh.	At or near capacity, flow quite unstable. 0.90 < v/c <1.00
"F"	Total breakdown, stop-and-go operation. Delay > 80.0 sec.	Intersection blocked by external causes. Delay > 50 sec/veh.	Forced flow, breakdown 1.00 < v/c

Source: 2000 Highway Capacity Manual.

Existing Levels of Service

Current a.m. and p.m. peak hour Levels of Service were calculated at the study intersections (Refer to the Appendix C for calculation worksheets) and are summarized in Table 16. Current Levels of Service were compared to adopted City standards to determine whether existing conditions are satisfactory.

As indicated, all signalized study intersections operate with an overall Level of Service of LOS C or better. Currently motorists in the alley approach in H Street and G Street experience delays that are indicative of LOS D during the morning peak hour, but the overall intersection operates at LOS C or better. Current Levels of Service meet City of Modesto standards. The observed traffic volumes at the alley connections do not satisfy peak hour volume warrants.

The current roadway segment Levels of Service on city streets and State highways are shown in Table 17. The volumes shown for city streets are taken directly from the peak hour intersection turning movement counts used earlier. On SR 99 the reported volumes are based on the directional peak hour volumes reported by Caltrans for PM 16.12 (L Street) with applicable adjustments for ramp volumes reported by Caltrans from counts taken in July 2006.

As noted, all city streets carry volumes that are indicative of LOS C or better conditions, including SR 132 through the study area. However, the volume on SR 99 is indicative of Levels of Service in excess of LOS D at various times during the day.

Current p.m. peak hour Levels of Service at mainline-ramp junctions are shown in Table 18. As noted, the minimum LOS D standard is already exceeded during the peak traffic hours at three locations on SR 99.

Project Impacts

To quantify the amount of vehicular traffic generated by the Proposed Project and by other approved projects, peak hour rates presented in the 7th Edition of the ITE publication Trip Generation were consulted. The project would displace one existing business. ITE rates for a furniture store have been employed to suggest the amount of existing traffic that would no longer be generated by that use.

Table 19 presents estimated net site trip generation under the current development proposal. As indicated, the elements of the project together are expected to generate 2,069 daily trips. A share of that travel demand would be between on-site uses. Due to the project's proximity to the downtown transit station, some of the trips normally made by these types of uses would be made on foot or via transit. After discount for "internal capture" and "alternative transportation mode" and "pass-by" trips, this project would generate an estimated 1,451 daily trips, with 75 and 112 trips occurring during the a.m. and p.m. peak hour, respectively.

Appendix C contains more detail regarding the trip generation rates that were used, trip distribution and other assumptions and methods used to assess project impacts.

TABLE 16
EXISTING PLUS PROJECT PEAK HOUR INTERSECTION LEVELS OF SERVICE

Intersection	Control	Peak Hour Levels of Service								Traffic Signal Warranted ?
		A.M. Peak Hour				P.M. Peak Hour				
		Existing		Ex Plus Project		Existing		Ex Plus Project		
		Average Delay	LOS	Average Delay	LOS	Average Delay	LOS	Average Delay	LOS	
L Street / 9th Street	Signal	29.0	C	29.0	C	32.8	C	33.0	C	-
K Street / 9th Street	Signal	14.9	B	14.9	B	13.1	B	13.0	B	-
J Street / 9th Street	Signal	7.2	A	7.3	A	13.0	B	13.0	B	-
I Street / 5th Street	Signal	11.4	B	11.5	B	13.2	B	13.2	B	-
I Street / 6th Street	Signal	16.8	B	16.7	B	19.2	B	19.3	B	-
H Street / 5th Street	Signal	18.6	B	18.6	B	18.6	B	18.6	B	-
H Street / 9th Street	Signal	17.1	B	17.1	B	21.6	C	22.1	C	-
H Street / Alley (overall) NB left turn +thru SB thru +right turn	NB/SB Stop	(0.2) 13.4 26..9	A B D	(0.5) 15.1 20.1	(A) C D	(0.3) 15.9 13.6	(A) C B	(0.9) 16.4 13.8	(A) B B	No
H Street / 10th Street	Signal	6.6	A	6.7	A	6.9	A	7.2	A	-
G Street / 6th Street	Signal	21.7	C	21.6	C	18.4	B	18.4	B	-
G Street / 9th Street	Signal	13.2	B	13.3	B	13.4	B	13.2	B	-
G Street / Alley (overall) NB thru+right turn SB left turn +thru	NB/SB Stop	(0.2) 31.7 16.1	(A) D C	(0.6) 34.9 16.0	(A) D C	(0.1) - 11.6	(A) - B	(0.7) - 13.1	(A) - B	No
G Street / 10th Street	Signal	2.5	A	2.6	A	3.2	A	3.3	A	-

Source: KD Anderson Traffic Engineers, 2008.

TABLE 17
EXISTING PLUS PROJECT ROADWAY SEGMENT LEVELS OF SERVICE

			Existing Conditions														
			A.M. Peak Hour							P.M. Peak Hour							
			Existing		Existing Plus Project Volume					Existing			Existing Plus Project Volume				
	Direction	Lanes – Class	Vol	V/C	LOS	Proj	Total	V/C	LOS	Vol	V/C	LOS	Proj	Total	V/C	LOS
9th Street (SR 132)																	
L Street to K Street	NB	2 – Signalized Arterial	420	0.28	A	5	425	0.29	A	598	0.40	A	9	607	0.40	A
	SB		745	0.50	A	7	752	0.50	A	821	0.55	A	8	829	0.55	A
K Street to J Street	NB		584	0.39	A	5	589	0.39	A	679	0.45	A	9	688	0.46	A
	SB		503	0.34	A	7	510	0.34	A	687	0.46	A	8	695	0.46	A
J street to I Street	NB		716	0.48	A	5	721	0.48	A	745	0.50	A	9	753	0.50	A
	SB		561	0.37	A	7	568	0.38	A	941	0.63	B	8	950	0.63	B
I Street to H Street	NB		649	0.43	A	5	654	0.44	A	733	0.49	A	10	743	0.50	A
	SB		449	0.30	A	5	454	0.30	A	966	0.64	B	6	972	0.65	B
H Street to G Street	NB		696	0.46	A	0	696	0.46	A	763	0.51	A	0	763	0.51	A
	SB		492	0.33	A	7	499	0.33	A	934	0.62	B	11	945	0.63	B
G Street to F Street	NB		757	0.50	A	7	764	0.51	A	829	0.55	A	8	837	0.56	A
	SB		486	0.32	A	2	488	0.33	A	946	0.63	B	5	951	0.63	B
H Street																	
11th Street to 10th Street	WB	3 – Signalized Arterial	1,532	0.68	B	11	1,543	0.69	B	1,564	0.70	C	13	1,577	0.70	C
10th Street to 9th Street	WB		1,428	0.63	B	20	1,448	0.64	B	1,565	0.70	C	36	1,601	0.71	C
9th Street to 8th Street	WB		1,432	0.64	B	10	1,442	0.64	B	1,627	0.72	C	21	1,648	0.73	C
G Street																	
8th Street to 9th Street	EB	3 – Signalized Arterial	1,176	0.52	A	13	1,189	0.53	A	1,175	0.52	A	15	1,190	0.53	A
9th Street to 10th Street	EB		1,241	0.55	A	25	1,266	0.56	A	1,217	0.54	A	29	1,246	0.55	A
10th Street to 11th Street	EB		1,191	0.53	A	8	1,199	0.53	A	1,228	0.55	A	15	1,243	0.55	A

TABLE 17 (cont'd)
EXISTING PLUS PROJECT ROADWAY SEGMENT LEVELS OF SERVICE

			Existing Conditions														
			A.M. Peak Hour							P.M. Peak Hour							
			Existing		Existing Plus Project Volume					Existing			Existing Plus Project Volume				
	Direction	Lanes – Class	Vol	V/C	LOS	Proj	Total	V/C	LOS	Vol	V/C	LOS	Proj	Total	V/C	LOS	
10th Street																	
I Street to H Street	NB	1 – Signalized Collector	112	0.22	A	2	114	0.22	A	63	0.13	A	3	66	0.13	A	
	SB		35	0.07	A	7	42	0.08	A	59	0.12	A	8	67	0.13	A	
H Street to G Street	NB		97	0.19	A	4	101	0.20	A	48	0.10	A	6	54	0.11	A	
	SB		70	0.14	A	0	70	0.14	A	56	0.11	A	0	56	0.11	A	
G Street to F Street	NB		41	0.08	A	2	43	0.09	A	53	0.11	A	3	56	0.11	A	
	SB		37	0.07	A	4	41	0.08	A	35	0.07	A	8	43	0.09	A	
State Route 99																	
L Street to I Street	NB	3 – Freeway Mainline	4,970	0.83	D	3	4,973	0.83	D	4,615	0.77	C	6	4,621	0.77	C	
	SB		3,870	0.65	B	4	3,874	0.65	B	5,265	0.88	D	5	5,270	0.88	D	
I Street to H Street	NB		4,970	0.83	D	0	4,970	0.83	D	4,615	0.77	C	0	4,615	0.77	C	
	SB		3,345	0.56	A	0	3,345	0.56	A	4,730	0.79	C	0	4,730	0.79	C	
H Street to F Street	NB		4,480	0.75	C	0	4,480	0.75	C	4,005	0.67	B	0	4,005	0.67	B	
	SB		3,900	0.65	B	3	3,903	0.65	B	**5,650**	**0.94**	**E**	**6**	**5,656**	**0.94**	**E**	
F St to Tuolumne Blvd	NB		**5,590**	**0.93**	**E**	**4**	**5,594**	**0.93**	**E**	4,660	0.78	C	5	4,665	0.78	C	
	SB		3,950	0.66	B	3	3,956	0.66	B	**5,700**	**0.95**	**E**	**6**	**5,706**	**0.95**	**E**	

Source: KD Anderson Traffic Engineers, 2008.

TABLE 18
EXISTING PLUS PROJECT
AM PEAK HOUR RAMP LEVELS OF SERVICE AT SR 99 INTERCHANGES

			Existing			Existing Plus Project					
						Peak Hour Volume					
Direction	Ramp	Action	Peak Hour Volume	Density (pc/ml/ln)	Level of Service	Project Only	Total	Density (pc/ml/ln)	Level of Service	Percent Increase in Volume	Significant?
SR 99 / L Street – 5th Street											
Southbound	Off Ramp	Diverge	400	30	D	0	400	30	D	< 0.01	No
Northbound	On ramp	Merge	185	32	D	0	185	32	D	< 0.01	No
SR 99 / 5th Street – I Street											
Southbound	Off Ramp	Diverge	525	28	C	5	530	28	C	< 0.01	No
SR 99 / 6th Street- I Street											
Northbound	On-ramp	Merge	490	32	D	3	493	32	D	< 0.01	No
SR 99 / 5th Street – H Street											
Southbound	On-ramp	Merge	555	26	C	3	558	26	C	<0.01	No
SR 99 / 5th Street – Tuolumne Blvd											
Southbound		Weave	50 – 315	22	C	0 - 0	50 – 315	22	C	< .01	No
SR 99 / Tuolumne Blvd - 8th Street											
Northbound		Weave	290 - 1100	**42**	**E**	0 - 4	290 – 1104	**43**	**E**	< .01	No

TABLE 18 (cont'd)
EXISTING PLUS PROJECT
PM PEAK HOUR RAMP LEVELS OF SERVICE AT SR 99 INTERSECTIONS

Direction	Ramp	Action	Existing			Existing Plus Project					
						Peak Hour Volume					
			Peak Hour Volume	Density (pc/mi/ln)	Level of Service	Project Only	Total	Density (pc/mi/ln)	Level of Service	Percent Increase in Volume	Significant?
SR 99 / L Street – 5th Street											
Southbound	Off Ramp	Diverge	300	**35**	**E**	0	400	**35**	**E**	< 0.01	No
Northbound	On ramp	Merge	310	31	D	0	185	31	D	< 0.01	No
SR 99 / 5th Street – I Street											
Southbound	Off Ramp	Diverge	435	34	D	4	439	34	D	< 0.01	No
SR 99 / 6th Street- I Street											
Northbound	On-ramp	Merge	610	30	D	6	616	30	D	< 0.01	No
SR 99 / 5th Street – H Street											
Southbound	On-ramp	Merge	920	**37**	**E**	6	926	**37**	**E**	<0.01	No
SR 99 / 5th Street – Tuolumne Blvd											
Southbound		Weave	50 – 320	**35**	**E**	0 - 0	50 – 320	**35**	**E**	< .01	No
SR 99 / Tuolumne Blvd - 8th Street											
Northbound		Weave	385 - 655	32	D	0 – 5	385 – 660	32	D	< .01	No

Source: KD Anderson Traffic Engineers, 2008.

TABLE 19
TRIP GENERATION FORECAST FOR 10th/H STREET PROJECT

Land Use (ITE Code)	Quantity	Trip Generation Rates Per Unit						
		Daily	A.M. Peak Hour			P.M. Peak Hour		
			Inbound	Outbound	Total	Inbound	Outbound	Total
Specialty Retail (814)	20.0 ksf	886	33	21	54	24	30	54
Clothing store (870)	7.5 ksf	498	0	0	0	14	15	29
Quality restaurant (931)	2.5 ksf	225	0	0	0	12	7	19
Office (710)	19.0 ksf	209	26	3	29	5	23	28
Condominiums (232)	66 du's	276	4	18	22	16	9	25
<less Existing Furniture Store>	5 ksf	<25>	<1>	<0>	<1>	<1>	<1>	<2>
Gross Total		2,069	62	42	104	70	83	153
Less Retail Pass-by Trips	30%	<408>	<10>	<6>	<16>	<11>	<13>	<24>
							Less internal interaction	
Residential to office / retail	5%*	<28>	<1>	<1>	<2>	<1>	<1>	<2>
Office to retail	5%*	<20>	<1>	<1>	<2>	<1>	<1>	<2>
Net external "New" total		**1,613**	**49**	**34**	**83**	**57**	**68**	**125**
Discount for Transit	5%	<81>	<2>	<2>	<4>	<3>	<3>	<6>
Discount for Downtown Walking	5%	<81>	<3>	<1>	<4>	<3>	<4>	<7>
NET NEW EXTERNAL AUTOMOBILE TRIPS		**1,451**	**44**	**31**	**75**	**51**	**61**	**112**

NOTES:
1. Include discount for modal split in downtown environment
2. includes 30% retail pass-by
* Caltrans traffic study guidelines default value for internal capture.

Based on criteria used by the City of Modesto and accepted professional practice for transportation engineering, a project-generated increase in traffic is considered to be significant if it would result in any of the following:

- Deterioration of a signalized intersection from LOS D (or better) to LOS E or LOS F, or an increase in the service volume of any approach by 5 percent or more for a signalized intersection operating at LOS E or LOS F under Baseline conditions, or an increase in average delay of 5 or more seconds for a signalized intersection operating at LOS E or LOS F under Baseline conditions.

- Deterioration of a controlled movement at an unsignalized intersection from LOS E or better to LOS F, or at intersections where a controlled movement already operates at LOS F, resulting in one of the following:

    1. satisfaction of the peak hour volume signal warrant (supporting the need for a traffic signal) as a result of project traffic;

2. an increase in minor movement delay of 30 seconds or more;
3. if the peak hour volume signal warrant is already met without project traffic and delay cannot be measured, an increase in traffic of 10 or more vehicles per lane on any approach.

- Deterioration of a roadway segment from LOS D or better to LOS E or LOS F, or an increase in the volume to capacity ratio of 0.05 or more for a segment operating at LOS E or F under Baseline conditions.

- Deterioration of a ramp merge/diverge area from LOS D or better to LOS E or LOS F, or an increase of a ramp merge /diverge area traffic volumes of 5% or more for a ramp merge/ diverge area operating at LOS E or LOS F under baseline conditions.

Existing Conditions Impacts

As shown in Table 16, the Proposed Project would increase traffic at local intersections. However, the Proposed Project would not degrade any intersection from an acceptable level (LOS D or better) to an unacceptable level (LOS E or F). Similarly, the Proposed Project would add only a small number of cars to the study roadway segments and freeway ramps (see Tables 17 and 18, respectively).

Existing Plus Approved Projects

Table 20 compares Existing plus Approved Projects (EPAP) Levels of Service with those conditions accompanying development of the Proposed Project. As indicated, the addition of project traffic would increase the average delay at each intersection, but would not result in any change to the Level of Service at signalized or unsignalized study intersections. Table 21 shows that the addition of project traffic would not result in any new locations operating with Levels of Service in excess of the City's LOS D minimum. The project would add a slight amount of traffic to segments of SR 99 that already operate at LOS E. This increment is, however, too small to be considered to be significant. Table 22 shows that, while background growth would result slower speeds, greater density and deterioration of the Level of Service at SR 99 ramps, addition of project traffic would not result in any new locations operating at Levels of Service in excess of the City's LOS D minimum. The project would add a small amount of traffic to ramps that already operate at LOS E, but the incremental increase in volume at these locations would fall below the measure used by the City of Modesto to determine significance.

Cumulative (Year 2025) Conditions

The relative impacts of the Proposed Project were also assessed within the context of future traffic conditions occurring in the year 2025. The future traffic volumes presented herein are based on long-term traffic volume forecasts derived from the City of Modesto's regional travel demand forecasting model and originally presented in the *Redevelopment Master Plan EIR*. Where published data were not available intersection turning movements, mainline highway volumes and ramp forecasts were taken from the traffic model.

TABLE 20
EPAP PLUS PROJECT PEAK HOUR INTERSECTION LEVELS OF SERVICE

Intersection	Control	Peak Hour Levels of Service								Traffic Signal Warranted?
		A.M. Peak Hour				P.M. Peak Hour				
		EPAP		EPAP Plus Project		EPAP		EPAP Plus Project		
		Average Delay	LOS	Average Delay	LOS	Average Delay	LOS	Average Delay	LOS	
L Street / 9th Street	Signal	28.8	C	28.8	C	33.4	C	33.6	C	-
K Street / 9th Street	Signal	16.0	B	15.9	B	14.8	B	14.8	B	-
J Street / 9th Street	Signal	7.3	A	7.3	A	13.7	B	13.8	B	-
I Street / 5th Street	Signal	11.8	B	11.9	B	13.8	B	14.0	B	-
I Street / 6th Street	Signal	16.5	B	16.6	B	18.4	B	17.9	B	-
H Street / 5th Street	Signal	18.4	B	18.6	B	18.6	B	18.6	B	-
H Street / 9th Street	Signal	17.7	B	17.5	B	22.2	C	22.9	C	-
H Street / Alley										
(overall)	NB/SB	(0.2)	(A)	(0.5)	(A)	(0.3)	(A)	(0.9)	(A)	No
NB left turn +thru	Stop	13.4	A	15.2	C	16.3	C	16.8	C	
SB thru +right turn		27.0	D	29.2	D	13.8	B	14.1	B	
H Street / 10th Street	Signal	6.6	A	6.7	A	6.9	A	7.1	A	-
G Street / 6th Street	Signal	21.8	C	21.8	C	20.1	C	20.1	C	-
G Street / 9th Street	Signal	13.2	B	13.3	B	12.3	B	12.3	B	-
G Street / Alley										No
(overall)	NB/SB	(0.2)	(A)	(0.6)	(A)	(0.1)	(A)	(0.7)	(A)	
NB thru+right turn	Stop	31.7	D	34.9	D	-	-	-	-	
SB left turn +thru		16.1	C	16.0	C	11.7	B	13.3	B	
G Street / 10th Street	Signal	2.6	A	2.7	A	3.4	A	3.4	A	-

Source: KD Anderson Traffic Engineers, 2008.

TABLE 21
EPAP PLUS PROJECT ROADWAY SEGMENT LEVELS OF SERVICE

			Existing													
			A.M. Peak Hour							P.M. Peak Hour						
			EPAP			EPAP Plus Project Volume				EPAP			EPAP Plus Project Volume			
	Direction	Lanes – Class	Vol	V/C	LOS	Proj	Total	V/C	LOS	Vol	V/C	LOS	Proj	Total	V/C	LOS
9th Street (SR 132)																
L St to K Street	NB	2 – Signalized Arterial	429	0.29	A	5	434	0.29	A	606	0.40	A	9	615	0.41	A
	SB		855	0.57	A	7	862	0.57	A	971	0.65	B	8	979	0.65	B
K St to J Street	NB		735	0.49	A	5	740	0.49	A	761	0.51	A	9	770	0.51	A
	SB		545	0.36	A	7	552	0.37	A	766	0.51	A	8	774	0.52	A
J St to I Street	NB		777	0.52	A	5	782	0.52	A	827	0.55	A	9	836	0.56	A
	SB		611	0.41	A	7	618	0.41	A	1,038	0.69	B	8	1,046	0.70	C
I St to H Street	NB		672	0.45	A	5	677	0.45	A	770	0.51	A	10	780	0.52	A
	SB		465	0.31	A	5	470	0.31	A	1,002	0.67	B	6	1,008	0.67	B
H St to G Street	NB		716	0.48	A	0	716	0.48	A	793	0.53	A	0	793	0.53	A
	SB		500	0.33	A	7	507	0.34	A	952	0.63	B	11	963	0.64	B
G St to F Street	NB		767	0.51	A	7	774	0.52	A	844	0.56	A	8	852	0.57	A
	SB		494	0.33	A	2	496	0.33	A	964	0.64	B	5	969	0.65	B
H Street																
11th St to 10th St	WB	3 – Signalized Arterial	1,535	0.68	B	11	1,546	0.69	B	1,571	0.70	C	13	1,584	0.70	C
10th St to 9th St	WB		1,431	0.64	B	20	1,451	0.64	B	1,572	0.70	C	36	1,608	0.71	C
9th St to 8th St	WB		1,440	0.64	B	10	1,450	0.64	B	1,645	0.73	C	21	1,666	0.74	C
G Street																
8th St to 9th St	EB	3 – Signalized Arterial	1,186	0.53	A	13	1,199	0.53	A	1,190	0.53	A	15	1,205	0.54	A
9th St to 10th St	EB		1,241	0.55	A	25	1,266	0.56	A	1,217	0.54	A	29	1,246	0.55	A
10th St to 11th St	EB		1,191	0.53	A	8	1,199	0.53	A	1,228	0.55	A	15	1,243	0.55	A

TABLE 21 (cont'd)
EPAP PLUS PROJECT ROADWAY SEGMENT LEVELS OF SERVICE

			Existing													
			A.M. Peak Hour							P.M. Peak Hour						
			EPAP		EPAP Plus Project Volume					EPAP			EPAP Plus Project Volume			
	Direction	Lanes – Class	Vol	V/C	LOS	Proj	Total	V/C	LOS	Vol	V/C	LOS	Proj	Total	V/C	LOS
10th Street																
I St to H Street	NB	1 – Signalized Collector	112	0.22	A	2	114	0.23	A	63	0.13	A	3	66	0.13	A
	SB		35	0.07	A	7	42	0.08	A	59	0.12	A	8	67	0.13	A
H St to G Street	NB		97	0.19	A	4	101	0.20	A	48	0.10	A	6	54	0.11	A
	SB		70	0.14	A	0	70	0.14	A	56	0.11	A	0	56	0.11	A
G St to F Street	NB		41	0.08	A	2	43	0.09	A	53	0.11	A	3	56	0.11	A
	SB		37	0.07	A	4	41	0.08	A	35	0.07	A	8	43	0.09	A
State Route 99																
L St to I Street	NB	3 – Freeway Mainline	5,290	0.88	D	3	5,293	0.88	D	4,910	0.82	D	6	4,916	0.82	D
	SB		4,115	0.69	B	4	4,119	0.69	B	**5,600**	**0.93**	**E**	**5**	**5,605**	**0.93**	**E**
I St to H Street	NB		5,290	0.88	D	0	5,290	0.88	D	4,910	0.82	D	0	4,910	0.82	D
	SB		3,560	0.59	A	0	3,560	0.59	A	5,030	0.84	D	0	5,030	0.84	D
H St to F Street	NB		4,770	0.79	C	0	4,770	0.79	C	4,260	0.71	C	0	4,260	0.71	C
	SB		4,150	0.69	B	3	4,153	0.69	B	**6,010**	**1.00**	**F**	**6**	**6,016**	**1.00**	**F**
F St to Tuolumne Blvd	NB		**5,950**	**0.99**	**E**	**4**	**5,954**	**0.99**	**E**	4,960	0.83	D	5	4,965	0.83	D
	SB		4,200	0.70	C	3	4,203	0.70	C	**6,065**	**1.01**	**F**	**6**	**6,071**	**1.01**	**F**

Source: KD Anderson Traffic Engineers, 2008.

TABLE 22
EPAP PLUS PROJECT
AM PEAK HOUR RAMP LEVELS OF SERVICE AT SR 99 INTERCHANGES

			EPAP			EPAP Plus Project					
						Peak Hour Volume					
Direction	Ramp	Action	Peak Hour Volume	Density (pc/mi/ln)	Level of Service	Project Only	Total	Density (pc/mi/ln)	Level of Service	Percent Increase in Volume	Significant?
SR 99 / L Street – 5th Street											
Southbound	Off Ramp	Diverge	425	31	D	0	425	31	D	< 0.01	No
Northbound	On ramp	Merge	195	34	D	0	195	34	D	< 0.01	No
SR 99 / 5th Street – I Street											
Southbound	Off Ramp	Diverge	560	29	D	5	565	29	D	< 0.01	No
SR 99 / 6th Street- I Street											
Northbound	On-ramp	Merge	520	33	D	3	423	33	D	< 0.01	No
SR 99 / 5th Street – H Street											
Southbound	On-ramp	Merge	590	28	C	3	593	28	C	<0.01	No
SR 99 / 5th Street – Tuolumne Blvd											
Southbound		Weave	55 – 335	24	C	0 – 0	55 – 335	24	C	< .01	No
SR 99 / Tuolumne Blvd - 8th Street -											
Northbound		Weave	310 - 1180	**46**	**F**	0 – 4	310 – 1184	**46**	**F**	< .01	No

TABLE 22 (cont'd)
EPAP PLUS PROJECT
PM PEAK HOUR RAMP LEVELS OF SERVICE AT SR 99 INTERCHANGES

			Existing			Existing Plus Project					
						Peak Hour Volume					
Direction	Ramp	Action	Peak Hour Volume	Density (pc/ml/ln)	Level of Service	Project Only	Total	Density (pc/ml/ln)	Level of Service	Percent Increase in Volume	Significant?
SR 99 / L Street – 5th Street											
Southbound	Off Ramp	Diverge	320	**37**	**E**	0	320	**37**	**E**	< 0.01	No
Northbound	On ramp	Merge	330	33	D	0	330	33	D	< 0.01	No
SR 99 / 5th Street – I Street											
Southbound	Off Ramp	Diverge	465	**36**	**E**	4	469	**36**	**E**	< 0.01	No
SR 99 / 6th Street- I Street											
Northbound	On-ramp	Merge	650	32	D	6	656	32	D	< 0.01	No
SR 99 / 5th Street – H Street											
Southbound	On-ramp	Merge	980	**39**	**F**	6	986	**39**	**F**	<0.01	No
SR 99 / 5th Street – Tuolumne Blvd											
Southbound		Weave	55 – 340	**39**	**E**	0 - 0	54 – 340	**39**	**E**	< .01	No
SR 99 / Tuolumne Blvd - 8th Street											
Northbound		Weave	410 - 700	34	D	0 –5	410 - 705	34	D	< .01	No

Source: KD Anderson Traffic Engineers, 2008.

A full discussion of the assumptions and methods used in the cumulative analysis is provided in Appendix C.

As shown in Table 23, three intersections would operate at unacceptable levels of service:

- L Street/9th Street (LOS E in AM and PM)
- H Street/5th Street (LOS E in PM)
- H Street/9th Street (LOS F in AM)

Table 24 identifies year 2025 Levels of Service for segments with and without the Proposed Project. As shown in Table 24, without the project there are several locations where background growth is projected to result in traffic volumes in excess of the City's LOS D standard. These locations include:

- 9th Street between L Street and K Street (LOS E in a.m. and p.m.)
- 9th Street between J Street and I Street (LOS E in p.m.)
- 9th Street between H Street and G Street (LOS E in a.m.)
- H Street from 8th Street to 9th Street (LOS F in a.m.)
- H Street from 9th Street to 10th Street (LOS F in a.m.)
- H Street from 10th Street to 11th Street (LOS F in a.m.)
- Northbound SR 99 from Tuolumne Blvd to L Street (LOS F in a.m.)
- Southbound SR 99 from H Street to Tuolumne Blvd (LOS F in p.m.)

Of these locations, both 9th Street and H Street are in developed areas where creating additional lanes is possible but may not be desirable. It would be possible to re-stripe H Street to provide a fourth through lane, but this action would require eliminating on street parking through this area. A four-lane section would yield LOS D. Similarly, it could be possible to add a lane on 9th Street by eliminating on-street parking. However, the feasibility of adding a lane in each direction appears unlikely. Adding a lane would, however, yield LOS D.

On SR 99 the need for mainline widening is acknowledged in the 2007 Regional Transportation Plan (RTP). Creating an eight-lane facility from Ceres to Kiernan Avenue is identified as a Tier 1 project in the RTP. An eight-lane facility would improve the Level of Service at most locations on SR 99, but would not yield LOS D on the southbound SR 99 during the a.m. peak hour.

Cumulative Project Intersection and Roadway Segment Impacts

Because the volume of traffic added by the Proposed Project is relatively low, the incremental impact of the Proposed Project on intersection and roadway segment Levels of Service is not significant. The addition of project traffic would not result in any locations changing from an acceptable to an unacceptable Level of Service. At those locations where background conditions are expected to exceed the LOS D standard, the addition of project traffic would not result in an increase in the volume/capacity ratio (v/c) that exceeds the threshold identified in the Modesto General Plan (i.e., v/c increase greater than 0.05). Thus, the cumulative impact of this Proposed Project on roadway segment Levels of Service is not significant.

Table23
2030 Plus Project
Peak Hour Intersection Levels of Service

Intersection	Control	A.M. Peak Hour				P.M. Peak Hour				Traffic Signal Warranted?
		Base		Base Plus Project		Base		Base Plus Project		
		Average Delay (sec)	LOS	Average Delay	LOS	Average Delay	LOS	Average Delay	LOS	
L Street / 9th Street	Signal	**73.5**	**E**	**74.4**	**E**	**56.7**	**E**	**57.5 sec**	**E**	-
K Street / 9th Street	Signal	19.4	B	19.4	B	22.5	C	22.4	C	-
J Street / 9th Street	Signal	23.9	C	24.5	C	35.9	D	37.3	D	-
I Street / 5th Street	Signal	20.4	C	20.4	C	42.6	D	43.3	D	-
I Street / 6th Street	Signal	23.6	C	23.7	C	27.7	C	27.8	C	-
H Street / 5th Street	Signal	38.7	D	39.3	D	**73.2**	**E**	**74.3**	**E**	-
H Street / 9th Street	Signal	**80.2**	**F**	**82.5**	**F**	28.1	C	29.8	C	-
H Street / Alley										
(overall)	NB/SB Stop	(0.5)	(A)	(1.0)	(A)	(0.3)	(A)	(0.8)	(A)	No
NB left turn +thru		23.0	C	28.8	D	17.9	C	18.1	C	
SB thru +right turn		87.6	F	98.5	F	14.9	B	15.2	C	
H Street / 10th Street	Signal	8.6	A	8.8	A	8.3	A	8.6	A	-
G Street / 6th Street	Signal	22.4	C	22.4	C	20.9	C	20.9	C	-
G Street / 9th Street	Signal	26.5	C	27.4	C	17.4	B	18.9	B	-
G Street / Alley										
(overall)	NB/SB Stop	(0.2)	(A)	(0.4)	A	(0.1)	(A)	(0.6)	(A)	No
NB thru+right turn		12.4	B	12.4	B	-	-	-	-	
SB left turn +thru		14.4	B	16.2	C	14.0	B	14.1	B	
G Street / 10th Street	Signal	4.4	A	4.5	A	7.1	A	7.1	A	-

Source: KD Anderson Traffic Engineers, 2008.

TABLE 24
YEAR 2026 PLUS PROJECT ROADWAY SEGMENT LEVELS OF SERVICE

			Year 2026														
			A.M. Peak Hour							P.M. Peak Hour							
			Baseline			Baseline Plus Project Volume				Baseline			Baseline Plus Project Volume				
	Direction	Lanes – Class	Vol	V/C	LOS	Proj	Total	V/C	LOS	Vol	V/C	LOS	Proj	Total	V/C	LOS	
9th Street (SR 132)																	
L Street to K Street	NB	2 – Signalized Arterial	531	0.35	A	5	540	0.36	A	606	0.40	A	16	622	0.41	A	
	SB		**1,378**	**0.92**	**E**	7	1,390	**0.93**	**E**	**1,355**	**0.90**	**E**	14	**1,369**	**0.91**	**E**	
K Street to J Street	NB		1,006	0.67	B	5	1,015	0.68	B	922	0.61	B	16	938	0.62	B	
	SB		976	0.65	B	7	988	0.66	B	995	0.66	B	14	1,009	0.67	B	
J street to I Street	NB		1,203	0.80	D	5	1,212	0.81	D	1,136	0.76	C	16	1,152	0.77	C	
	SB		1,284	0.86	D	7	1,286	0.86	D	**1,429**	**0.95**	**E**	14	**1,443**	**0.96**	**E**	
I Street to H Street	NB		1,140	0.76	C	5	1,150	0.77	C	830	0.55	A	17	847	0.56	A	
	SB		1,120	0.75	C	5	1,129	0.75	C	1,100	0.73	C	11	1,111	0.74	C	
H Street to G Street	NB		**1,405**	**0.94**	**E**	0	**1,405**	**0.94**	**E**	855	0.57	A	0	855	0.57	A	
	SB		965	0.64	B	7	979	0.65	B	1,055	0.70	C	19	1,074	0.71	C	
G Street to F Street	NB		1,235	0.82	D	7	1,247	0.83	D	860	0.57	A	14	874	0.58	A	
	SB		910	0.61	B	2	915	0.61	B	1,145	0.76	A	8	1,153	0.77	C	
H Street																	
11th Street to 10th Street	WB	3 – Signalized Arterial	**2,315**	**1.03**	**F**	11	**2,336**	**1.04**	**F**	1,780	0.79	C	24	1,804	0.80	D	
10th Street to 9th Street	WB		**2,110**	**0.94**	**F**	20	**2,146**	**0.95**	**F**	1,800	0.80	D	60	1,860	0.83	D	
9th Street to 8th Street	WB		**2,530**	**1.12**	**F**	10	**2,531**	**1.13**	**F**	1,870	0.83	D	35	1,905	0.85	D	
G Street																	
8th Street to 9th Street	EB	3 – Signalized Arterial	1,905	0.85	D	13	1,929	0.86	D	1,785	0.79	C	27	1,812	0.80	D	
9th Street to 10th Street	EB		1,660	0.74	C	25	1,705	0.76	C	1,525	0.68	A	52	1,577	0.70	C	
10th Street to 11th Street	EB		1,610	0.72	C	8	1,626	0.72	C	1,575	0.70	C	26	1,601	0.71	C	

TABLE 24 (cont'd)
YEAR 2025 PLUS PROJECT ROADWAY SEGMENT LEVELS OF SERVICE

			Year 2025													
			A.M. Peak Hour							P.M. Peak Hour						
			Baseline			Baseline Plus Project Volume				Baseline			Baseline Plus Project Volume			
	Direction	Lanes – Class	Vol	V/C	LOS	Proj	Total	V/C	LOS	Vol	V/C	LOS	Proj	Total	V/C	LOS
10th Street																
I Street to H Street	NB	1 – Signalized Collector	225	0.45	A	2	228	0.46	A	125	0.25	A	5	130	0.26	A
	SB		70	0.14	A	7	82	0.16	A	110	0.22	A	14	122	0.24	A
H Street to G Street	NB		195	0.39	A	4	202	0.40	A	95	0.19	A	10	105	0.21	A
	SB		140	0.28	A	0	140	0.28	A	140	0.28	A	0	140	0.28	A
G Street to F Street	NB		100	0.20	A	2	104	0.21	A	125	0.25	A	5	130	0.26	A
	SB		75	0.15	A	4	84	0.17	A	65	0.13	A	13	78	0.16	A
State Route 99																
L Street to I Street	NB	3 – Freeway Mainline	**7,355**	**1.23**	**F**	3	**7,361**	**1.23**	**F**	4,995	0.83	D	11	5,006	0.83	D
	SB		3,595	0.65	B	4	3,603	0.65	B	4,900	0.82	D	9	4,909	0.82	D
I Street to H Street	NB		**6,585**	**1.10**	**F**	0	**6,585**	**1.10**	**F**	4,325	0.72	C	0	4,325	0.72	C
	SB		3,595	0.56	A	0	3,595	0.56	A	4,900	0.82	D	0	4,900	0.82	D
H Street to F Street	NB		**6,585**	**1.10**	**F**	0	**6,585**	**1.10**	**F**	4,525	0.75	C	0	4,525	0.75	C
	SB		5,095	0.85	D	3	5,101	0.85	D	**7,045**	**1.17**	**F**	11	**7,056**	**1.17**	**F**
F St to Tuolumne Blvd	NB		**8,130**	**1.34**	**F**	4	**8,140**	**1.34**	**F**	**5,725**	**0.95**	**E**	10	5,735	0.95	E
	SB		5,145	0.86	D	3	5,151	0.86	D	**7,165**	**1.19**	**F**	11	**7,176**	**1.19**	**F**

Source: KD Anderson Traffic Engineers, 2008.

Year 2025 Freeway Ramp Merge-Diverge Level of Service

Table 25 identifies Year 2025 ramp and weaving area Levels of Service assuming that no improvements are made to SR 99. As noted, Levels of Service in excess of the LOS D minimum are projected for many locations assuming anticipated background traffic volume growth, including:

- Southbound off ramp to L Street – 5th Street (LOS E in p.m.)
- Northbound on ramp from L Street – 6th Street (LOS E in a.m. and p.m.)
- Southbound off ramp to 5th Street – I Street (LOS E in p.m.)
- Southbound on ramp for 5th Street – H Street (LOS E in a.m. and LOS F in p.m.)
- Southbound weave 5th Street on-ramp to Tuolumne Blvd off ramp (LOS F in p.m.)
- Northbound weave Tuolumne Blvd on-ramp to 6th Street off ramp (LOS F in a.m. and p.m.)

As discussed under the evaluation of roadway segments, SR 99 is expected to be widened to an 8 lane facility. While the effect on ramp geometry associated with this work is unknown, the merge-diverge operations at isolated ramps would improve when the freeway is widened, and LOS D or better conditions would result. However, due to the short spacing between ramps, the addition of a northbound through lane would not deliver LOS D conditions during the weaving area between the Tuolumne Blvd on ramp and the 6th Street off ramp. A multi-lane weaving area is likely to be needed in this area.

Cumulative Project Freeway Ramp Impacts

As shown in Table 25, the incremental impact of the Proposed Project on long-term ramp operation is not significant. The volume added by the Proposed Project falls well below the threshold employed by the City of Modesto to identify significant cumulative impacts (i.e., volume increase greater than 5%).

Development of the Proposed Project would lengthen delays at study intersections. However, the project would not result in any new locations where the projected Level of Service exceed the minimum standards, nor would the incremental change in delay identified at any location reach the 5.0 second threshold employed by the City of Modesto to identify the significance of cumulative impacts. The potential improvements cited for background conditions would also provide satisfactory Levels of Service with development of the Proposed Project, although these actions would not be required mitigation measures.

Because the Proposed Project would not cause significant reductions in service levels or increases in delay on roadways or freeway ramps, this would be a ***less-than-significant impact.***

Circulation

Although the Proposed Project would not have a significant effect on LOS on local streets and intersections, the project's alley access could result in conflicts with through traffic. The following mitigation measure would reduce this impact by capacity for deceleration and adequate site distance.

TABLE 25
YEAR 2025 PLUS PROJECT
AM PEAK HOUR RAMP LEVELS OF SERVICE AT SR 99 INTERCHANGES

Direction	Ramp	Action	Base Year 2025			Base Plus Project					
						Peak Hour Volume					
			Peak Hour Volume	Density (pc/mi/ln)	Level of Service	Project Only	Total	Density (pc/mi/ln)	Level of Service	Percent Increase in Volume	Significant?
SR 99 / L Street – 5th Street-6th Street											
Southbound	Off Ramp	Diverge	230	27	C	0	230	27	C	< 0.01	No
Northbound	On ramp	Merge	315	**45**	F	0	315	**45**	F	< 0.01	No
SR 99 / 5th Street – I Street											
Southbound	Off Ramp	Diverge	305	26	C	5	313	26	C	0.01	No
SR 99 / 6th Street- I Street											
Northbound	On-ramp	Merge	830	32	D	3	836	32	D	0.01	No
SR 99 / 5th Street – H Street											
Southbound	On-ramp	Merge	1,805	**36**	E	3	1,811	**36**	E	<0.01	No
SR 99 / 5th Street – Tuolumne Blvd											
Southbound		Weave	50 – 235	30	D	0 - 0	50 – 235	30	D	< .01	No
SR 99 / Tuolumne Blvd - 8th Street											
Northbound		Weave	750 – 1,605	**72**	F	0 – 4	750 – 1,613	**72**	F	< .01	No

TABLE 25 (cont'd)
YEAR 2025 PLUS PROJECT
PM PEAK HOUR RAMP LEVELS OF SERVICE AT SR 99 INTERCHANGES

Direction	Ramp	Action	Base Year 2025			Base Plus Project					
						Peak Hour Volume					
			Peak Hour Volume	Density (pc/ml/ln)	Level of Service	Project Only	Total	Density (pc/ml/ln)	Level of Service	Percent Increase in Volume	Significant?
SR 99 / L Street – 5th Street											
Southbound	Off Ramp	Diverge	460	**39**	**E**	0	460	**39**	**E**	< 0.01	No
Northbound	On ramp	Merge	240	**39**	**E**	0	240	**39**	**E**	< 0.01	No
SR 99 / 5th Street – I Street											
Southbound	Off Ramp	Diverge	665	**36**	**E**	4	674	**36**	**E**	0.01	No
SR 99 / 6th Street- I Street											
Northbound	On-ramp	Merge	470	30	D	6	481	30	D	0.01	No
SR 99 / 5th Street – H Street											
Southbound	On-ramp	Merge	2,160	**48**	**F**	6	2,171	**48**	**F**	<0.01	
SR 99 / 5th Street – Tuolumne Blvd											
Southbound		Weave	120 – 600	**47**	**F**	0 - 0	50 – 600	**47**	**F**	< .01	No
SR 99 / Tuolumne Blvd - 8th Street											
Northbound		Weave	335 – 1,195	**45**	**F**	0 – 5	335 – 1,205	**45**	**F**	< .01	No

Source: KD Anderson Traffic Engineers, 2008.

Mitigation Measure 8

The City shall monitor future traffic volumes and compare against current forecast. If background traffic volumes increase as forecast, parking shall be prohibited on each street in advance of the G Street and H Street alleys in order to provide deceleration opportunities and to increase sight distance for emerging traffic.

c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?

The Proposed Project is located approximately two miles from the Modesto City-County Airport, and is located in Category 4 of the airport Land Use Commission Plan. Areas in Category 4 are listed as "Other Land Within the Planning Area" and consist of lands within the planning areas with possible height and/or noise problems envisioned in the future.[53] The Airport Land Use Commission Plan includes an Airport Land Use Compatibility Listing that includes compatible, conditionally approvable, and prohibited uses in the four airport land use categories.

The Proposed Project would result in a seven-story structure with 30,000 square feet of retail uses, 19,000 square feet of office uses, 66 condominium residential units, and associated parking. According to the Airport Land Use Commission Plan, multi-family, commercial, and office uses are compatible uses in the Category 4 areas. The Proposed Project would not result in changes to air traffic patterns would be compatible with existing air traffic. Therefore, this would be a ***less-than-significant impact.***

d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

The project site is within a developed, urban area and would include uses that are similar to the surrounding land uses; therefore, the project would not introduce incompatible land uses to the area. The Proposed Project would be required to comply with City of Modesto standards for road design. For these reasons, the impacts due to hazards from design features or incompatible uses would be ***less than significant.***

e) Result in inadequate emergency access?

The Proposed Project would not involve modification of existing streets or temporary road closures. The project would not change existing road circulation on adjacent streets. In addition, the City requires that all-weather, hard-surfaced roadways be constructed and maintained free of obstructions prior to and at all times during construction. For these reasons, the impacts to emergency access would be ***less than significant.***

f) Result in inadequate parking capacity?

Automobile parking in downtown Modesto is accomplished via a combination of on-street spaces and

53 Stanislaus County, *Airport Land Use Commission Plan*, as amended May 20, 2004, page 12.

off-street facilities. The City of Modesto maintains three parking structures (8th, 10th and 11th Street) and seven surface lots. A portion of the project site is currently occupied by a 110-space surface parking lot. On street parking is permitted on the streets abutting the project site.

Title 10 of the Modesto Municipal Code addresses planning and zoning regulations. The amount of parking would be regulated by Section 10-2.2002, which sets forth the amount of parking required for the various land uses within the city.

Utilization of the current on-site parking supply as well as the utilization of on-street parking in spaces near the project site was determined through a survey conducted on December 12, 2007. There are 110 spaces in the parking lot that occupied the northern 2/3 of the project site. Utilization of these spaces was observed to range from 23% to 36% during the three time periods when the survey was taken. A total of 109 on-street parking spaces were inventoried at the same time. While the use of spaces on individual block faces varied, the overall on-street supply experienced 61% to 62% utilization during the morning and at noon.

Parking spaces are typically assumed to be "fully utilized" at occupancy rates that are below 100%. It is assumed that motorists would have difficulty finding a vacant space due to uneven turnover, and that some spaces would be unavailable due to poor parking practices. Parking lots and on-street parking are typically assumed to be "fully utilized" when occupancy rates reach 85% to 100%.

Development of the Proposed Project would affect downtown parking in two ways. First, the Proposed Project itself would result in a demand for parking to satisfy the needs of residents and business patrons. Second, the existing parking demands occurring in the parking lot that now occupies this site would be displaced.

The Proposed Project would meet City of Modesto parking code requirement by providing 346 parking spaces in the project building. A total of 295 spaces are required by code. Thus, the project provides enough parking to meet its demands.

As noted earlier, 110 existing parking spaces would be eliminated when the Proposed Project is developed, and the vehicles currently parked in this lot would be displaced. Based on the occupancy survey, approximately 40 vehicles could be displaced at some time during a weekday. While it is not possible to determine the exact locations used by displaced parking, adjoining on-street parking and other City lots are expected to be used. It is also possible that some parking demand could be accommodated in the "extra" spaces provided on site.

The parking utilization survey noted the presence of 109 on-street parking spaces in the immediate area of the Proposed Project. Of that total, 42 were vacant during the noon utilization period when parking lot use was highest. Assuming that the practical capacity of on-street parking is 85% to 90%, then 26 to 31 vacant spaces could theoretically be available for the 40 displaced vehicles. This would leave demand for another 9 to 14 spaces. Theoretically, the remaining 9 to 14 vehicles would be displaced to locations beyond the immediate limits of the Proposed Project, or could be parked in the "extra" spaces beyond code requirements that are to be provided on-site. Because the site

provides parking to meet its demands and provides a surplus beyond code requirements, the project's parking impacts under city guidelines are not significant. This would be a ***less-than-significant impact***.

g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?

Modesto Area Express (MAX) and Stanislaus Regional Transit (StaRT) provide bus service within the City of Modesto. The project site is two blocks from the MAX Downtown Transportation Center located on the west side of 9th Street between I Street and J Street. MAX operates fixed-route service throughout the Modesto area. Service hours are Monday through Friday from 6:00 a.m. to 8:00 p.m., with half-hour frequencies. Saturday and Sunday service is hourly.

Regionally, MAX operates the Modesto Altamont Commuter Express shuttle bus to transfer passengers from Modesto (at Vintage Faire Mall) to the Lathrop/Manteca train station. The Altamont Commuter Express (ACE) train provides passenger rail service between the San Joaquin Valley and the Santa Clara Valley. MAX also operates the Modesto Bay Area Rapid Transit Express (BART Express), transferring riders from Orchard Supply Hardware on Sisk Road to the Dublin/Pleasanton BART station. BART provides commuter rail service to San Francisco (including the San Francisco International Airport), Fremont, Oakland, Richmond and Pittsburg/Bay Point.

The *City of Modesto Urban Area General Plan* Circulation Element promotes the use of alternative forms of transportation, including the use of light rail, buses, bikes, walking and car pooling. The Proposed Project would not conflict with adopted policies, plans, or programs supporting alternative transportation, but, rather, would be supportive of such policies, plans, and programs by developing a mix of residential and non-residential uses in the downtown area and in proximity to the above transit services. Therefore, impacts on adopted policies supporting alternative transportation would be ***less than significant.***

Issues		Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
16.	**UTILITIES AND SERVICE SYSTEMS.** *Would the project:*				
	a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	□	□	■	□
	b. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	□	■	□	□
	c. Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	□	□	■	□
	d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	□	□	■	□
	e. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	□	□	■	□
	f. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	□	□	■	□
	g. Comply with federal, state, and local statutes, and regulations related to solid waste?	□	□	■	□

Discussion

a) **Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?**
e) **Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?**

The City's Urban Area General Plan Policy V-D.1(a) requires the City to obtain the necessary wastewater discharge and NPDES permits from the Central Valley RWQCB as its wastewater treatment facilities are expanded. The Wastewater Master Plan (WMP) requires the implementation of BMPs for post-construction activities in order to prevent violations of the permits during the operation of the wastewater treatment plant.

Policy V.D.2.a of the *City Of Modesto Urban Area General Plan* requires the City to maintain the standards for effluent water and biosolids from its wastewater treatment plants as established by the Central Valley RWQCB, in compliance with the federal CWA and the State Porter-Cologne Act. The secondary wastewater treatment plant discharges the majority of treated wastewater onto irrigated pasturelands with limited amounts discharged into the San Joaquin River under a permit from the Central Valley RWQCB. The secondary wastewater treatment plant does not discharge treated effluent to farmland or into the San Joaquin River when conditions for discharge would not meet water quality standards or are otherwise unfavorable. When conditions are unfavorable, the secondary wastewater treatment plant stores treated effluent in its storage pond system. The secondary wastewater treatment plant can discharge up to 25.8 million gallons/day (mgd) average dry-weather flow and 71.7 mgd peak wet-weather flow into San Joaquin River under an existing NPDES permit.[54]

Under the Proposed Project, wastewater would be treated at the City's primary and secondary wastewater treatment plants and discharged into the San Joaquin River. The City of Modesto Wastewater Treatment Facilities are located on two sites, separated by approximately seven miles. The Sutter Avenue Primary Plant (headworks, primary clarification, and solids handling) is adjacent to the Tuolumne River, within a residential area. The Jennings Road Secondary Plant (oxidation ponds, storage, and ranchlands) is within an agricultural region adjacent to the San Joaquin River. The wastewater treatment plants serve the City of Modesto and a small northern portion of the City of Ceres. Influent consists primarily of domestic, commercial, industrial, food processing and winery waste. Depending on the time of year and weather conditions, the secondary effluent is either discharged to the San Joaquin River (9,300 afy) or recycled for irrigation (21,400 afy). Effluent is stored on site until river discharge or irrigation is possible.[55]

As shown in Table 26, the Proposed Project would generate approximately 18,500 gallons per day of wastewater. According to the City's Wastewater Treatment Master Plan Update, and due to recent

54 City of Modesto, *Wastewater Master Plan Phase 2 Update, Master Plan Report,* prepared by Carollo Engineers, March 2007, pages 2-7 and 2-9.

55 City of Modesto Redevelopment Agency, *Modesto Redevelopment Master Plan Final Program Environmental Impact Report,* prepared by EDAW, September 2007, page 4.8-15.

TABLE 26
PROPOSED PROJECT WASTEWATER GENERATION

Type of Use	Generation Rate	Proposed Project	Wastewater Generation
Residential	100 gals/day/resident	132 residents	13,200
Office	108 gals/day/1,000 ft^2	19,000 ft^2	2,052
Retail	108 gals/day/1,000 ft^2	30,000 ft^2	3,240
Total			**18,492 gallons/day**

SOURCE: Dennis E. Wilson, written communication to Linda Boston, City of Modesto, September 2007, and Dennis E. Wilson, written communication to Chuck Covolo, City of Modesto, March 24, 2009.

improvements, the Sutter Avenue primary plant and the Jennings Road secondary plant have adequate treatment capacity to accommodate the City's projected growth until 2030.[56] Therefore, this is considered a ***less-than-significant*** impact.

b) **Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?**

As stated above, the existing wastewater treatment plants would have adequate treatment capacity to serve the Proposed Project since the Phase 1A (dissolved air flotation) of the tertiary treatment has been completed. However, the existing wastewater collection system would require improvements to the system or reductions/removals of existing direct connections from the sewer system to serve additional development.

Wastewater Collection

The City has developed a wastewater system capital improvement program (CIP) to address existing deficiencies and replacement needs in the City wastewater collection system. Projects contained within the CIP provide capacity to meet the demands of projected growth through the buildout of the sphere of influence, which is projected to occur by the year 2030.

A sewer capacity analysis was completed for the Proposed Project in 2007. It should be noted that the sewer capacity analysis was completed for a previous version of the project, which was larger than the current Proposed Project. Therefore, the conclusions of the study provide a worst-case scenario for the provision of wastewater collection services.

The project site is located in Sewer Basin Area 4 (also known as Tributary Area 4 or TA-4) in the 2007 Wastewater Master Plan (WWMP) and is currently served by City sewer. TA-4 comprises most of the core downtown area as well as a roughly equal area northeast of downtown. The expected sewer flow routing would be to the existing 12-inch H Street subtrunk, then generally south

56 City of Modesto, *Wastewater Master Plan Phase 2 Update Master Plan Report,* March 2007, page 1-4.

in the 14-inch 9th Street subtrunk to the F Street 15-inch subtrunk. The F Street 15-inch subtrunk flows to the 6th Street 21-inch trunk, which connects to the 48-inch River Trunk. The River Trunk follows along the Tuolumne River alignment and increases in size to 60-inches before terminating at the Sutter Primary Treatment Plant.

The current parcels within the project site are served with a 6-inch alley sewer main. It should be noted that the downtown area has multiple trunks with interconnects at various locations, thus complicating the flow routing analysis.[57]

The City's standard for design pipe capacity is 70% full for new development areas and 85% full for existing build-out areas under peak wet weather flow (PWWF) conditions, where percent full is determined by the depth of pipe flow compared to the pipe diameter.

In general, the more positive slope on a pipe, the more flow capacity it can handle because gravity has a large influence on the flow of liquid. When pipe has flatter slope, less liquid moves through the pipe under the influence of gravity in a given amount of time, thus reducing the flow capacity.

Actual average day existing flow for existing parcels on the project site is estimated at 488 gpd, based on metered data. The future predicted flow for the project area is 1,768 gpd for a mixed-use development or about 3.5 times the actual estimated existing flow. This indicates that the existing parcels are contributing less flow than modeled in the WWMP under build-out conditions, which is due to low and non-sewerage producing parcels (i.e. parking lots) within the project site, and generally that the existing structures are low sewer demand uses.

As stated above, and shown in Table 26, the Proposed Project would generate approximate 18,500 gallons per day (gpd) of wastewater. The 2007 Sewer Capacity Analysis assumed an average dry weather flow of 25,640 gallons per day and a peak dry weather flow of 76,920 gpd. The 2007 Sewer Capacity Analysis determined that, without the recommended capital improvements identified in the Wastewater Master Plan for the F Street Trunk and for reducing the direct impacts of storm runoff on the wastewater system of Tributary Area 4, there would continue to be Peak Wet Weather Flow capacity constraints. It should be noted that the 2007 Sewer Capacity Analysis included the addition of sewer flows from the Gallo Center for the Arts because that development was under construction during development of the WWMP.

Since January 2009, additional information has been provided to the City Land Development Department indicating a future reduction in Peak Wet Weather Flow for the related tributary area. The City of Modesto's Public Works Department "H" Street Reconstruction project calls for the removal of a direct storm water connection from the existing 8-inch sewer main in H Street. The net effect of the storm water disconnection and the Proposed Project development would result in an overall decrease in wastewater flow.[58] The H Street Reconstruction project improvements are

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57 Jim Alves, PE, Associate Civil Engineer, Final Sewer Capacity Analysis for 10th and H Street Project, October 17, 2007, page 3.

58 Charles L. Covolo, P.E., City of Modesto Land Development Engineering, written correspondence to David Wage, Associate Planner, March 27, 2009.

anticipated to be constructed sometime during the summer of 2009 and would be completed before the Proposed Project is constructed.

Based on the additional information and the proposed City capital project, the City has determined that there is sufficient wastewater capacity to allow for the development of the Proposed Project, if it is constructed before other projects using the same trunk line. Therefore, this impact would be ***less than significant.***

If other projects were to be constructed prior to the Proposed Project, then the sewer capacity would be reduced. Depending on the timing of the Proposed Project and construction of additional sewer improvements, there could be a period of time in which the sewer system did not have adequate capacity to serve all development. The Proposed Project would contribute to this potential cumulative sewer deficiency. The following mitigation measure would reduce this impact to a ***less-than-significant level*** by ensuring that sewer capacity is available for the Proposed Project and that the project pays its fair share toward required improvements.

Mitigation Measure 9

If project construction is delayed so that other new development using the same trunk lines proceeds the Proposed Project, the applicant shall demonstrate through engineering studies that wastewater conveyance infrastructure serving the site is adequate.

Regardless of timing of project construction relative to other projects, the proposed project will be required to pay its fair share toward sewer improvements through connection fees. If capacity is not available at the time of project construction, then the applicant would have two options. The project could fund and/or construct sewer improvements planned for the future, so that additional capacity would be available when the project is completed. If the costs of improvements funded or constructed by the project exceeded the project's connection fees, then the applicant would be eligible for some reimbursement. This approach would change the timing of improvements that are already planned to be constructed by the City. If the applicant chose not to advance needed improvements, the project could be delayed until the such improvements were completed by the City. In either case, sewer capacity would be in place prior to occupancy of the project.

c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

As discussed above under Item 8e, Hydrology and Water Quality, the Proposed Project would not substantially affect the amount of drainage flow contributed to the existing storm drainage system because the project site is already developed and highly impervious. This would be a ***less-than-significant impact.***

d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?

Water service in Modesto is provided by the City's municipal water supply system. The City owns and operates the Modesto drinking water system, nine smaller systems for the communities of Empire, Salida, Waterford, Hickman, Del Rio, Grayson, and Ceres, and three small systems in Turlock. The City derives drinking water from a combination of groundwater and surface water sources, which include approximately 120 groundwater wells, and the Modesto Regional Water Treatment Plant (MRWTP), which draws water from Modesto Reservoir located on the Tuolumne River 17 miles east of the city.[59] Surface water is provided by the Modesto Irrigation District (MID) through a Treatment and Delivery Agreement that began in 1992. A new TDA was signed with MID in 2005 to deliver an additional 30 mgd, upon completion of the MRWTP Phase Two.

Water consumption in Modesto fluctuates seasonally, with demand being lowest during the winter and highest during the summer. The City has an Urban Water Management Plan (UWMP), which identifies existing and long-term water supply sources, and describes the supply and conservation management programs through the year 2030, or until the city reaches projected build-out, which could vary slightly.

In 2005, the City obtained approximately 60% of its potable water from City-owned, City-operated wells.[60] The city overlies and draws water from two groundwater sub-basins: the Tuolumne River Groundwater Sub-basin (a.k.a. the Modesto Sub-basin), which serves the area north of the Tuolumne River, and the Turlock Groundwater Sub-basin, which serves the area south of the Tuolumne River. The City's estimated sustainable yield of groundwater is 45,625 acre-feet per yard (AFY) from the Tuolumne River Sub-basin, and 4,587 AFY from the Turlock Sub-basin. Sustainable yield is considered the amount of water pumped that does not contribute to overdrafting condition. However, the actual "sustainable yield" has not been determined.

The City pumped an average of approximately 45,500 AFY of groundwater from the Tuolumne River Sub-basin and up to 4,587 AFY from the Turlock Sub-basin during the 2000–2005 timeframe.[61] Groundwater levels had been declining in the Tuolumne River Sub-basin before 1995. Groundwater levels in the Modesto Sub-basin declined nearly 15 feet between 1970 and 2000. However, since augmenting the City's water supply with treated surface water from the MRWTP beginning in 1995, the City has observed that groundwater levels have started to rise as a result of reduced groundwater pumping. Water levels in the Turlock Sub-basin, similarly, rose about seven feet from 1994 to 2000. The rising water levels suggest that the groundwater subbasin has started to recover and that the current level of pumping in each subbasin is less than the previously assumed "safe yields" of the two subbasins.[62]

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59 City of Modesto Redevelopment Agency, *Modesto Redevelopment Master Plan Final Program Environmental Impact Report*, prepared by EDAW, September 2007, page 4.8-7.

60 RMC Water and Environment, *Joint Urban Water Management Plan 2005 Update*, prepared for the City of Modesto/Modesto Irrigation District, May 2007, page ES-6.

61 City of Modesto Redevelopment Agency, *Modesto Redevelopment Master Plan Final Program Environmental Impact Report*, prepared by EDAW, September 2007, page 4.8-8.

62 RMC Water and Environment, *Joint Urban Water Management Plan 2005 Update*, prepared for the City of Modesto/Modesto Irrigation District, May 2007, page ES-6.

Although the City has increased its groundwater pumping to meet growth demands, groundwater production rates are still less than historic highs, and overdraft conditions have not occurred in either subbasin.

Using historic groundwater level and pumping data from the past 25 years, the City of Modesto estimated an operational yield of 53,500 AFY for the Modesto water service area for use until a more accurate estimate of sustainable yield is available from the ongoing hydrogeologic studies and modeling. This operational yield, or ultimate amount of groundwater extraction, represents the amount of groundwater that can be extracted from the two groundwater subbasins without lowering groundwater levels below 40 feet ASL and potentially affecting long-term sustainability of the basin. Therefore, it can be assumed that the City of Modesto could potentially increase its annual groundwater extraction rates to volumes greater than are currently being pumped without adversely affecting the basin. However, the City's current operational capacity for groundwater production is limited by the reliable pumping capacity of its existing wells.[63]

Drought conditions can significantly reduce available surface water supplies. The reliability of the surface water supply is dependent on hydrologic variations and the ability to store and extract water from available storage reservoirs. River flows and the incidental recharge of applied irrigation water are the primary sources of groundwater recharge to the groundwater basin. Because drought conditions can reduce available groundwater supplies by reducing available recharge, groundwater is not entirely drought-resistant. However, dry year supply reductions are less pronounced for groundwater than for surface water supplies, and are not expected to result in a reduction in pumping in dry years. Rather, by using surface water in lieu of groundwater in normal years, the City of Modesto will bank groundwater supplies for use in meeting dry year demands.

The City of Modesto has elected to continue to diversify its water supply alternatives by developing additional surface water supplies to offset groundwater pumping. Phase Two of the MRWTP will provide an additional 33,602 AFY of surface water supplies to offset groundwater pumping to meet demands north of the Tuolumne River. Water demands in the City of Modesto and outlying areas is projected to grow to a buildout normal year demand of 133,313 AFY in 2030.[64]

The City of Modesto is converting to all metered water usage. Since 1991, meters have been installed for most new construction, but are not necessarily billed on a metered rate. Starting in 2005, the City of Modesto began retrofitting single-family flat-rate customers to meters at a rate of approximately 5,000 EDU per year. Based on the City's metering plan, existing single-family flat-rate customers will be gradually converted to meters once all non-metered flat-rate customers are converted to metered use.

As shown in Table 27, the Proposed Project is expected to generate a water demand of 22,380 gallons per day (25.1 AFY). The City of Modesto's future water supply planning incorporates

63 RMC Water and Environment, *Joint Urban Water Management Plan 2005 Update,* prepared for the City of Modesto/Modesto Irrigation District, May 2007, page ES-7.

64 RMC Water and Environment, *Joint Urban Water Management Plan 2005 Update,* prepared for the City of Modesto/Modesto Irrigation District, May 2007, page ES-10.

sufficient future surface water supplies to allow the City of Modesto to meet demands primarily through the use of surface water, banking groundwater for future and dry year use and protecting the basin from overdraft. Groundwater pumping would increase in dry years to meet any demands unmet by available surface water supplies.[65] Because there would be adequate water supply for the Proposed Project, this would be a ***less-than-significant impact***.

TABLE 27
PROPOSED PROJECT WATER DEMAND

Type of Use	Generation Rates[1]	Proposed Project	Water Demand (gals/day)
Residential	125 gals/day/resident	132 residents	16,500
Office	120 gals/day/1,000 ft	19,000 ft	2,280
Retail	120 gals/day/1,000 ft	30,000 ft	3,600
Total			**22,380**

1. Dennis E. Wilson, written communication to Linda Boston, City of Modesto, September 2007.

f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?

g) Comply with federal, state, and local statutes, and regulations related to solid waste?

Solid waste generated in Modesto is collected and hauled to interim transfer stations by three private firms. A fourth hauler hauls industrial waste. Solid waste generated in Modesto is disposed of at the Stanislaus Resource Recovery Facility (SRRF) located approximately 25 miles southwest of the city; the adjoining Fink Road Landfill; and 11 other landfills.[66]

The City disposes of approximately 30% of its solid waste by incineration through a waste-to-energy facility at the Stanislaus Resource Recovery Facility that is jointly owned by the City and the County. The Fink Road Landfill is currently at approximately 50% capacity with a projected closing date of 2023 and an overall capacity of 12 million cubic feet. The Stanislaus Resource Recovery Facility has an operating capacity of 800 tons per day, but has handled up to 1,300 tons per day and is planned to operate through 2036.[67] According to Landfill Division staff, out of the 1,300 tons disposed at the landfill, approximately 800 tons are burned in the incinerator, and the residue is disposed of in the landfill.[68]

The Proposed Project would increase the residential, retail, and office uses on the project site and would generate additional solid waste requiring disposal. As shown in Table 28, operation of the

65 RMC Water and Environment, *Joint Urban Water Management Plan 2005 Update*, prepared for the City of Modesto/Modesto Irrigation District, May 2007, page ES-14.

66 Modesto Redevelopment Agency, Modesto Redevelopment Master Plan Draft Program Environmental Impact Report, prepared by EDAW, June 2007, page 3-65.

67 Modesto Redevelopment Agency, Modesto Redevelopment Master Plan Final Program Environmental Impact Report, prepared by EDAW, September 2007, page 4.8-20.

68 Ron Grider, Landfill Manager, Stanislaus County Landfill Division, personal communication, October, 2007.

Proposed Project would generate 95.8 tons of solid waste per year. In addition, removal of the existing buildings on the project site would result in construction and demolition debris. The disposal location of the project's solid waste would depend on the waste haulers. Because there is existing capacity at the two most likely landfills, this would be a ***less-than-significant impact.***

TABLE 28
OPERATIONAL SOLID WASTE GENERATION
FOR THE PROPOSED PROJECT

Land Use	Generation Rate	Proposed Project	
		Units/Square Footage	Tons/year
Residential	0.46 tons/unit/yr (multi-family)	66	30.4
Office	1 lb/100 ft^2/day	19,000	34.7
Commercial	10.53 lb/employee/day	30,000	30.7
Total			**95.8**

Source: California Integrated Waste Management Board, *Estimated Solid Waste Generation Rates*, http://www.ciwmb.ca.gov/wastechar/wastegenrates/, accessed June 12, 2008.

Issues		Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
17.	**MANDATORY FINDINGS OF SIGNIFICANCE.**				
	a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	□	■	□	□
	b. Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	□	■	□	□
	c. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	□	■	□	□

Discussion

a) **Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?**

The Proposed Project is located in an urban area determined to have little habitat value. It was determined that potential impacts on biological resources would be ***less than significant.*** There are no known cultural resources on the project site. Mitigation Measures 2 and 3 would reduce impacts

to previously unknown cultural resources including human remains that could be discovered on the project site. Therefore, the impact would be ***less than significant with mitigation incorporated.***

b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

The Proposed Project could contribute to air quality degradation and noise, particularly during construction. The Proposed Project would not result in a considerable contribution to air quality impacts, including the generation of greenhouse gases. Potential noise and vibration impacts would be reduced to less-than-significant levels with implementation of Mitigation Measures 5 through 7. Implementation of Mitigation Measure 9 would reduce the project's contribution to potential cumulative, temporary short-falls in the capacity of the wastewater conveyance system that would serve the Proposed Project. Although, the project's contribution to cumulative impacts would be considerable, the cumulative impacts of the project would be ***less than significant*** after mitigation.

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

As discussed throughout this Checklist, potential impacts on human beings that could occur as a result of the Proposed Project are less than significant or could be reduced to ***less-than-significant*** levels with mitigation.

RESPONSE TO COMMENTS
EA/C&ED NO. 2009-03: 10th AND H MIXED-USE PROJECT (PDZ-08-004)

I. LIST OF RECIPIENTS

The Draft Initial Study/Mitigated Negative Declaration (IS/MND) was routed to State Clearing House and other various agencies for a 30-day public review period from May 1, 2009 through June 1, 2009. The following is a list of all agencies and individuals who received notice of the Draft IS/MND:

- Department of Transportation (Caltrans) District No. 10
- Department of Fish and Game Region No. 4
- State Office of Historic Preservation
- San Joaquin Valley Air Pollution Control District
- Stanislaus Area Council of Governments
- Modesto City Schools/ Planning Division
- Stanislaus County Department of Environmental Resources
- Stanislaus County Environmental Review Committee
- Public Utilities Commission
- Native American Heritage Commission
- Department of Toxic Substances Control
- Regional Water Quality Control Board, Region No. 5
- Integrated Waste Management Board
- California Highway Patrol
- Department of Water Resources
- Department of Parks and Recreation
- Natural Resources Agency

II. RESULTS OF PUBLIC REVIEW

One letter was received within the above-identified public review and comment period and one letter was received three days following the close of the review and comment period. Copies of the letters and City responses to all comments in each of the letters are presented in the following pages. None of the letters raised new significant environmental issues that had not been discussed and mitigation provided at the time the Draft IS/MND was released for public review. No modifications were required to the document in response to comments received and no new avoidable significant effect was identified or mitigation measures added. Therefore, pursuant to CEQA Section 15073.5, recirculation of the IS/MND is not required as no substantial revision was made to the Draft document following the public review and comment period. Based upon the evidence presented in the Initial Study, and in recognition of the two letters of comment received on the Draft IS/MND, the findings in the Planning Commission Resolution for adoption of the Mitigated Negative Declaration can be made.

San Joaquin Valley
AIR POLLUTION CONTROL DISTRICT

RECEIVED
JUN 02 2009
C & ED PLANNING

June 1, 2009

David Wage
City of Modesto
Community and Economic Development- Planning Division
P.O. Box 642, 1010 Tenth Street
Third Floor
Modesto, CA 95353

Project: Proposed Rezone to Planned Development for 10th & H Street Mixed Use Project

District Reference No: 20090287

Dear Mr. Wage:

The San Joaquin Valley Unified Air Pollution Control District (District) has reviewed the Draft Mitigated Negative Declaration for the proposed 10th & H Street Mixed Use Project. The proposed project would include 66 residential units, 30,000 square feet of commercial space, 19,000 square feet of office space, 16,000 square feet of storage, and approximately 360 parking spaces. The District offers the following comments:

District Comments

1) The District's review of the project concludes that the project is expected to have a less than significant adverse impact on air quality.

   The proposed project is subject to District Rule 9510 (Indirect Source Review). District Rule 9510 is intended to mitigate a project's impact on air quality through project design elements or by payment of applicable off-site mitigation fees. Any applicant subject to District Rule 9510 is required to submit an Air Impact Assessment (AIA) application to the District no later than seeking final discretionary approval, and to pay any applicable off-site mitigation fees before issuance of the first building permit. If approval of the subject project constitutes the last discretionary approval by your agency, the District recommends that demonstration

Seyed Sadredin
Executive Director/Air Pollution Control Officer

Northern Region
4800 Enterprise Way
Modesto, CA 95356-8718
Tel: (209) 557-6400 FAX: (209) 557-6475

Central Region (Main Office)
1990 E. Gettysburg Avenue
Fresno, CA 93726-0244
Tel: (559) 230-6000 FAX: (559) 230-6061

Southern Region
34946 Flyover Court
Bakersfield, CA 93308-9725
Tel: (661) 392-5500 FAX: (661) 392-5585

www.valleyair.org

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of compliance with District Rule 9510, including payment of all applicable fees, be made a condition of the project's approval.

2) The proposed project may require District permits. Prior to the start of construction the project proponent should contact the District's Small Business Assistance Office at (559) 230-5888 to determine if an Authority to Construct (ATC) is required.

3) The proposed project may be subject to the following District rules: Regulation VIII, (Fugitive PM10 Prohibitions), Rule 4102 (Nuisance), Rule 4601 (Architectural Coatings), and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations). In the event an existing building will be renovated, partially demolished or removed, the project may be subject to District Rule 4002 (National Emission Standards for Hazardous Air Pollutants).

   The above list of rules is neither exhaustive nor exclusive. To identify other District rules or regulations that apply to this project or to obtain information about District permit requirements, the applicant is strongly encouraged to contact the District's Small Business Assistance Office at (559) 230-5888. Current District rules can be found online at: www.valleyair.org/rules/1ruleslist.htm.

District staff is available to meet with you and/or the applicant to further discuss the regulatory requirements that are associated with this project. If you have any questions or require further information, please call Mark Montelongo at (559) 230-5905 and provide the reference number at the top of this letter.

Sincerely,

David Warner
Director of Permit Services

Mark Montelongo

for: Arnaud Marjollet
Permit Services Manager

DW: mm

RESPONSE TO SAN JOAQUIN VALLEY AIR POLUTION CONTROL DISTRICT, RECEIVED JUNE 2, 2009

Comment No. 1:

As required by law, the project shall comply with District Rule 9150, which requires the applicant to submit an Air Impact Assessment application to the District prior to City Council Approval and pay any applicable off-site mitigation fees before issuance of a building permit.

Comment No. 2:

All necessary District permits shall be obtained prior to start of construction.

Comment No. 3:

As required by law, the project shall comply with all District Rules.

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF TRANSPORTATION
P.O. BOX 2048 STOCKTON, CA 95201
(1976 E. CHARTER WAY/1976 E. DR. MARTIN
LUTHER KING JR. BLVD. 95205)
TTY: California Relay Service (800) 735-2929
PHONE (209) 941-1921
FAX (209) 948-7194

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June 4, 2009

10-STA-132-PM L15.0
Notice of Intent to Adopt a Mitigated Neg Dec
10th & H Mixed Use - City of Modesto
State Clearinghouse No. 2009052001

Mr. David Wage
Associate Planner
City of Modesto
Tenth Street Place/Third Floor
P. O. Box 642
Modesto, CA 95353

Dear Mr. Wage:

The California Department of Transportation (Caltrans) appreciates the opportunity to review and comment on the above subject project located on the south corner of 10th and H Streets. This project is for a seven-story, mixed use building. Caltrans has the following comments:

Traffic Operations

- The lead agency should be responsible in implementing and assessing the mitigation to address the potential traffic impacts. All mitigation fees should address impacts to State Highway System and mainline in closest proximity to the project.

If you have any questions, please contact Janet P. Jaramillo at (209) 942-6022 (email: jjaramil@dot.ca.gov) or me at (209) 941-1921. We look forward to continuing to work with you in a cooperative manner.

Sincerely,

Janet P. Jaramillo

for TOM DUMAS, Chief
Office of Metropolitan Planning

c: Scott Morgan, State Clearinghouse

RESPONSE TO CALTRANS DISTRICT 10, RECEIVED JUNE 4, 2009

Comment No. 1:
The Traffic Impact Analysis studied impacts to State facilities closest to the project, SR 99 and SR 132. No significant impacts were identified and therefore no mitigation measures are necessary.

MODESTO 10TH AND H STREETS PROJECT
MITIGATION MONITORING AND REPORTING PROGRAM
MAY 2009

Introduction

In accordance with CEQA Guidelines § 15097, to ensure implementation of mitigation measures identified in the Initial Study as included in the project and those imposed as conditions of approval by the lead agency, a program for monitoring or reporting (Mitigation Monitoring and Reporting Program (MMRP) must be adopted. Until mitigation measures are completed, the lead agency remains responsible for ensuring that implementation occurs in accordance with the program.

The attached MMRP lists the project mitigation measures that will be implemented for the Modesto 10th and H Streets Project. It identifies who is responsible for implementation of the mitigation measure and the necessary steps, or actions, to complete it. The MMRP describes how the measure will be monitored, who is responsible for the monitoring, and presents a schedule of when the mitigation is to be implemented.

Modesto 10 and H Streets Project Mitigation Monitoring and Reporting Program				
Mitigation Measure	**Mitigation Responsibility**	**Monitoring Actions**	**Monitoring / Reporting Responsibility**	**Schedule**
3. Air Quality				
1 Wood stoves shall be prohibited within the Proposed Project.	Developer	Demonstrate that the project design does not include wood stoves.	Building Safety	Prior to issuance of a building permit
5. Cultural Resources				
2(a) In the event that any prehistoric or historic subsurface archeological features or deposits, including locally darkened soil ("midden"), that could conceal cultural deposits, animal bone, obsidian, and/or mortar, are discovered during construction-related earth-moving activities, all work within 50 feet of the resource shall be halted and the City shall consult with a qualified archeologist or paleontologist to assess the significance of the find. If the find is determined to be significant by the qualified archaeologist/paleontologist, then representatives of the City and the qualified archaeologist/ paleontologist shall meet to determine the appropriate course of action, consistent with General Plan Policy VII-F.2(g).	Developer Developer Construction Contractor	Include specifications of Mitigation Measure 2a in contractor's contract. Confirm that qualified archeologist has been hired to monitor all grading and excavation. Implement recommendations of archaeologist	Land Development Engineering Division Planning Division Planning Division	Prior to issuance of a grading permit and/or excavation Upon discovery of archaeological resources Upon receipt of recommendations
2(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, fossils or other cultural materials from the project area.	Developer	Include specifications of Mitigation Measure 2b in contractor's contract.	Land Development Engineering Division	Prior to issuance of a grading permit
2(c) If paleontological resources are discovered, a qualified paleontologist shall evaluate the resource and	Developer	Include specifications of Mitigation Measure 2c in	Land Development	Prior to issuance of a grading permit

Modesto 10 and H Streets Project Mitigation Monitoring and Reporting Program				
Mitigation Measure	**Mitigation Responsibility**	**Monitoring Actions**	**Monitoring / Reporting Responsibility**	**Schedule**
prepare a mitigation plan in accordance with Society of Vertebrate Paleontology guidelines. The mitigation plan may include a field survey of additional construction areas, sampling and data recovery procedures, museum storage coordination for any specimen recovered, and a report of findings. Recommendations determined by the City to be necessary and feasible shall be implemented before construction activities can resume.		contractor's contract.	Engineering Division	and/or excavation
	Developer	Confirm that qualified paleontologist has been hired to evaluate the resource and prepare mitigation plan.	Planning Division	Upon discovery of paleontological resources
	Construction Contractor	Implement recommendations of archaeologist	Planning Division	Upon receipt of recommendations
3(a) During all phases of project construction, and prior to any ground disturbance, the project applicant or developer shall notify contractors that they are required to watch for human remains.	Developer	Include specifications of Mitigation Measure 3a in Contractor's contract	Land Development Engineering Division	Prior to issuance of a grading permit
3(b) In the event of the discovery of a burial, human bone, or suspected human bone, all excavation or grading in the vicinity of the find shall halt immediately and the area of the find shall be protected and the contractor shall immediately notify the County Coroner of the find and comply with the provisions of Cal. Health and Safety Code Section 7050.5, and Cal. Public Resources Code Section 5097.98, if applicable. If human remains are identified, the project sponsor shall also retain a Native American monitor from the appropriate Native American Tribe(s) as determined by the Native American Heritage Commission. No further disturbance of the site may be made except as	Construction Contractor	If human bone is found, contact the County Coroner, as indicated in Mitigation Measure 3(b).	Land Development Engineering Division	During grading and excavation upon discovery of human remains

Modesto 10 and H Streets Project Mitigation Monitoring and Reporting Program				
Mitigation Measure	**Mitigation Responsibility**	**Monitoring Actions**	**Monitoring / Reporting Responsibility**	**Schedule**
authorized by the County Coroner. The Coroner shall make the determination within two working days from the time the person responsible for the excavation, or authorized representative, notifies the Coroner of the discovery or recognition of the human remains.				
7. Hazards and Hazardous Materials				
4(a) Prior to approval of Improvement Plans, a Phase 1 Environmental Site Assessment shall be prepared for parcels 104-042-005 (713 10th Street) and 104-042-007 (701 10th Street, the former bus station). The recommendations of the Phase 1 ESA will be fully implemented prior to construction of the project.	Developer Developer	Contract for the preparation of a Phase 1 Environmental Site Assessment, as outlined in Mitigation Measure 4(a). Implement recommendations of the Phase 1 Assessment.	Land Development Engineering Division Land Development Engineering Division	Prior to approval of Improvement Plans Prior to issuance of a grading permit
4(b) Prior to approval of Improvement Plans, a geotechnical investigation for the entire project site will be undertaken to determine whether any underground storage tanks are present. If such tanks are present, they shall be removed, and any associated soil contamination shall be remediated prior to onset of project grading or excavation.	Developer Developer	Contract with a qualified professional for the preparation of a geotechnical investigation, as outlined in Mitigation Measure 4(b). Implement recommendations of the Geotechnical Report.	Land Development Engineering Division Land Development Engineering Division	Prior to approval of Improvement Plans Prior to issuance of a grading permit

Modesto 10 and H Streets Project Mitigation Monitoring and Reporting Program				
Mitigation Measure	**Mitigation Responsibility**	**Monitoring Actions**	**Monitoring / Reporting Responsibility**	**Schedule**
4(c) Where any activity would be performed at a contaminated site or where hazardous materials are suspected, a project-specific Health and Safety Plan shall be prepared prior to any site work. The Health and Safety Plan shall be prepared by the contractor(s) and filed with the City and regulatory agencies, as required. The Plan shall include required worker health and safety provisions for all workers potentially exposed to contaminated materials at the site, identification of hazardous materials present, monitoring to be performed during site activities, required training for workers, identification of appropriate personal protective equipment and emergency response procedures, and designation of personnel responsible for Plan implementation.	Developer Construction Contractor	If Phase 1 ESA indicates that hazardous materials could be present, contract with a qualified professional to prepare a Health and Safety Plan, as outlined in Mitigation Measure 4(c). Follow the recommendations of the Health and Safety Plan.	Building Safety and Land Development Engineering Division Building Safety	Prior to issuance of a grading or building permit, whichever occurs first During project construction
4(d) The contractor(s) shall prepare a Waste Disposal and Hazardous Materials Transportation Plan prior to construction activities where hazardous wastes or materials requiring off-site disposal would be generated. The Plan shall include a description of analytical methods for characterizing wastes and handling methods required to minimize the potential for exposure and shall establish procedures for the safe storage of contaminated materials and stockpiling of soils, as required. The required disposal method for contaminated materials (e.g., lead-based paint, asbestos, other hazardous materials requiring disposal) and the approved disposal site shall be indicated in the Plan. The Plan shall also identify specific routes to be used for transport of hazardous materials and waste to and	Developer Construction Contractor	Contract with a qualified professional to prepare a Waste Disposal and Hazardous Materials Transportation Plan, as outlined in Mitigation Measure 4(d). Follow the recommendations of the Waste Disposal and Hazardous Material Transportation Plan	Land Development Engineering Division Building Safety	Prior to issuance of grading permit During project construction

Modesto 10 and H Streets Project Mitigation Monitoring and Reporting Program				
Mitigation Measure	**Mitigation Responsibility**	**Monitoring Actions**	**Monitoring / Reporting Responsibility**	**Schedule**
from the project site, or specific routes to be avoided during transport. Routes shall be selected to minimize proximity to sensitive receptors to the greatest practical degree. Elements of the Plan regarding transportation of hazardous materials and wastes shall be reviewed and approved by the City Fire Department.				
4(e) In the event that previously unidentified contamination is encountered (e.g., identified by odor or visual staining) during soil disturbing activities, or any underground storage tanks, abandoned drums, or other hazardous materials or wastes are encountered during construction, the contractor(s) shall immediately notify the City, and the City shall then notify the County. The contractor(s) shall have prepared a Contingency Plan for Sampling and Analysis of potentially hazardous substances and coordination with appropriate regulatory agencies. The Plan shall be submitted to the City prior to soil disturbing activities. Any site investigations or remedial activities shall be performed in accordance with applicable laws under the direction of a regulatory agency and the City, in accordance with Mitigation Measures 4(c) and 4(d).	Developer Construction Contractor Community and Economic Development Department Construction Contractor	Include provisions of Mitigation Measure 4(e) in contractor's contract. Notify the City if and when contamination is found. Notify the County if and when contamination is found. Follow the recommendations of the Contingency Plan for Sampling and Analysis.	Land Development Engineering Division and Building Safety Land Development Engineering Division and Building Safety Land Development Engineering Division and Building Safety Land Development Engineering Division and	Prior to issuance of a building or grading permit, whichever occurs first If and when contamination is discovered. If and when contamination is discovered. After contamination is discovered and before construction

Modesto 10 and H Streets Project Mitigation Monitoring and Reporting Program				
Mitigation Measure	**Mitigation Responsibility**	**Monitoring Actions**	**Monitoring / Reporting Responsibility**	**Schedule**
			Building Safety	recommences.
11. Noise				
5(a) Erect a solid 8-foot-tall plywood construction/noise barrier along the exposed project boundaries. The barrier shall not contain any significant gaps at its base or face, except for site access and surveying openings.	Construction Contractor	Erect a construction/noise barrier, per Mitigation Measure 5(a)	Land Development Engineering and Building Safety	Prior to onset of grading or construction
5(b) Comply with the City of Modesto Noise Ordinance and General Plan Policy Vii-G.3(a). Demolition and pile-driving activities shall be coordinated with adjacent land uses in order to minimize potential disturbance of planned activities.	Developer	Include the provisions of Measure 5(b) in contractor contract	Building Safety	Prior to issuance of a demolition or building permit, whichever occurs first
	Construction Contractor	Inspect the site during construction to ensure that provisions are being followed	Building Safety	Periodically during construction
5(c) If pile driving occurs, pile holes shall be pre-drilled to the maximum feasible depth. This would reduce the number of blows required to seat the pile, and would concentrate the pile driving activity closer to the ground where noise can be attenuated more effectively by the construction/noise barrier.	Developer	Include the provisions of Measure 5(c) in contractor contract	Building Safety	Prior to issuance of a building permit
	Construction Contractor	Inspect the site during construction to ensure that provisions are being followed	Building Safety	During pile driving
5(d) Locate fixed construction equipment such as compressors and generators as far as possible from	Developer	Include the provisions of Measure 5(d) in	Building Safety	Prior to issuance of a building permit

Modesto 10 and H Streets Project Mitigation Monitoring and Reporting Program				
Mitigation Measure	**Mitigation Responsibility**	**Monitoring Actions**	**Monitoring / Reporting Responsibility**	**Schedule**
sensitive receptors. Shroud or shield all impact tools, and muffle or shield all intake and exhaust ports on power construction equipment.	Construction Contractor	contractor contract Inspect the site during construction to ensure that provisions are being followed	Building Safety	During grading and construction
5(e) Designate a disturbance coordinator and conspicuously post this person's number around the project site and in adjacent public spaces. The disturbance coordinator would receive all public complaints about construction noise disturbances and would be responsible for determining the cause of the complaint, and implement any feasible measures to be taken to alleviate the problem.	Developer	Include the provisions of Measure 5(e) in contractor contract	Building Safety	Prior to issuance of a building permit
6(a) Construct a solid roof line screen barrier 5 feet in height to shield the third floor courtyard area from traffic and railroad noise. The barrier shall be continuous along the roof line without significant gaps or openings that would compromise the acoustical performance of the barrier. The barrier shall be constructed of a solid material that blocks airflow to the full 5 foot height. Appropriate materials include concrete, masonry, various steel and glass panels (depending on stiffness and thickness). The acoustical screen shall be reviewed by an acoustical consultant prior to construction.	Developer	Demonstrate that project design includes the screen barrier as described in Measure 6(a)	Planning Division	Prior to issuance of a building permit
6(b) All residential units facing 9th Street or H Street shall be constructed with materials that will achieve an interior noise level of 45 dB L_{dn} or less.	Developer	Demonstrate that project design will achieve an interior noise level of 45	Building Safety	Prior to issuance of a building permit

Modesto 10 and H Streets Project Mitigation Monitoring and Reporting Program				
Mitigation Measure	**Mitigation Responsibility**	**Monitoring Actions**	**Monitoring / Reporting Responsibility**	**Schedule**
		dB L_{dn}		
7(a) Implement Mitigation Measures 5(a) and 5(c) above.	See 5(a) and 5(c) above			
7(b) If pile driving occurs, provide protective coverings or temporary shoring of on-site or adjacent historic features as necessary, in consultation with the Preservation Director.	Developer	Include the provisions of Measure 7(b) in contractor contract	Building Safety	Prior to issuance of a building permit, if pile driving to occur
	Construction Contractor	Consult with City Preservation Director	City Preservation Director	Prior to onset of pile driving activities
7(c) If pile driving occurs, the pre-existing condition of all buildings within a 50-foot radius would be recorded in order to evaluate damage from construction activities. Fixtures and finishes within a 50-foot radius of construction activities susceptible to damage shall be documented (photographically and in writing) prior to construction. All damage shall be repaired back to its pre-existing condition.	Developer	Include the provisions of Mitigation Measure 7(c) in contractor's contract and pay for recordation of buildings.	Building Safety	Prior to issuance of a building permit, if pile driving to occur
	Construction Contractor	Repair any damage to adjacent buildings, as necessary.	City Preservation Director	Following any pile driving activities
7(d) If pile driving occurs and fire sprinkler failures are reported in surrounding buildings to the disturbance coordinator, the contractor shall provide monitoring during construction and repairs to sprinkler systems shall be provided.	Developer	Include the provisions of Measure 7(d) in contractor contract	Building Safety	Prior to issuance of a building permit, if pile driving to occur
	Construction Contractor	Monitor and repair sprinkler systems if any damage occurs	Building Safety	Following any report of sprinkler failures
7(e) Should damage occur despite the above mitigation measures, construction operations shall be halted and	Developer	Include the provisions of Mitigation Measure 7(e)	Building Safety	Prior to issuance of a building

Modesto 10 and H Streets Project Mitigation Monitoring and Reporting Program				
Mitigation Measure	**Mitigation Responsibility**	**Monitoring Actions**	**Monitoring / Reporting Responsibility**	**Schedule**
the problem activity shall be identified. A qualified engineer shall establish vibration limits based on soil conditions and the types of buildings in the immediate area. The contractor shall monitor the buildings throughout the remaining construction period and follow all recommendations of the qualified engineer to repair any damage that has occurred to the pre-existing state, and to avoid any further structural damage.	Construction Contractor	in contractor's contract. Monitor buildings and implement engineer recommendations, per Mitigation Measure 7(e)	Building Safety	permit, if pile driving to occur Upon evidence of damage due to pile driving
15. Transportation/Traffic				
8 The City shall monitor future traffic volumes and compare against current forecast. If background traffic volumes increase as forecast, parking shall be prohibited on each street in advance of the G Street and H Street alleys in order to provide deceleration opportunities and to increase sight distance for emerging traffic.	Community and Economic Development Department Community and Economic Development Department	Monitor traffic volumes at the G Street and H Street alleys. Restripe and sign G Street and H Street in advance of the alleys to provide adequate deceleration and sight distance for emerging traffic	City Traffic Engineer City Traffic Engineer	Annually after project completion As warranted based on traffic volumes
16. Utilities and Service Systems				
9 If project construction is delayed so that other new development using the same trunk lines precedes the Proposed Project, the applicant shall demonstrate through engineering studies that wastewater conveyance infrastructure serving the site is adequate.	Developer	Demonstrate that wastewater conveyance study is adequate	Land Development Engineering Division	If and when project is delayed, and other projects using the same infrastructure have been constructed

Modesto 10 and H Streets Project Mitigation Monitoring and Reporting Program				
Mitigation Measure	**Mitigation Responsibility**	**Monitoring Actions**	**Monitoring / Reporting Responsibility**	**Schedule**
	Developer	Delay project occupancy until sewer improvements needed to provide capacity are implemented. Developer may choose to advance fund and/or construct needed improvements	Land Development Engineering Division	Prior to issuance of a building permit

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-569

A RESOLUTION ADOPTING A MITIGATED NEGATIVE DECLARATION AND A MITIGATION MONITORING AND REPORTING PROGRAM (SCH NO. 2009052001): AMENDING SECTION 32-3-9 OF THE ZONING MAP TO REZONE FROM GENERAL COMMERCIAL, C-2, TO PLANNED DEVELOPMENT ZONE, P-D(590), PROPERTY LOCATED ON THE SOUTHWEST SIDE OF 10th STREET BETWEEN G AND H STREETS. (PAUL B. DRAPER)

WHEREAS, a verified application for an amendment to Section 32-3-9 of the Zoning Map was filed by Paul B. Draper on December 19, 2008, to rezone from C-2, to Planned Development Zone, P-D(590), to allow a seven-story mixed use development that includes commercial space, professional office space, residential units and parking, property located on the southwest side of 10th Street between G and H Streets, and

WHEREAS, Section 15070 of the CEQA Guidelines relating to Initial Study/Mitigated Negative Declaration (EA/C&ED No. 2007-01) provides for a lead agency to prepare an Initial Study on any proposed project to analyze whether the project may cause any significant effect on the environment, and

WHEREAS, the City of Modesto Department of Community and Economic Development has prepared an Initial Study/Mitigated Negative Declaration as provided for by CEQA, and

WHEREAS, a 30-day public review period for the proposed Initial Study/ Mitigated Negative Declaration began on May 1, 2009 and ended on June 1, 2009, and

WHEREAS, the City received public comments on the draft Initial Study/Mitigated Negative Declaration and no changes to the document were necessary as a result, and

WHEREAS, the Mitigation Monitoring Plan (MMP) is included and described within the Initial Study/Mitigated Negative Declaration, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on December 1, 2009, 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 (SCH No. 2009052001), Environmental Assessment No. EA/C&ED 2009-03 and Mitigation Monitoring and Reporting Program prepared for the 10th and H Mixed Use Project, a copy of which is **attached** hereto as **Exhibit "A"**, and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. The Initial Study/Mitigated Negative Declaration prepared for the proposed project has identified potentially significant environmental effects;

2. Before the Initial Study/Mitigated Negative Declaration was released for public review, feasible mitigation measures were made by or agreed to by the applicant, which will avoid or mitigate the effects to a point where clearly no significant effect will occur;

3. There is no substantial evidence, in light of the whole record before the public agency, that the project, as revised, may have a significant effect on the environment (Public Resources Code Section 21064.5(2));

4. The Initial Study/Mitigated Negative Declaration reflects the independent judgment of the lead agency;

5. As required by Public Resources Code Section 21081.6 et seq., the Mitigation Monitoring and Reporting Program is hereby adopted, a copy of which is on file with the City Clerk;

6. The Initial Study, Environmental Assessment No. EA/C&ED 2009-03, provides the substantial evidence to support findings 1-5, noted above.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of December, 2009, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

Initial Study & Mitigation Monitoring and Reporting Program

EA/C&ED No. 2009-03

Attachment included with Reso 2009-568

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-570

A RESOLUTION APPOINTING LEE HEDGEPATH 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 Advisory Board met on November 18, 2009 and recommended appointment of Lee Hedgepath to the Downtown Improvement Advisory Board.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. Lee Hedgepath is hereby appointed to the Downtown Improvement Advisory Board 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 Downtown Improvement Advisory Board, and the Secretary thereof.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 14th day of December, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-571

A RESOLUTION REAPPOINTING TED BRANDVOLD 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 November 24, 2009, and recommended reappointment of Ted Brandvold to the Planning Commission.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. Ted Brandvold is hereby reappointed to the Planning Commission 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 Modesto Planning Commission, and the Secretary thereof.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 14th day of December, 2009, by Councilmember Marsh, 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:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-572

A RESOLUTION APPOINTING JASON McCOY 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 November 24, 2009, and recommended appointment of Jason McCoy to the Planning Commission.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. Jason McCoy is hereby appointed to the Planning Commission 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 appointed member of the Modesto Planning Commission, and the Secretary thereof.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 14th day of December, 2009, by Councilmember Marsh, 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:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-573

A RESOLUTION REAPPOINTING WILL GROVER 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 November 24, 2009, and recommended reappointment of Will Grover to the Board of Zoning Adjustment.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. Will Grover is hereby reappointed to the Planning Commission 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 appointed member of the Modesto Board of Zoning Adjustment, and the Secretary thereof.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 14th day of December, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-574

A RESOLUTION REAPPOINTING RYAN SWEHLA 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 November 24, 2009, and recommended reappointment of Ryan Swehla to the Board of Zoning Adjustment.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. Ryan is hereby reappointed to the Planning Commission 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 appointed member of the Modesto Board of Zoning Adjustment, and the Secretary thereof.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 14th day of December, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO: 2009-575

A RESOLUTION ACCEPTING THE ANNUAL REPORT FOR THE FISCAL YEAR ENDING JUNE 30, 2009 FOR THE REDEVELOPMENT AGENCY OF THE CITY OF MODESTO

WHEREAS, pursuant to Health & Safety Code Section 33080, the Agency is required to submit prior to December 31st of each calendar year an Annual Report to the State Controller containing the following documents:

1. State Controller's Report
2. Housing and Community Development Report
3. Blight Progress Report
4. Loan Report
5. Property Report
6. Statement of Indebtedness

which are **attached** hereto as **Exhibit "A"**, and made a part hereof by this reference, and

WHEREAS, pursuant to Health & Safety Code Section 33080, the Agency is required to present the Annual Report to its legislative body, and

WHEREAS, the legislative body is defined in Health & Safety Code Section 33007 as the City Council, and

WHEREAS, this Annual Report was approved by the City Council at its regular meeting on December 14, 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Annual Report for the Redevelopment Agency of the City of Modesto for the Fiscal Year ending June 30, 2009 is hereby accepted.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto, held on the 14th day of December, 2009, by Council Member Lopez, who moved its adoption, which motion being duly seconded by Council Member Hawn, was upon roll call carried and the resolution adopted by the following votes:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, 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 Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

General Information

Fiscal Year: 2009

Members of the Governing Body

	Last Name	First Name	Middle Initial
Chairperson	Ridenour	Jim	
Member	Lopez	Dave	
Member	Hawn	Brad	
Member	Keating	Janice	
Member	Marsh	Garrad	
Member	O Bryant	Will	
Member	Olsen	Kristin	
Member			
Member			
Member			

Mailing Address

Street 1: P.O. Box 642
Street 2:
City: Modesto State: CA Zip: 95354-
Phone: (209) 571-5566 ☒ Is Address Changed?

Agency Officials

	Last Name	First Name	Middle Initial	Phone
Executive Director	Nyhoff	Greg		(209) 577-5221
Fiscal Officer	Miguel	Jim		(209) 577-5371
Secretary	Lopez	Stephanie		(209) 577-5398

	Report Prepared By	Independent Auditor
Firm Name		Maze and Associates
Last	Fraser	Meyer
First	Donald	Amy
Middle Initial	J	
Street	225 Holmfirth Court	3478 Buskirk Ave., Suite 215
City	Roseville	Pleasanton
State	CA	CA
Zip Code	95661-	94523-
Phone	(916) 791-8958	(925) 930-0902

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Assessed Valuation Data

Fiscal Year 2009

Project Area Name	Community Center Project Area
Frozen Base Assessed Valuation	561,273,363
Increment Assessed Valuation	588 663,448
Total Assessed Valuation	1,149 936,811

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Audit Information

Fiscal Year 2009

Was the Report Prepared from Audited Financial Data, and Did You Submit a Copy of the Audit?	Yes	If compliance opinion includes exceptions, state the areas of non-compliance, and describe the agency's efforts to correct
Indicate Financial Audit Opinion	Unqualified	
If Financial Audit is not yet Completed, What is the Expected Completion Date?		
If the Audit Opinion was Other than Unqualified, State Briefly the Reason Given		
Was a Compliance Audit Performed in Accordance with Health and Safety Code Section 33080.1 and the State Controller's Guidelines for Compliance Audits, and Did You Submit a Copy of the Audit?	Yes	
Indicate Compliance Audit Opinion	Unqualified	
If Compliance Audit is not yet Completed, What is the Expected Completion Date?		

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Project Area Report

Fiscal Year 2009 **Project Area Name** Community Center Project Area

Please Provide a Brief Description of the Activities for this Project Area During the Reporting Year.

Activity Report

Forwarded from Prior Year ?	Yes
Enter Code for Type of Project Area Report	P

P = Standard Project Area Report
L = Low and Moderate Income Housing Fund
O = Other Miscellaneous Funds or Programs
A = Administrative Fund
M = Mortgage Revenue Bond Program
S = Proposed (Survey) Project Area

Does the Plan Include Tax Increment Provisions?	Yes
Date Project Area was Established *(MM-DD-YY)*	7/6/1982
Most Recent Date Project Area was Amended	11/5/1991
Did this Amendment Add New Territory?	Yes
Most Recent Date Project Area was Merged	
Will this Project Area be Carried Forward to Next Year?	Yes
Established Time Limit :	
Repayment of Indebtedness *(Year Only)*	2041
Effectiveness of Plan *(Year Only)*	2022
New Indebtedness *(Year Only)*	2011
Size of Project Area in Acres	2.000
Percentage of Land Vacant at the Inception of the Project Area *Health and Safety Code Section 33320.1 (xx.x%)*	4.5
Percentage of Land Developed at the Inception of the Project Area *Health and Safety Code Section 33320.1 (xx.x%)*	95.5
Objectives of the Project Area as Set Forth in the Project Area Plan *(Enter the Appropriate Code(s) in Sequence as Shown)*	RICPO

R = Residential I = Industrial C = Commercial P = Public O = Other

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Assessed Valuation Data

Fiscal Year 2009

Project Area Name	Community Center Project Area
Frozen Base Assessed Valuation	561,273,363
Increment Assessed Valuation	588,663,448
Total Assessed Valuation	1,149,936,811

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Pass-Through / School District Assistance

Fiscal Year 2009

Project Area Name Community Center Project Area

Amounts Paid To Taxing Agencies Pursuant To.	Tax Increment Pass Through Detail				Other Payments	
	H & S Code Section 33401	H & S Code Section 33676	H & S Code Section 33607	Total	H & S Code Section 33445	H & S Code Section 33445.5
County	578,677			$578,677		
Cities				$0		
School Districts	706,795			$706,795		
Community College District				$0		
Special Districts				$0		
Total Paid to Taxing Agencies	$1,285,472	$0	$0	$1,285,472	$0	$0
Net Amount to Agency				$4,943,162		
Gross Tax Increment Generated				6,228,634		

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Summary of the Statement of Indebtedness - Project Area

Fiscal Year	2009
Project Area Name	Community Center Project Area
Tax Allocation Bond Debt	
Revenue Bonds	58,986,636
Other Long Term Debt	405,000
City/County Debt	72,199,917
Low and Moderate Income Housing Fund	59,449,773
Other	107,677,202
Total	$298,718,578
Available Revenues	1,977,050
Net Tax Increment Requirements	$296,741,528

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Agency Long-Term Debt

Fiscal Year 2009

Project Area Name Community Center Project Area

Forward from Prior Year	Yes
Bond Type	Certificates of Participation
Year of Authorization	1993
Principal Amount Authorized	27,225,000
Principal Amount Issued	27,225,000
Purpose of Issue	Community Center
Maturity Date Beginning Year	1993
Maturity Date Ending Year	2023
Principal Amount Unmatured Beginning of Fiscal Year	$19,935,000
Adjustment Made During Year	
Adjustment Explanation	
Interest Added to Principal	
Principal Amount Issued During Fiscal Year	
Principal Amount Matured During Fiscal Year	935,000
Principal Amount Defeased During Fiscal Year	
Principal Amount Unmatured End of Fiscal Year	$19,000,000
Principal Amount In Default	
Interest In Default	

Bond Types Allowed:

Tax Allocation Bonds; Revenue Bonds; Certificates of Participation; Tax Allocation Notes; Financing Authority Bonds; City/County Debt; US;State, Loans; Lease Obligations; Notes; Deferred Pass-Throughs; Deferred Compensation; Other

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Agency Long-Term Debt

Fiscal Year	2009
Project Area Name	Community Center Project Area

Forward from Prior Year	Yes
Bond Type	Loans
Year of Authorization	2003
Principal Amount Authorized	405,000
Principal Amount Issued	405,000
Purpose of Issue	Economic Development
Maturity Date Beginning Year	2008
Maturity Date Ending Year	2015
Principal Amount Unmatured Beginning of Fiscal Year	$405,000
Adjustment Made During Year	
Adjustment Explanation	
Interest Added to Principal	
Principal Amount Issued During Fiscal Year	
Principal Amount Matured During Fiscal Year	
Principal Amount Defeased During Fiscal Year	
Principal Amount Unmatured End of Fiscal Year	$405,000
Principal Amount In Default	
Interest In Default	

Bond Types Allowed:

Tax Allocation Bonds; Revenue Bonds; Certificates of Participation; Tax Allocation Notes; Financing Authority Bonds; City/County Debt; US,State; Loans; Lease Obligations; Notes; Deferred Pass-Throughs; Deferred Compensation; Other

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Agency Long-Term Debt

Fiscal Year	2009
Project Area Name	Community Center Project Area

Forward from Prior Year	Yes
Bond Type	Revenue Bonds
Year of Authorization	1998
Principal Amount Authorized	19,235,195
Principal Amount Issued	19,235,195
Purpose of Issue	10th Street Place Project
Maturity Date Beginning Year	1998
Maturity Date Ending Year	2033
Principal Amount Unmatured Beginning of Fiscal Year	$19,235,195
Adjustment Made During Year	
Adjustment Explanation	
Interest Added to Principal	
Principal Amount Issued During Fiscal Year	
Principal Amount Matured During Fiscal Year	
Principal Amount Defeased During Fiscal Year	19,235,195
Principal Amount Unmatured End of Fiscal Year	$0
Principal Amount In Default	
Interest In Default	

Bond Types Allowed:

Tax Allocation Bonds; Revenue Bonds; Certificates of Participation; Tax Allocation Notes; Financing Authority Bonds; City/County Debt; US;State. Loans; Lease Obligations; Notes; Deferred Pass-Throughs; Deferred Compensation; Other

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Agency Long-Term Debt

Fiscal Year	2009
Project Area Name	Community Center Project Area

Forward from Prior Year	
Bond Type	Revenue Bonds
Year of Authorization	2008
Principal Amount Authorized	18,892,783
Principal Amount Issued	18,892,783
Purpose of Issue	Refund prior Revenue Bonds
Maturity Date Beginning Year	2008
Maturity Date Ending Year	2033
Principal Amount Unmatured Beginning of Fiscal Year	
Adjustment Made During Year	
Adjustment Explanation	
Interest Added to Principal	
Principal Amount Issued During Fiscal Year	18,892,783
Principal Amount Matured During Fiscal Year	
Principal Amount Defeased During Fiscal Year	
Principal Amount Unmatured End of Fiscal Year	$18,892,783
Principal Amount In Default	
Interest In Default	

Bond Types Allowed:

Tax Allocation Bonds; Revenue Bonds; Certificates of Participation; Tax Allocation Notes; Financing Authority Bonds; City/County Debt; US;State; Loans; Lease Obligations; Notes; Deferred Pass-Throughs; Deferred Compensation, Other

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Statement of Income and Expenditures - Revenues

Fiscal Year: 2009

Project Area Name: Community Center Project Area

	Capital Project Funds	Debt Service Funds	Low/Moderate Income Housing Funds	Special Revenue/Other Funds	Total
Tax Increment Gross *(Include All Apportionments)*	881,069	4,101,838	1,245,727		$6,228,634
Special Supplemental Subvention					$0
Property Assessments					$0
Sales and Use Tax					$0
Transient Occupancy Tax					$0
Interest Income	26,116	56,149	123,863		$206,128
Rental Income					$0
Lease Income					$0
Sale of Real Estate					$0
Gain on Land Held for Resale					$0
Federal Grants					$0
Grants from Other Agencies					$0
Bond Administrative Fees					$0
Other Revenues	22,424	96,500	33,365		$152,289
Total Revenues	$929,609	$4,254,487	$1,402,955	$0	$6,587,051

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Statement of Income and Expenditures - Expenditures

Fiscal Year 2009

Project Area Name Community Center Project Area

	Capital Project Funds	Debt Service Funds	Low/Moderate Income Housing	Special Revenue/Other	Total
Decline in Value of Land Held for Resale					$0
Rehabilitation Costs					$0
Rehabilitation Grants					$0
Interest Expense		2,367,556			$2,367,556
Fixed Asset Acquisitions					$0
Subsidies to Low and Moderate Income Housing					$0
Debt Issuance Costs					$0
Other Expenditures Including Pass-Through Payment(s)		1,348,104	466,523		$1,814,627
Debt Principal Payments:					
Tax Allocation Bonds and Notes					$0
Revenue Bonds, Certificates of Participation, Financing Authority Bonds		935,000			$935,000
City/County Advances and Loans					$0
All Other Long-Term Debt					$0
Total Expenditures	$963,731	$4,697,766	$5,347,588	$0	$11,009,085
Excess (Deficiency) Revenues over (under) Expenditures	($34,122)	($443,279)	($3,944,633)	$0	($4,422,034)

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Statement of Income and Expenditures - Other Financing Sources

Fiscal Year 2009

Project Area Name Community Center Project Area

	Capital Project Funds	Debt Service Funds	Low/Moderate Income Housing	Special Revenue/Other	Total
Proceeds of Long-Term Debt					$0
Proceeds of Refunding Bonds					$0
Payment to Refunded Bond Escrow Agent					$0
Advances from City/County					$0
Sale of Fixed Assets					$0
Miscellaneous Financing Sources (Uses)					$0
Operating Transfers In	136,433	905,922			$1,042,355
Tax Increment Transfers In					$0
Operating Transfers Out			1,042,355		$1,042,355
Tax Increment Transfers Out					$0
(To the Low end Moderate Income Housing Fund)					
Total Other Financing Sources (Uses)	$136,433	$905,922	($1,042,355)	$0	$0

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Statement of Income and Expenditures - Other Financing Sources

Fiscal Year: 2009

Project Area Name: Community Center Project Area

	Capital Project Funds	Debt Service Funds	Low/Moderate Income Housing	Special Revenue/Other	Total
Excess (Deficiency) of Revenues and Other Financing Sources over Expenditures and Other Financing Uses	$102,311	$462,640	($4,986,986)	$0	($4,422,034)
Equity, Beginning of Period	$1,279,729	$2,065,782	$8,764,448	$0	$12,109,959
Prior Period Adjustments					$0
Residual Equity Transfers					$0
Equity, End of Period	$1,382,040	$2,528,425	$3,777,460	$0	$7,687,925

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Balance Sheet - Assets and Other Debits

Fiscal Year 2009	Capital Projects Funds	Debt Service Funds	Low/Moderate Income Housing Funds	Special Revenue/Other Funds	General Long-Term Debt	General Fixed Assets	Total
Assets and Other Debits							
Cash and Imprest Cash	887,359	814,557	1,652,436				$3,354,352
Cash with Fiscal Agent		1,992,164					$1,992,164
Tax Increments Receivable		418,797					$418,797
Accounts Receivable	498,768	61,258					$560,026
Accrued Interest Receivable	2,856	9,703	8,088				$20,647
Loans Receivable			2,211,000				$2,211,000
Contracts Receivable							$0
Lease Payments Receivable					38,297,783		$38,297,783
Unearned Finance Charge							$0
Due from Capital Projects Fund							$0
Due from Debt Service Fund							$0
Due from Low/Moderate Income Housing Fund							$0
Due from Special Revenue/Other Funds							$0

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Balance Sheet - Assets and Other Debits

Fiscal Year 2009	Capital Projects Funds	Debt Service Funds	Low/Moderate Income Housing Funds	Special Revenue/Other Funds	General Long-Term Debt	General Fixed Assets	Total
Investments							$0
Other Assets							$0
Investments. Land Held for Resale			784,000				$784,000
Allowance for Decline In Value of Land Held for Resale							$0
Fixed Assets: Land, Structures, and Improvements						50,000	$50,000
Equipment						1,630,536	$1,630,536
Amount Available in Debt Service Fund							$0
Amount to be Provided for Payment of Long-Term Debt							$0
Total Assets and Other Debits	$1,388,983	$3,296,479	$4,655,524	$0	$38,297,783	$1,680,536	$49,319,305

(Must Equal Total Liabilities, Other Credits, and Equities)

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Balance Sheet - Liabilities and Other Credits

Fiscal Year 2009	Capital Projects Funds	Debt Service Funds	Low/Moderate Income Housing Funds	Special Revenue/Other Funds	General Long-Term Debt	General Fixed Assets	Total
Liabilities and Other Credits							
Accounts Payable	6,943	706,796	7,337				$720,076
Interest Payable							$0
Tax Anticipation Notes Payable							$0
Loans Payable			575,000				$575,000
Other Liabilities	1,000	61,258	295,727				$357,985
Due to Capital Projects Fund							$0
Due to Debt Service Fund							$0
Due to Low/Moderate Income Housing Fund							$0
Due to Special Revenue/Other Funds							$0
Tax Allocation Bonds Payable							$0
Lease Revenue, Certificates of Participation Payable, Financing Authority Bonds					37,892,783		$37,892,783
All Other Long-Term Debt					405,000		$405,000
Total Liabilities and Other Credits	$6,943	$768,054	$878,064	$0	$38,297,783		$39,950,844

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Balance Sheet - Liabilities and Other Credits

Fiscal Year 2009	Capital Projects Funds	Debt Service Funds	Low/Moderate Income Housing Funds	Special Revenue/Other Funds	General Long-Term Debt	General Fixed Assets	Total
Equities							
Investment In General Fixed Assets						1,680,536	$1,680,536
Fund Balance Reserved	14,333	2,528,425	3,777,460				$6,320,218
Fund Balance Unreserved-Designated							$0
Fund Balance Unreserved-Undesignated	1,367,707						$1,367,707
Total Equities	$1,382,040	$2,528,425	$3,777,460	$0		$1,680,536	$9,368,461
Total Liabilities, Other Credits, and Equities	$1,388,983	$3,296,479	$4,655,524	$0	$38,297,783	$1,680,536	$49,319,305

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Statement of Income and Expenditures - Summary, Combined Transfers In/Out

Fiscal Year 2009

Operating Transfers In	$1,042,355
Tax Increment Transfers In	$0
Operating Transfers Out	$1,042,355
Tax Increment Transfers Out	$0

California Redevelopment Agencies - Fiscal Year 2008/2009
Status of Low and Moderate Income Housing Funds
Sch C Agency Financial Summary
MODESTO

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Adjusted Beginning Balance	Project Area Receipts	Agency Other Revenue	Total Expenses	Net Resources Available	Other Housing Fund Assets	Total Housing Fund Assets	Encum-brances	* Unen-cumbered Balance	Unen-cumbered Designated	Unen-cumbered Not Dsgntd
$5,490,418	$1,677,840	$0	$5,642,503	$1,525,755	$0	$1,525,755	$125,000	$1,400,755	$0	$1,400,755

Expenses	Debt Service	Housing Construction	Planning and Administration Costs	Property Acquisition	Subsidies	Total
2008/2009	$295,000	$450,000	$115,601	$4,740,243	$41,659	$5,642,503

*The Unencumbered Balance is equal to Net Resources Available minus Encumbrances

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California Redevelopment Agencies - Fiscal Year 2008/2009
Status of Low and Moderate Income Housing Funds
Sch C Agency Financial and Program Detail
MODESTO

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	Beginning Balance	$8,485,418
	Adjustment to Beginning Balance	-$2,995,000
	Adjusted Beginning Balance	$5,490,418
Total Tax Increment From PA(s) $1,245,727	Total Receipts from PA(s)	$1,677,840
	Other Revenues not reported on Schedule A	$0
	Sum of Beginning Balance and Revenues	$7,168,258

Expenditure Item	Subitem	Amount	Remark
Debt Service			
Debt Principal Payments	City/County Advances & Loans	$295,000	
	Subtotal of Debt Service	**$295,000**	
Housing Construction			
		$450,000	
	Subtotal of Housing Construction	**$450,000**	
Planning and Administration Costs			
Administration Costs		$115,656	
Other		-$55	There was an abatement credit given back to the North 9th Street EAH Project.
	Subtotal of Planning and Administration Costs	**$115,601**	
Property Acquisition			
Acquisition Expense		$210,120	
Land Purchases		$4,496,000	
Operation of Acquired Property		$2,647	
Other		$31,476	Includes $16,523 for Attorney Fees associated with Archway Commons, $957 Admin for

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Expenditure Item	Subitem	Amount	Remark
Property Acquisition			
			Archway Commons Property Agent, $8,045 for permit fees for Palm Valley rehab work, $5,951 for general housing activities.
	Subtotal of Property Acquisition	**$4,740,243**	
Subsidies from the LMIHF			
Rental Subsidies		$41,659	
	Subtotal of Subsidies from the LMIHF	**$41,659**	
	Total Expenditures	**$5,642,503**	
	Net Resources Available	**$1,525,755**	
	Indebtedness For Setasides Deferred	**$0**	

Other Housing Fund Assets Category	Amount	Remark
Total Other Housing Fund Assets		
Total Fund Equity	**$1,525,755**	

2004/2005	$832875			
2005/2006	$946636	sum of 4 Previous Years' Tax Increment for 2008/2009	Prior Year Ending Unencumbered Balance	Excess Surplus for 2008/2009
2006/2007	$1060704			
2007/2008	$1162764	$4002979	$5,352,820	$1,349,841

Sum of Current and 3 Previous Years' Tax Increments	**$4,415,831**
Adjusted Balance	**$1,400,755**
Excess Surplus for next year	**$0**
Net Resources Available	**$1,525,755**
Unencumbered Designated	**$0**

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Unencumbered Undesignated	$1,400,755
Total Encumbrances	$125,000
Unencumbered Balance	$1,400,755
Unencumbered Balance Adjusted for Debt Proceeds	$0
Unencumbered Balance Adjusted for Land Sales	$0
Excess Surplus Expenditure Plan	No
Excess Surplus Plan Adoption Date	

Site Improvement Activities Benefiting Households

Income Level	Low	Very Low	Moderate	Total

Land Held for Future Development

Site Name	Num Of Acres	Zoning	Purchase Date	Estimated Start Date	Remark
Archway Commons	8.46	R3	04/01/2009	10/01/2010	
17th and G Street	.5	R3	07/01/2006	07/01/2011	
Downey Street	.34	R1	03/01/2008	07/01/2011	

Use of the Housing Fund to Assist Mortgagors

Income Adjustment Factors

Requirements Completed

Home $

Hope $

Non Housing Redevelopment Funds Usage

Resource Needs

LMIHF Deposits/Withdrawls

Document Name	Document Date	Custodian Name	Custodian Phone	Copy Source

Achievements

Description

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California Redevelopment Agencies-Fiscal Year 2008/2009
Project Area Contributions to Low and Moderate Income Housing Funds
Sch A Project Area Summary Report
MODESTO

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Project Area	100% of Tax Increment	20% Set Aside Requirement	Tax Increment Allocated	Amount Exempted	Deferral Repayment	Tax Incr. Deposited to Hsng Fund	Percent of Tax Incr Dep	Repayment Deferrals	Other Income	Total Deposited to Housing
MODESTO PROJECT	$6,228,634	$1,245,727	$1,245,727	$0	$0	$1,245,727	20.00%	$0	$432,113	$1,677,840
Agency Totals:	$6,228,634	$1,245,727	$1,245,727	$0	$0	$1,245,727	20.00%	$0	$432,113	$1,677,840

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California Redevelopment Agencies- Fiscal Year 2008/2009
Project Area Contributions to Low and Moderate Income Housing Fund
Sch A Project Area Financial Information

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Agency	MODESTO
Address	1010 Tenth Street
	PO Box 642
	Modesto CA 95353

Project Area MODESTO PROJECT

Type: Inside Project Area Status: Active

Plan Adoption: 1983 Plan Expiration Year: 2032

Gross Tax Increment	Calculated Deposit	Amount Allocated	Amount Exempted	Amount Deferred	Total Deposited	%	Cumulative Def.
$6,228,634	$1,245,727	$1,245,727	$0	$0	$1,245,727	20.00%	$0

Repayment	$0
Category	
Interest Income	$123,863
Other Revenue	$308,250
Total Additional Revenue	$432,113
Total Housing Fund Deposits for Project Area	$1,677,840

Agency Totals For All Project Areas:

Gross Tax Increment	Calculated Deposit	Amount Allocated	Amount Exempted	Amount Deferred	Total Deposited	%	Cumulative Def.
$6,228,634	$1,245,726.8	$1,245,727	$0	$0	$1,245,727	20%	$0

Total Additional Revenue from Project Areas:	$432,113
Total Deferral Repayments:	$0
Total Deposit to Housing Fund from Project Areas:	$1,677,840

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Project Area: **MODESTO PROJECT**

FUTURE UNIT CONSTRUCTION

Contract Name	Execution Date	Estimated Completion Date	Very Low	Low	Moderate	Total
17th and G Street	12/14/09	12/31/12	15	15	15	45
Archway Commons	08/12/09	06/30/12	74	0	76	150
Downey Street	04/01/10	12/31/12	6	4	2	12

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Project Area Name: MODESTO PROJECT

Project Name: 17th and G Street
Address: 17th and G Street Modesto 95353
Owner Name: Modesto Redevelopment Agency

SPECIAL NEEDS UNITS

Category	Sub Category	Count
Special Need Unit	Special Needs	45
Special Need Unit	Disabled (Physical)	45

Project Name: Archway Commons
Address: Modesto 95353
Owner Name: Modesto Redevelopment Agency

SPECIAL NEEDS UNITS

Category	Sub Category	Count
Special Need Unit	Special Needs	4
Special Need Unit	Disabled (Physical)	4

UNIT INVENTORY

				Very Low	Low	Moderate	Above Mod	Became Ineligible	Total
Inclusionary									
			Unit						
New Construction									
Non-Agency	Rental	Elderly		74	0	76	0	0	150
			Unit Total	74	0	76	0	0	150

PROJECT FUNDING SOURCE

Funding Source	Amount
Redevelopment Funds	$6,749,000
Federal Funds	$1,000,000
State Funds	$2,070,000
Private Funds	$13,181,000

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Project Area Name: MODESTO PROJECT

Project Name: Downey Street
Address: 416 and 412 Downey Street Modesto 95353
Owner Name: Modesto Redevelopment Agency

SPECIAL NEEDS UNITS

Category	Sub Category	Count
Special Need Unit	Special Needs	12
Special Need Unit	Disabled (Physical)	12

Project Area Name: OUTSIDE PROJECT AREA

Project Name: Palm Valley
Address: **201 East Coolidge Modesto 95350**
Owner Name: **Housing Authority of the County of Stanislaus**

SPECIAL NEEDS UNITS

Category	Sub Category	Count
Special Need Unit	Special Needs	1
Special Need Unit	Disabled (Physical)	1

UNIT INVENTORY

Inclusionary		Unit	Very Low	Low	Moderate	Above Mod	Became Ineligible	Total
Substantial Rehabilitation Pre 1994								
Non-Agency	Rental	Non-Elderly	10	0	30	0	0	40
		Unit Total	10	0	30	0	0	40

PROJECT FUNDING SOURCE

Funding Source	Amount
Redevelopment Funds	$825,000
Federal Funds	$1,000,000

Project Area Name: OUTSIDE PROJECT AREA

Project Name: Village One Town Center
Address: **2313 Bellingham Way Modesto 95354**
Owner Name: **Housing Authority of the County of Stanislaus**

SPECIAL NEEDS UNITS

Category	Sub Category	Count
Special Need Unit	Special Needs	1
Special Need Unit	Disabled (Physical)	1

UNIT INVENTORY

				Very Low	Low	Moderate	Above Mod	Became Ineligible	Total
Inclusionary									
		Unit							
New Construction									
Non-Agency	Rental	Non-Elderly		4	0	16	0	0	20
			Unit Total	4	0	16	0	0	20

PROJECT FUNDING SOURCE

Funding Source	Amount
Redevelopment Funds	$450,000
Federal Funds	$2,749,698
Private Funds	$4,104,115

SCHEDULE HCD E
CALCULATION OF INCREASE IN AGENCY'S INCLUSIONARY OBLIGATION FOR ACTIVITIES
(This Form is Information Only: Actual Obligation is based on Implementation Plan)

Report Year: 2008/2009

Agency: MODESTO

NOTE: This form is a summary of the totals of all new construction or substantial rehabilitation units from forms HCD-D7 which are developed in a project area by any entity (agency or non-agency).

PART I [H & SC Section 33413(b)(1)] **AGENCY DEVELOPED**	
1. New Units	0
2. Substantially Rehabilitated Units	0
3. Subtotal - Baseline of Units (add line 1 & 2)	0
4. Subtotal of Inclusionary Obligation Accrued this Year for Units (line 3 x 30%)	0
5. Subtotal of Inclusionary Obligation Accrued this year for Very-Low Income Units (line 4 x 50%)	0
PART II [H & SC Section 33413(b)(2)] **NON-AGENCY DEVELOPED UNITS**	
6. New Units	150
7. Substantially Rehabilitated Units	0
8. Subtotal - Baseline of Units (add lines 6 & 7)	150
9. Subtotal of Inclusionary Obligation Accrued this year for Units (line 8 x 15%)	23
10. Subtotal of Inclusionary Obligation Accrued this year for Very Low Income Units (line 9 x 40%)	9
PART III TOTALS	
11. Total Increase in Inclusionary Obligations During This Fiscal Year (add line 4 & 9)	23
12. Total Increase in Very Low Income Units Inclusionary Obligations During This Fiscal Year (add line 5 & 10)	9

SCHEDULE HCD E1
CALCULATION OF INCREASE IN AGENCY'S INCLUSIONARY OBLIGATION FOR ACTIVITIES
(This Form is Information Only: Actual Obligation is based on Implementation Plan)

Report Year: 2008/2009

Agency: MODESTO

Project Area: MODESTO PROJECT

Project: 17TH AND G STREET

NOTE: This form is a summary of the totals of all new construction or substantial rehabilitation units from forms HCD-D7 which are developed in a project area by any entity (agency or non-agency).

PART I [H & SC Section 33413(b)(1)] AGENCY DEVELOPED	
1. New Units	0
2. Substantially Rehabilitated Units	0
3. Subtotal - Baseline of Units (add line 1 & 2)	0
4. Subtotal of Inclusionary Obligation Accrued this Year for Units (line 3 x 30%)	0
5. Subtotal of Inclusionary Obligation Accrued this year for Very-Low Income Units (line 4 x 50%)	0

PART II [H & SC Section 33413(b)(2)] NON-AGENCY DEVELOPED UNITS	
6. New Units	0
7. Substantially Rehabilitated Units	0
8. Subtotal - Baseline of Units (add lines 6 & 7)	0
9. Subtotal of Inclusionary Obligation Accrued this year for Units (line 8 x 15%)	0
10. Subtotal of Inclusionary Obligation Accrued this year for Very Low Income Units (line 9 x 40%)	0

PART III TOTALS	
11. Total Increase in Inclusionary Obligations During This Fiscal Year (add line 4 & 9)	0
12. Total Increase in Very Low Income Units Inclusionary Obligations During This Fiscal Year (add line 5 & 10)	0

SCHEDULE HCD E1
CALCULATION OF INCREASE IN AGENCY'S INCLUSIONARY OBLIGATION FOR ACTIVITIES
(This Form is Information Only: Actual Obligation is based on Implementation Plan)

Report Year: 2008/2009

Agency: MODESTO

Project Area: MODESTO PROJECT

Project: ARCHWAY COMMONS

NOTE: This form is a summary of the totals of all new construction or substantial rehabilitation units from forms HCD-D7 which are developed in a project area by any entity (agency or non-agency).

PART I [H & SC Section 33413(b)(1)] AGENCY DEVELOPED	
1. New Units	0
2. Substantially Rehabilitated Units	0
3. Subtotal - Baseline of Units (add line 1 & 2)	0
4. Subtotal of Inclusionary Obligation Accrued this Year for Units (line 3 x 30%)	0
5. Subtotal of Inclusionary Obligation Accrued this year for Very-Low Income Units (line 4 x 50%)	0

PART II [H & SC Section 33413(b)(2)] NON-AGENCY DEVELOPED UNITS	
6. New Units	150
7. Substantially Rehabilitated Units	0
8. Subtotal - Baseline of Units (add lines 6 & 7)	150
9. Subtotal of Inclusionary Obligation Accrued this year for Units (line 8 x 15%)	23
10. Subtotal of Inclusionary Obligation Accrued this year for Very Low Income Units (line 9 x 40%)	9

PART III TOTALS	
11. Total Increase in Inclusionary Obligations During This Fiscal Year (add line 4 & 9)	23
12. Total Increase in Very Low Income Units Inclusionary Obligations During This Fiscal Year (add line 5 & 10)	9

SCHEDULE HCD E1
CALCULATION OF INCREASE IN AGENCY'S INCLUSIONARY OBLIGATION FOR ACTIVITIES
(This Form is Information Only: Actual Obligation is based on Implementation Plan)

Report Year: 2008/2009

Agency: MODESTO

Project Area: MODESTO PROJECT

Project: DOWNEY STREET

NOTE: This form is a summary of the totals of all new construction or substantial rehabilitation units from forms HCD-D7 which are developed in a project area by any entity (agency or non-agency).

PART I
[H & SC Section 33413(b)(1)]
AGENCY DEVELOPED

1. New Units	0
2. Substantially Rehabilitated Units	0
3. Subtotal - Baseline of Units (add line 1 & 2)	0
4. Subtotal of Inclusionary Obligation Accrued this Year for Units (line 3 x 30%)	0
5. Subtotal of Inclusionary Obligation Accrued this year for Very-Low Income Units (line 4 x 50%)	0

PART II
[H & SC Section 33413(b)(2)]
NON-AGENCY DEVELOPED UNITS

6. New Units	0
7. Substantially Rehabilitated Units	0
8. Subtotal - Baseline of Units (add lines 6 & 7)	0
9. Subtotal of Inclusionary Obligation Accrued this year for Units (line 8 x 15%)	0
10. Subtotal of Inclusionary Obligation Accrued this year for Very Low Income Units (line 9 x 40%)	0

PART III
TOTALS

11. Total Increase in Inclusionary Obligations During This Fiscal Year (add line 4 & 9)	0
12. Total Increase in Very Low Income Units Inclusionary Obligations During This Fiscal Year (add line 5 & 10)	0

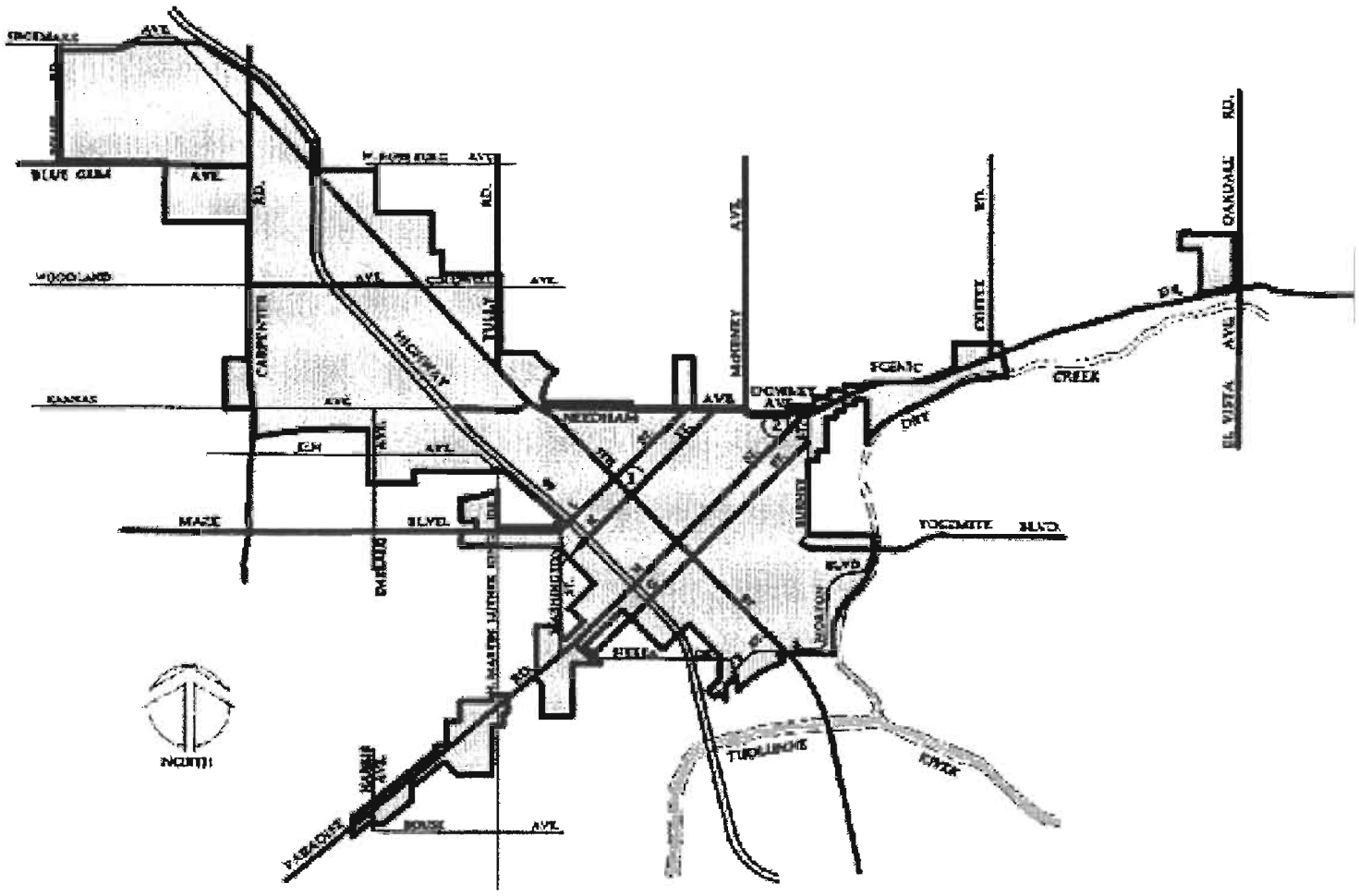
FY 2009
MODESTO REDEVELOPMENT AGENCY

HEALTH AND SAFETY CODE §33080.1

- *ALLEVIATION OF BLIGHT*
- *LOAN DEFAULT REPORT*
- *PROPERTY LISTING*

MODESTO REDEVELOPMENT AGENCY
PROJECT AREA

2000 Acres (Est.)



I. HEALTH AND SAFETY CODE §33080.1(d)

ALLEVIATION OF BLIGHT

The Modesto Redevelopment Agency's goal is to stimulate new public and private investment in order to overcome the problems that have been created in past decades. Through new investment, both the physical and social environment of the project area will be improved. Private investment, with the assistance of the Agency, will help to:

- Overcome blight created by deteriorated and obsolete buildings
- Stabilize land uses
- Provide needed public parking
- Create new parcels amenable to modern development.

Employment opportunities, both in the short and long term, will help to overcome problems of poverty not only in the Project Area, but also in the City as a whole. Increased employment opportunities, appropriate project design and, most importantly, higher levels of activity in the Project Area --- especially in the evenings --- will decrease the crime rates.

During FY 2009, the Redevelopment Agency of the City of Modesto completed the following actions to implement the objectives of the Implementation Plan in alleviating blight within the Project Area. (Note: The Agency's Implementation Plan was approved in December 2005 for the period of 2005-2009.)

Vision

- Modesto's parks, plazas, and greenways contribute to a public realm that provides an attractive, inviting "Oasis in the Valley."
- Modesto's unique history and character are preserved to make the city a pleasant place to live, and are actively promoted to attract new investment.
- The downtown is a vibrant mixed-use area with an established residential element.
- Transportation opportunities are multi-modal and well-connected throughout the Redevelopment Area, city, and region

Goals

Goal 1
Create a unique and recognizable image for Modesto and use it to strenuously promote the City.

Project: Streetscape Improvements for Downtown Gateway
Agency Expenditure: $1,500
Status: Project Complete October 2009
The Agency partnered with the City Public Works Department to plan and design streetscape improvements to the gateway into the Downtown area at the intersection of H Street to 17th and Burney Street. The Agency originally budgeted $100,000 to pay for a portion of the streetscape improvements; however, revenue shortfalls prevented this. The agency was able participate in the planning portion of the project.

Goal 2
Promote the economic viability of the Redevelopment Area by attracting new development.

Project: Kansas Woodland Business Park Development
Agency Expenditure: $2,000,000 (Pending Close of Escrow)
Status: Close of Escrow: July 31, 2010
Beginning in January 2000, and in conjunction with development of the Business Park Development Program, staff has been working to redevelop a "brownfield" parcel owned by the FMC Corporation and located directly adjacent to State Route 99. The Agency has collaborated with the State agencies and with adjacent property owners to determine the interest in, and feasibility of the development of a commercial/retail/light industrial business park.

Towards this end, the Agency formed a multi-disciplinary development team comprised of in-house staff and consultants to work on the proposed Business Park. During FY 2007-2008, the Agency approved proposed terms and conditions of a Purchase Agreement for the 45-acre FMC property. The Agency intends to purchase the property and re-sell it to a private developer to construct a business park. FMC and the Agency are in the process of finalizing the requisite documents to accomplish this property transfer and we anticipate opening escrow in January 2009. The final property transfer between the Agency and FMC is expected in early Spring 2009.

Since January 2000, the Agency has expended a total of $1,300,000 in staff costs to complete this priority project. Staff is working concurrently on the following critical path items:

- Developer Agreement (DA) and revisions to the property transfer documents
- Completion of the Remedial Action Plan for soils and groundwater for remediation of the brownfield
- Completion of the Specific Plan for development of the Business Park
- Completion of the Tentative Subdivision Map for the Business Park
- Completion of the Programmatic Environmental Impact Report for the Specific Plan

In January, 2009 the Agency entered into a purchase and sale agreement with FMC Corporation and is in the process of completing the due diligence efforts prior to completing the sale. Close of escrow is expected no later than July 31, 2010.

Project: Renaissance Office Project - 12th Street & I Street
Agency Expenditure: $132,000 Tax Increment rebate over 15 years
Status: Certificate of Completion Recorded December 11, 2008
The Agency entered into an Owner Participation Agreement (OPA) with Westland Development in September 2002. The OPA included the following conditions:

1. The City sold a 44-space City parking lot to Stanislaus County for $245,000
2. Westland entered into an agreement with Stanislaus County wherein the County will construct a 90,000 square foot building and the ownership will be divided between three entities: (1) County – 50%; (2) StanCERA – 17% (3) Westland – 33%
3. There is an adjoining parking garage, constructed and owned by the County, wherein approximately 50 public spaces are replacing the 44-space public parking lot
4. Over 15 years, the Agency will rebate tax increment received from the private sector portion of the building for a total of $132,000 over 15 years. This rebate will be used to offset the parking payments to the County for the public spaces.

Project: Downtown Cameras.
Agency Expenditure: $259,000
Status: Cameras installed and operating May, 2009.
Municipalities and other government agencies across the United States have implemented video surveillance programs in their downtown areas, including the regional cities of Clovis, Fresno, Stockton and Ripon. The City of Long Beach has also implemented a camera program that serves a very vibrant downtown with a variety of nightlife, similar to Modesto. Based on the success of these deployments, the Modesto Police Department designed a camera system that will serve the interest of public safety and local business.

The purchase and installation of 10 cameras in the downtown Modesto area support the City's efforts to provide a safe public environment to conduct business, transit our public spaces and enjoy our downtown with minimal fear of crime. The cameras allow the police department to conduct low profile policing that will aid in responses to incidents and investigations of crimes. Some potential uses are:

- Tactical deployment of police, fire and ambulance. Video coverage will allow dispatch, first responders and watch commander to obtain immediate information via the cameras.
- Investigations – Video will be used as an investigative tool and as evidence per the Evidence Code.
- Crime Prevention – Cameras act as a deterrent to criminal activity.

Goal 3
Implement higher density, mixed-use development to create a balanced, vibrant downtown and active neighborhood centers.

Project: Mixed-Use Project – 10th Street & H Street
Agency Expenditure: $630,000 in land value
Status: Memorandum of Understanding with Team Modesto – Adopted: May 22, 2007
The Agency owns four (4) parcels of land at the southwest corner of 10th & H Streets. The Agency Board has directed staff to identify a public-private partnership for the development of a high-quality Mixed-Use Project on this 31,500 square-foot Project Site. After completing the Request for Proposal process, the Agency entered into an Exclusive Negotiating Agreement with Team Modesto, a local development group, on August 3, 2005 for development of this project. The ENA contemplates the following proposed land use:

a. Public parking garage and other parking
b. Ground level: Retail (25,000 sf)
c. Floors 2-3: Office and Parking (164 spaces)
d. Floors 4-7: One and two story townhomes with bi-level open gardens

The Agency and Team Modesto completed a Memorandum of Understanding, adopted on May 22, 2007, which includes the following tasks:

1. Proposed project design, land uses, parameters, land assembly and pre-planning
2. Various studies, including environmental analysis pursuant to CEQA
3. Requirements for the mixed-use development, including the Site development schedule
4. Terms of the parking agreement for public parking to be provided on the Site

Staff facilitated the CEQA and development process during FY 2009 and is working to complete the remaining tasks in order to enter into a Disposition and Development Agreement in Spring 2010.

Goal 4
Provide the rationale and impetus for the City to update its development standards to support the goals identified in this document.

Project: Amendment of City of Modesto Zoning Codes
Agency Expenditure: $5,000
Status: Scheduled to be completed in Spring 2010
The Redevelopment Advisory Commission started the process of revising the City of Modesto Zoning Code to allow for new land uses, including mixed use in the Downtown. These code improvements will mirror the Agency's goals of encouraging a diverse inventory of mixed-use zones throughout the Project Area and facilitating the developer's permit process and requirements. In FY2009 a public workshop was held to initiate dialogue with downtown property and business owners on what the downtown core area might look like. Input from the workshop and subsequent input from the Citizens Redevelopment Advisory Commission has resulted in the completion of a scope of work by City Planning staff. A new form based zoning code for the Downtown Core area is in the process of being written and a second workshop to provide community update on the work progress and receive further input is scheduled in December 2009.

Goal 5
Develop a variety of housing types in the Redevelopment Area, including affordable housing, particularly in the downtown, to act as a catalyst for other types of development.

Project: Affordable Housing Project – N. 9th Street
Estimated Agency Expenditure: $6,749,000
Status: Construction anticipated to begin in 2010
The Agency owns approximately 8.46 acres of property on the east side of North 9th Street, just north of the Carver Road intersection. During Fiscal Year 2008-2009 the Agency entered into a Disposition and Development Agreement (DDA) with the developer EAH, Inc. located in San Rafael California. The Agency committed $6,749,000 to the project which is being used for land acquisition costs, pre-development costs and construction costs. All Agency funds for this project will be issued to the developer in the form of a loan. As of December 1, 2009, the developer is awaiting a March 2010 deadline to apply for Tax Credits Once Tax Credit application is submitted the results will be known sometime in June of 2010. If the developer is successful on their submittal it will be the final funding piece needed to break ground.
If EAH, Inc. receives the Tax Credit, the Agency expects construction to commence no latter than January of 2010.

The proposed site for this project demonstrates the following advantages to the Agency:
1. Site is inside the RDA Project Area
2. Site is identified as a Catalyst Site in the RDA Master Plan
3. Site is surrounded on two sides with residential and a neighborhood shopping center, creating a good adjacent land use mix
4. Site was a County island that was annexed into the City as part of the project
5. Site is 8.46 acres which affords room for a significant number of Multi-family apartment rentals

Number of Affordable Housing Units: 150

Project: Affordable Housing Project – Town Center – Roselle Ave & Belharbour Drive
Estimated Agency Expenditure: $400,000
Status: Owner Participation Agreement for project development
Agency worked with the property owner/developer (Stanislaus County Housing Authority) to assist in funding an affordable housing project on the northeast corner of Roselle Avenue and Belharbour Drive in the Village One area in east Modesto. During Fiscal Year 2008, the Agency entered into an Owner Participation Agreement with the Stanislaus County Housing Authority. The construction is complete and the Agency assisted with 16 affordable housing units.

Project: Affordable Housing Project – Palm Valley
Estimated Agency Expenditure: $730,000
Status: Owner Participation Agreement for project development
This is an existing apartment complex on East Coolidge Avenue consisting of 40 units. The Agency partnered with HOME funds to help the local Housing Authority acquire all 40 units and convert the units to affordable housing. The Agency also provided funds to the local Housing Authority to rehabilitate one of the existing units to upgrade to an accessible unit and installed a security gate to fully secure the property. This property was acquired in Fiscal Year 2008-2009 and the property improvements will be completed in Fiscal Year 2009-2010. The Agency provided a loan in the amount of $730,000.to finance this project.

Project: Affordable Housing Project – Senior Affordable Units on Downey Avenue
Estimated Agency Expenditure: $525,000
Status: Purchase of property to construct senior affordable housing
The Agency owns property located at 416 Downey Street and the City of Modesto owns the adjacent property located at 412 Downey Street. The Agency and the City will combine these parcels to create a large enough parcel accommodate approximately 13 units of Senior Affordable Housing. As of December 1, 2009, the Agency in conjunction with the HOME Investment Partnership Program is preparing a Request for Qualifications (RFQ) to select a developer. The RFQ will be released in February of 2010. At which that time the buildings located at 412 Downey will be demolished and the site will be cleared for construction to begin.

Project: Affordable Housing Project – 17th & G Streets
Agency Expenditure: $780,000
Status: Potential location for 78 units for senior housing.
The Agency owns property located at 17th and G Streets also referred to as "Tower Park". The Agency is using Community Development Block Grant (CDBG) funds to remove the water tower located on site. This is a critical step in the development of the site due to the irregular shape of the property. As of December 1, 2009, A developer has been chosen and the use of the site has been determined to accommodate approximately 45 units of Senior Affordable Housing. The Agency is currently in the design stage of this development and intends to complete the full entitlement stage by October of 2011.

Goal 6
Enhance the visual appeal of Modesto's public spaces by upgrading existing parks, plazas, and streets, and by creating new parks and plazas that offer public access.

Project: Tuolumne River Regional Park
Agency Expenditure: Expense Paid By Private Developers
The Tuolumne River is the foremost natural asset bordering in the Redevelopment Project Area. The City of Modesto has adopted a Master Plan for the development of this valuable open space. Bluff property overlooking the park should be investigated as a site for a regional educational and recreational facility oriented primarily to children and families.

Project: New private parks and plazas
Agency Expenditure: Expense Paid By Private Developers
As part of the implementation of the form-based zoning code, the Agency will be working with the City Planning Commission to include the development requirement for open space and plazas within all private developments in the Project Area. These open space areas will encourage pedestrian traffic and will also address the issue of building massing in the downtown.

Goal 7
Develop historic I and 10th Streets as an attractive, pedestrian-oriented zone. Create a clear sense of arrival at Modesto's downtown by enhancing the 6th and I Street Gateway and the intersection of I and 10th Streets.

Project: Streetscape Plan and Construction on 10th Street and I Street
Agency Expenditure: $300,000
Status: Delayed due to budget
In FY 2006, the Agency contracted with an architectural firm to design a conceptual streetscape plan for 10th Street and I Street. The next phase will be to complete construction plans for these two streets that will be used to construct the streetscape along designated frontages. In addition, the Agency will be partnering with private landowners to encourage them to upgrade their street frontages in compliance with the new streetscape standard.

Project: Wayfinding Signage for the Downtown Area
Agency Expenditure: $100,000
Status: Phase II delayed due to lack of funding
The Agency provides $200,000 each year for use in Project Area Improvement and general street improvement projects. For FY 2006, the Agency used $100,000 of these funds to create the design, construction plans and installation of wayfinding signage for the downtown area. These signs were installed in January 2006 and additional funding was scheduled for expansion of this wayfinding signage during FY 2009. However, funding for the project was eliminated due to the impact of the State's ERAF payment and lower than projected tax increment revenue.

Project: Amendment of City of Modesto Standard Specifications
Agency Expenditure: $13,000
Status: Ongoing
The Redevelopment Advisory Commission is partnering with the City Public Works Department to revise the City of Modesto Standard Specifications to provide for new streetscape design within the Downtown. These Specifications will begin to implement the Agency's goals of creating a unique environment in the Downtown area. The Citizens Redevelopment Advisory Commission has created a sub-committee to meet with City Public Works staff and representatives from the private building community to review existing public improvement specifications and begin preparing draft language to amend the City Standards.

Goal 8
Promote efficient automobile, bicycle, and pedestrian circulation and linkages into and through the Redevelopment Area.

Project: Wayfinding Signage for the Downtown Area
Agency Expenditure: $100,000
Status: Phase II delayed due to lack of funding
The Agency provides $200,000 each year for use in Project Area Improvement and general street improvement projects. For FY 2006, the Agency used $100,000 of these funds to create the design, construction plans and installation of wayfinding signage for the downtown area. These signs were installed in January 2006 and additional funding was scheduled for expansion of this wayfinding signage during FY 2009. However, funding for the project was eliminated due to the impact of the State's ERAF payment and lower than projected tax increment revenue.

II. HEALTH AND SAFETY CODE §33080.1(e)

REPORT ON ALL LOANS IN DEFAULT

The Modesto Redevelopment Agency has no loans in excess of $50,000 that are in default from the previous fiscal year or that are not in compliance with the terms of the loan approved by the Agency.

III. HEALTH AND SAFETY CODE §33080.1(f)

PROPERTY LISTING

Property List:

	APN	Address	Street	City, State	Current use
1	105-37-32	11TH STREET	11TH ST	MODESTO, CA 95354-0000	Parking garage
2	105-37-33	1010 TENTH ST 1st FLOOR	1010 10TH ST	MODESTO, CA 95354	Retail parcel
3	105-37-34	1010 TENTH ST 1st FLOOR	10TH ST	MODESTO, CA 95354	Retail parcel
4	105-41-21	9TH STREET	9TH ST	MODESTO, CA 95354-0000	Parking garage
5	105-48-06	1125 9TH STREET	1125 9TH ST	MODESTO, CA 95354-0000	Parking garage
6	105-48-08	9TH STREET	9TH ST	MODESTO, CA 95354-0000	Centre Plaza Bridge
7	105-48-11	1150 9TH ST	1125 11TH ST	MODESTO, CA 95354-0000	Centre Plaza
8	106-42-01	10th Street & H Street	10TH Street	MODESTO, CA 95354-0000	Parking Lot
9	106-42-02	10th Street & H Street	10th Street	MODESTO, CA 95354-0000	Parking Lot
10	106-42-03	10th Street & H Street	10th Street	MODESTO, CA 95354-0000	Parking Lot
11	106-42-04	10th Street & H Street	10th Street	MODESTO, CA 95354-0000	Parking Lot
12	106-06-02	17th & G Street	17th Street	MODESTO, CA 95354-0000	Park Site

STATEMENT OF INDEBTEDNESS - CONSOLIDATED
FILED FOR THE 2009-10 TAX YEAR

Cover Page

Name of Redevelopment Agency: MODESTO REDEVELOPMENT AGENCY

Name of Project Area: MODESTO REDEVELOPMENT PROJECT - AMENDED AREA

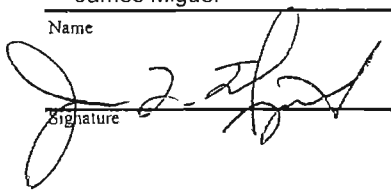
Balances Carried Forward From:		Line	Current Total Outstanding Debt	Current Principal/Interest Due During Tax Year
Fiscal Period - Totals	(From Form A, Page 1 Totals)	(1)	$ 205,032,829.78	$ 3,142,030.00
(Optional) Post Fiscal Period - Totals	(From Form B Totals)	(2)	$ 0.00	$ 0.00
Grand Totals		(3)	$ 205,032,829.78	$ 3,142,030.00
Available Revenues From Calculation of Available Revenues, Line 7		(4)	$ 0.00	
Net Requirement		(5)	$ 205,032,829.78	

Consolidate on this form all of the data contained on Form A and B (including supplemental pages). Form A is to include all indebtedness entered into as of June 30 of the Fiscal Year. Form B may be filed at the option of the agency, and is to include indebtedness entered into post June 30 of the Fiscal Year, pursuant to Health and Safety Code Section 33675(c)(2). This is optional for each agency and is not a requirement for filing the Statement of indebtedness. The Reconciliation Statement is to include indebtedness from Form A only.

Certification of Chief Financial Officer:
Pursuant to Section 336775 (b) of the Health and Safety Code, I hereby certify that the above is a true and accurate Statement of Indebtedness for the above named agency.

James Miguel — Name

Acting Finance Director — Title



Signature

September 15, 2009 — Date

Rev 6/3/94

STATEMENT OF INDEBTEDNESS
FILED FOR THE 2009-10 TAX YEAR

Name of Redevelopment Agency: MODESTO REDEVELOPMENT AGENCY
Name of Project Area: MODESTO REDEVELOPMENT PROJECT - AMENDED AREA
For Indebtedness Entered into as of June 30, 2009

Debt Identification	Original Data					Current	
	Date	Principal	Term	Interest Rate	Total Interest	Total Outstanding Debt	Principal/Interest Due During Tax Year
(A) Pass through: Y.C.C.D.	11/5/91	4,258,077.00	40 yrs.	n/a	n/a	7,052,614.08	75,000.00
(B) Pass through: Modesto City Schools	11/05/91	25,327,263.00	40 yrs.	n/a	n/a	42,115,182.14	400,000.00
(C) Pass through: County Office of Education	11/05/91	3,705,080.00	40 yrs.	n/a	n/a	6,126,076.09	65,000.00
(D) Pass through: Stanislaus County	11/05/91	29,150,160.00	40 yrs.	n/a	n/a	52,383,329.57	434,000.00
(E) Low-Mod Housing Set-aside	11/05/91	32,216,556.00	40 yrs.	n/a	n/a	41,006,565.90	1,173,600.00
(F) Reimbursement Agreement - MPF 1998 Lease Revenue Bonds	03/11/98	18,490,000.00	35 yrs.	4.00%-5.125%	25,171,753.00	0.00	
(G) Stanislaus Co. Economic Development "Bank" - Kansas Ave BP	11/06/02	405,000.00	13 yrs.	none	none	405,000.00	
(H) City of Modesto All prior transfers now loans	06/30/03	11,513,277.00	open	7%	12,208,131.00	23,721,408.00	
(I) Reimbursement Agreement - MPF 2008 Lease Revenue Bonds	09/01-08	18,892,783.00	25 yrs.	3.614% with SWAP	13,329,871.00	32,222,654.00	994,430.00
(J)							
Sub Total, This Page						$ 205,032,829.78	$ 3,142,030.00
Totals Forward From All Other Pages							
Grand Totals						$ 205,032,829.78	$ 3,142,030.00
Available Revenues From Calculation of Available Revenues						$ -	
Net Requirement						$ 205,032,829.78	

Purpose of Indebtedness:

(A) Agreement pursuant to H&S Code Section 33401

(B) Agreement pursuant to H&S Code Section 33401

(C) Agreement pursuant to H&S Code Section 33401

(D) Agreement pursuant to H&S Code Section 33401

(E) 20% Low-Mod Income Housing set-aside (new est.)

(F) Tenth Street Place project - site acquisition and construction, RDA share of Modesto Public Financing Authority 1998 Lease Revenue Bonds

(G) Planning costs re: the proposed Kansas Ave. Business Park

(H) Transfers/loans from City, per City Council/RDA 6/30/03

(I) RDA Share of Modesto Financing Authority 2008 Refunding Lease Revenue Bonds

(J)

RECONCILIATION STATEMENT - CHANGES IN INDEBTEDNESS

Name of Agency: MODESTO REDEVELOPMENT AGENCY

Name of Project Area: MODESTO REDEVELOPMENT PROJECT - AMENDED AREA

Tax Year 2009-10 Reconciliation Dates: From July 1, 2008 To June 30, 2009

Debt Identification: SOI, page and line: Prior Yr	Current Yr	Brief Description	A Outstanding Debt All Beginning Indebtedness	B Adjustments Increases (Attach Explanation)	C Adjustments Decreases (Attach Explanation)	D Amounts Paid Against Indebtedness, from: Tax Increment	E Amounts Paid Against Indebtedness, from: Other Funds	F Remaining Balance (A+B-C-D-E)
Pg 1 Line A	Pg 1 Line A	Pass through: Y.C.C.D.	7,143,018.18			90,404.10		7,052,614.08
Pg 1 Line B	Pg 1 Line B	Pass through: Modesto City Schools	42,652,910.40			537,728.26		42,115,182.14
Pg 1 Line C	Pg 1 Line C	Pass through: County Office of Education	6,204,739.40			78,663.31		6,126,076.09
Pg 1 Line D	Pg 1 Line D	Pass through: Stanislaus County	52,962,006.78			578,677.21		52,383,329.57
Pg 1 Line E	Pg 1 Line E	Low-Mod Housing Set-aside	41,464,112.85	Adj. to total debt 716,532.23		1,174,079.18		41,006,565.90
Pg 1 Line F	Pg 1 Line F	Reimbursement Agreement - MPF 1998 Lease Revenue Bonds	34,386,596.63		Bonds were refunded 33,315,456.63	1,071,140.00	-	0.00
Pg 1 Line G	Pg 1 Line G	Stanislaus Co. Economic Development "Bank" - Kansas Ave BP	405,000.00					405,000.00
Pg 1 Line H	Pg 1 Line H	City of Modesto All prior transfers now loans	22,102,180.00	interest added new loan 1,869,228.00		250,000.00	-	23,721,408.00
New	Pg 1 Line I	Reimbursement Agreement MPF 2008 Lease Revenue Bonds	-	2008 bond refunding 32,222,654.00				32,222,654.00
TOTAL - THIS PAGE			207,320,564.24	34,808,414.23	33,315,456.63	3,780,692.06	-	205,032,829.78
TOTALS FORWARD				2,089,703.84		2,089,703.84		
GRAND TOTALS			$ 207,320,564.24	$ 36,898,118.07	$ 33,315,456.63	$ 5,870,395.90	$ -	$ 205,032,829.78

NOTE: Column A must equal the previous year Statement of Indebtedness Outstanding Debt. Column F must equal this year's SOI Outstanding Debt column. Use the page and line number that the indebtedness is listed on in each year as appropriate, and a brief description. Ignore any indebtedness fully repaid in the previous year, as it had a zero ending balance. All new indebtedness entered into since the previous SOI is to be listed below the previous indebtedness. Enter "new" in the "Prior Yr" page and line column for each new indebtedness.

Rev. 5/2/94

RECONCILIATION STATEMENT - CHANGES IN INDEBTEDNESS

Name of Agency MODESTO REDEVELOPMENT AGENCY

Name of Project Area MODESTO REDEVELOPMENT PROJECT - AMENDED AREA

Tax Year 2009-10 Reconciliation Dates: From July 1, 2008 To June 30, 2009

Debt Identification: SOI, page and line: Prior Yr	Current Yr	Brief Description	A Outstanding Debt All Beginning Indebtedness	B Adjustments Increases (Attach Explanation)	C Adjustments Decreases (Attach Explanation)	D Amounts Paid Against Indebtedness, from: Tax Increment	E Amounts Paid Against Indebtedness, from: Other Funds	F Remaining Balance (A+B-C-D-E)
Pg new Line new	Pg Line	T/I paid on Orig Area COP		T/I paid on Orig Area COP 1,208,634.84		1,208,634.84		
Pg new Line new	Pg Line	T/I for Admin & ERAF		T/I for Admin 333,343.00		333,343.00		
Pg new Line new	Pg Line	T/I for Projects		T/I for Projects 547,726.00		547,726.00		
TOTAL - THIS PAGE				2,089,703.84		2,089,703.84		

NOTE: Column A must equal the previous year Statement of Indebtedness Outstanding Debt. Column F must equal this year's SOI Outstanding Debt Column.

CALCULATION OF AVAILABLE REVENUES

AGENCY NAME MODESTO REDEVELOPMENT AGENCY

PROJECT AREA MODESTO REDEVELOPMENT PROJECT - AMENDED AREA

TAX YEAR 2009-10

RECONCILIATION DATES: JULY 1, 2008 TO JUNE 30, 2009

1.	Beginning Balance, Available Revenues (See Instructions)	$ -
2.	Tax Increment Received - Gross All Tax Increment Revenues, including any Tax Increment passed through to other local taxing agencies	$ 5,870,395.90
3.	All other Available Revenues Received (See Instructions)	$ -
4.	Revenues from any other source, included in Column E of the Reconciliation Statement, but not included in (1 - 3) above	$ -
5.	Sum of Lines 1 through 4	$ 5,870,395.90
6.	Total amounts paid against indebtedness in previous year. (D + E on Reconciliation Statement)	$ 5,870,395.90
7.	Available Revenues, End of Year (5 - 6) FORWARD THIS AMOUNT TO STATEMENT OF INDEBTEDNESS	$ -

NOTES

Tax Increment Revenues:

The only amount(s) to be excluded as Tax Increment Revenue are any amounts passed through to other local taxing agencies pursuant to Health and Safety Code Section 33676. Tax Increment Revenue set-aside in the Low and Moderate Income Housing Fund will be washed in the above calculation, and therefore omitted from Available Revenues at year end.

Item 4. above:

This represents any payments from any source other than Tax Increment OR available revenues. For instance, an agency funds a project with a bond issue. The previous SOI included a Disposition Development Agreement (DDA) which was fully satisfied with these bond proceeds. The DDA would be shown on the Reconciliation Statement as fully repaid under the "other" column (Col E), but with funds that were neither Tax Increment, nor "Available Revenues" as defined. The amounts used to satisfy this DDA would be included on line 4 above in order to accurately determine ending "Available Revenues".

STATEMENT OF INDEBTEDNESS - CONSOLIDATED
FILED FOR THE 2009-10 TAX YEAR

Cover Page

Name of Redevelopment Agency: MODESTO REDEVELOPMENT AGENCY

Name of Project Area: MODESTO REDEVELOPMENT PROJECT - ORIGINAL AREA

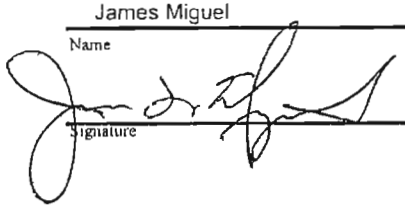
Balances Carried Forward From:		Line	Current Total Outstanding Debt	Current Principal/Interest Due During Tax Year
Fiscal Period - Totals	(From Form A, Page 1 Totals)	(1)	$ 93,685,747.75	$ 3,001,588.00
(Optional) **Post Fiscal Period - Totals**	(From Form B Totals)	(2)	$ 0.00	$ 0.00
Grand Totals		(3)	$ 93,685,747.75	$ 3,001,588.00
Available Revenues From Calculation of Available Revenues, Line 7		(4)	$ 1,977,050.00	
Net Requirement		(5)	$ 91,708,697.75	

Consolidate on this form all of the data contained on Form A and B (including supplemental pages). Form A is to include all indebtedness entered into as of June 30 of the Fiscal Year. Form B may be filed at the option of the agency, and is to include indebtedness entered into post June 30 of the Fiscal Year, pursuant to Health and Safety Code Section 33675(c)(2). This is optional for each agency and is not a requirement for filing the Statement of indebtedness. The Reconciliation Statement is to include indebtedness from Form A only.

Certification of Chief Financial Officer:
Pursuant to Section 336775 (b) of the Health and Safety Code, I hereby certify that the above is a true and accurate Statement of Indebtedness for the above named agency.

James Miguel — Name

Acting Finance Director — Title



Signature

September 15, 2009 — Date

Rev 6/3/94

STATEMENT OF INDEBTEDNESS
FILED FOR THE 2009-10 TAX YEAR

Name of Redevelopment Agency: MODESTO REDEVELOPMENT AGENCY
Name of Project Area: MODESTO REDEVELOPMENT PROJECT - ORIGINAL AREA

For Indebtedness Entered into as of June 30, 2009

Debt Identification	Original Data					Current	
	Date	Principal	Term	Interest Rate	Total Interest	Total Outstanding Debt	Principal/Interest Due During Tax Year
(A) Loan from City of Modesto	12/12/82	49,050.00	open	7%	281,890.00	330,940.00	
(B) Loan from City of Modesto	4/24/84	25,000.00	open	7%	126,522.00	151,522.00	
(C) Loan from City of Modesto	4/24/84	35,000.00	open	7%	177,131.00	212,131.00	
(D) Loan from City of Modesto	4/24/84	2,200,000.00	open	7%	11,133,950.00	13,333,950.00	
(E) Loan from City of Modesto	10/12/84	640,000.00	open	7%	3,100,250.00	3,740,250.00	
(F) Loan from City of Modesto	1/31/85	1,187,500.00	open	7%	5,586,112.00	6,773,612.00	
(G) Loan from City of Modesto	11/01/85	3,300,000.00	open	7%	14,453,864.00	17,753,864.00	
(H) Loan from City of Modesto	10/26/86	81,000.00	open	7%	322,423.00	403,423.00	
(I) Certificates of Participation	05/27/93	27,225,000.00	30 yrs.	2.5%-5.6%	28,137,586.00	26,764,032.00	2,934,693.00
(J) Transfer/loans from City	06/30/03	1,490,573.00	open	7%	4,388,244.00	5,878,817.00	
Sub Total, This Page						$ 75,342,541.00	$ 2,934,693.00
Totals Forward From All Other Pages						$ 18,343,206.75	$ 66,895.00
Grand Totals						$ 93,685,747.75	$ 3,001,588.00
Available Revenues From Calculation of Available Revenues						$ -	
Net Requirement						$ 93,685,747.75	

Purpose of Indebtedness:

(A) Legal - Consulting & Administration

(B) Legal - Consulting & Administration

(C) Legal - Consulting & Administration

(D) Land Acquisition

(E) Archetectural costs & consulting

(F) Land Acquisition - Site preparation & construction

(G) Land Acquisition & Construction

(H) Land Acquisition

(I) Construction of Community Center

(J) Transfers/loans from City , per City Council/RDA 6/30/03

STATEMENT NDEBTEDNESS
FILED FOR THE 2009-10 TAX YEAR

Name of Redevelopment Agency: MODESTO REDEVELOPMENT AGENCY

Name of Project Area: MODESTO REDEVELOPMENT PROJECT - ORIGINAL AREA

For Indebtedness Entered into as of June 30, 2009

Debt Identification	Original Data					Current	
	Date	Principal	Term	Interest Rate	Total Interest	Total Outstanding Debt	Principal/Interest Due During Tax Year
(A) Low-Mod Housing Set-aside	11/05/91	-	40 yrs.	n/a	n/a	18,343,206.75	66,895.00
(B)							
(C)							
(D)							
(E)							
(F)							
(G)							
(H)							
(I)							
(J)							
(K)							
(L)							
Total This Page						$ 18,343,206.75	$ 66,895.00

Purpose of Indebtedness:

(A) 20% Low-Mod Income Housing set-aside (new est.)

(B)

(C)

(D)

(E)

(F)

(G)

(H)

(I)

(J)

(K)

(L)

RECONCILIATION STATEMENT - CHANGES IN INDEBTEDNESS

Name of Agency: MODESTO REDEVELOPMENT AGENCY

Name of Project Area: MODESTO REDEVELOPMENT PROJECT - ORIGINAL AREA

Tax Year 2009-10 Reconciliation Dates: From July 1, 2008 To June 30, 2009

Debt Identification: SOI, page and line: Prior Yr	Debt Identification: SOI, page and line: Current Yr	Brief Description	A Outstanding Debt All Beginning Indebtedness	B Adjustments Increases (Attach Explanation)	C Adjustments Decreases (Attach Explanation)	D Amounts Paid Against Indebtedness, from: Tax Increment	E Amounts Paid Against Indebtedness, from: Other Funds	F Remaining Balance (A+B-C-D-E)
Pg 1 Line A	Pg 1 Line A	Loan from City of Modesto	308,935.00	Interest added 22,005.00				330,940.00
Pg 1 Line B	Pg 1 Line B	Loan from City of Modesto	141,448.00	Interest added 10,074.00				151,522.00
Pg 1 Line C	Pg 1 Line C	Loan from City of Modesto	198,027.00	Interest added 14,104.00				212,131.00
Pg 1 Line D	Pg 1 Line D	Loan from City of Modesto	12,447,384.00	Interest added 886,566.00				13,333,950.00
Pg 1 Line E	Pg 1 Line E	Loan from City of Modesto	3,491,564.00	Interest added 248,686.00				3,740,250.00
Pg 1 Line F	Pg 1 Line F	Loan from City of Modesto	6,323,240.00	Interest added 450,372.00				6,773,612.00
Pg 1 Line G	Pg 1 Line G	Loan from City of Modesto	16,573,421.00	Interest added 1,180,443.00				17,753,864.00
Pg 1 Line H	Pg 1 Line H	Loan from City of Modesto	376,600.00	Interest added 26,823.00				403,423.00
TOTAL - THIS PAGE			39,860,619.00	2,839,073.00				42,699,692.00
TOTALS FORWARD			52,223,752.25	784,268.50		358,239.00	1,663,727.00	50,986,054.75
GRAND TOTALS			$ 92,084,371.25	$ 3,623,341.50	$ -	$ 358,239.00	$ 1,663,727.00	$ 93,685,746.75

NOTE: Column A must equal the previous year Statement of Indebtedness Outstanding Debt. Column F must equal this year's SOI Outstanding Debt column. Use the page and line number that the indebtedness is listed on in each year as appropriate, and a brief description. Ignore any indebtedness fully repaid in the previous year, as it had a zero ending balance. All new indebtedness entered into since the previous SOI is to be listed below the previous indebtedness. Enter "new" in the "Prior Yr" page and line column for each new indebtedness.

Rev. 5/2/94

RECONCILIATION STATEMENT - CHANGES IN INDEBTEDNESS

Name of Agency: MODESTO REDEVELOPMENT AGENCY

Name of Project Area: MODESTO REDEVELOPMENT PROJECT - ORIGINAL AREA

Tax Year 2009-10 Reconcillation Dates: From July 1, 2008 To June 30, 2009

Debt Identification: SOI, page and line: Prior Yr	Debt Identification: SOI, page and line: Current Yr	Brief Description	A Outstanding Debt All Beginning Indebtedness	B Adjustments Increases (Attach Explanation)	C Adjustments Decreases (Attach Explanation)	D Amounts Paid Against Indebtedness, from: Tax Increment	E Amounts Paid Against Indebtedness, from: Other Funds	F Remaining Balance (A+B-C-D-E)
Pg 1 Line I	Pg 1 Line I	Certificates of Participation	28,714,350.00			286,591.00	1,663,727.00	26,764,032.00
Pg 1 Line J	Pg 1 Line J	Transfer/loans from City	5,487,938.00	Interest added 390,878.00				5,878,816.00
Pg 2 Line A	Pg 2 Line A	Low-Mod Housing Set-aside	18,021,464.25	Adj. to total debt 393,390.50		71,648.00		18,343,206.75
Pg Line	Pg Line							
Pg Line	Pg Line							
Pg Line	Pg Line							
Pg Line	Pg Line							
Pg Line	Pg Line							
Pg Line	Pg Line							
Pg Line	Pg Line							
Pg Line	Pg Line							
Pg Line	Pg Line							
TOTAL - THIS PAGE			52,223,752.25	784,268.50		358,239.00	1,663,727.00	50,986,054.75

NOTE: Column A must equal the previous year Statement of Indebtedness Outstanding Debt. Column F must equal this year's SOI Outstanding Debt Column.

CALCULATION OF AVAILABLE REVENUES

AGENCY NAME MODESTO REDEVELOPMENT AGENCY

PROJECT AREA MODESTO REDEVELOPMENT PROJECT - ORIGINAL AREA

TAX YEAR 2009-10

RECONCILIATION DATES: JULY 1, 2008 TO JUNE 30, 2009

1.	Beginning Balance, Available Revenues (See Instructions)	$	1,977,050.00
2.	Tax Increment Received - Gross All Tax Increment Revenues, including any Tax Increment passed through to other local taxing agencies	$	358,238.00
3.	All other Available Revenues Received (See Instructions)	$	-
4.	Revenues from any other source, included in Column E of the Reconciliation Statement, but not included in (1 - 3) above	$	1,663,727.00
5.	Sum of Lines 1 through 4	$	3,999,015.00
6.	Total amounts paid against indebtedness in previous year. (D + E on Reconciliation Statement)	$	2,021,966.00
7.	Available Revenues, End of Year (5 - 6)	$	1,977,050.00
	FORWARD THIS AMOUNT TO STATEMENT OF INDEBTEDNESS		

NOTES

Tax Increment Revenues:

The only amount(s) to be excluded as Tax Increment Revenue are any amounts passed through to other local taxing agencies pursuant to Health and Safety Code Section 33676. Tax Increment Revenue set-aside in the Low and Moderate Income Housing Fund will be washed in the above calculation, and therefor omitted from Available Revenues at year end.

Item 4. above:

This represents any payments from any source other than Tax Increment OR available revenues. For instance, an agency funds a project with a bond issue. The previous SOI included a Disposition Development Agreement (DDA) which was fully satisfied with these bond proceeds. The DDA would be shown on the Reconciliation Statement as fully repaid under the "other" column (Col E), but with funds that were neither Tax Increment, nor "Available Revenues" as defined. The amounts used to satisfy this DDA would be included on line 4 above in order to accurately determine ending "Available Revenues".

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-576

A RESOLUTION DECLARING THE CITY COUNCIL'S INTENTION TO ESTABLISH CITY OF MODESTO COMMUNITY FACILITIES NO. 2009-1 (KIERNAN BUSINESS PARK EAST) AND TO AUTHORIZE THE LEVY OF A SPECIAL TAX WITHIN SAID COMMUNITY FACILITIES DISTRICT

WHEREAS, Chopra Development Enterprises, Inc., a California corporation (the "Owner"), the owner of not less than 10 percent of the area of land depicted on the map of the proposed community facilities district referred to below on file with the City Clerk (the "Property"), has filed a written petition with the City of Modesto (the "City") to establish the City of Modesto Community Facilities No. 2009-1 (Kiernan Business Park East) (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 Sate 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 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") and to pay the cost of the services listed in **Appendix A** hereto (the "Services"), and

WHEREAS, the Owner has heretofore submitted to the City an application to form the Community Facilities District 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 Owner has heretofore submitted a deposit in the amount of $30,500 as the deposit required by the City as security for payment of City fees and costs incurred in conducting proceedings to create the Community Facilities, and

WHERAS, the Owner submitted the deposit pursuant to the *Advanced Funding and Cost-Sharing Agreement for Kiernan Business Park East* executed between the City of Modesto and Chopra Development Enterprises, Inc., a California corporation on May 9, 2006, and

WHEREAS, the petition submitted by the Owner complies with the requirements of Section 53319 of the Act and the City's CFD Policies and Procedures, and

WHEREAS, subject to the satisfaction of all applicable requirements of law, it is the intention of this City Council to finance the Facilities and the Incidental Expenses and to pay for the Services through the formation of the Community Facilities District and the levy of a special tax and (in the case of the Facilities and the Incidental Expenses) the issuance of bonds, provided that the levy of the special tax and the issuance of the bonds are approved at an election to be held within the boundaries of the Community Facilities District,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby finds and determines as follows:

SECTION 1. The above recitals are true and correct.

SECTION 2. The Community Facilities District is proposed to be established under the terms of the Act. It is further proposed that the boundaries of the Community Facilities District, and proposed future annexation areas to 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.

Parcels within the future annexation areas shall be annexed to the CFD 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 3. The name of the proposed Community Facilities District shall be "City of Modesto Community Facilities District No. 2009-1 (Kiernan Business Park East)."

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: (i) the Facilities, the Incidental Expenses and the Services and (ii) the principal of and interest on and other periodic costs with respect to the bonds issued to finance the Facilities and the Incidental Expenses, including the establishment and replenishment of any reserve funds deemed necessary by the Community Facilities District and any remarketing, credit enhancement and liquidity facility fees (including such fees for instruments which serve as the basis of a reserve fund in lieu of cash) in connection with the bonds. The Facilities may be financed on a direct payment basis or through the issuance of the bonds. The rate, method of apportionment and manner of collection of the special tax are described in detail in **Appendix B attached** hereto and incorporated herein as though set forth at length (the "Rate and Method"). **Appendix B** allows each landowner and resident, if any, within the Community Facilities District to estimate the maximum amount that may be levied against each parcel.

If special taxes of the Community Facilities District are levied against any parcel used for private residential purposes, (i) such tax shall not be levied or collected to pay for Facilities or Incidental Expenses after the 2060-61 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 5.

SECTION 6. A public hearing (the "Hearing") on the establishment of the Community Facilities District and the proposed Rate and Method shall be held at 5:30 p.m., or as soon thereafter as practicable, on January 26, 2010, 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.

SECTION 11. Except to the extent limited in any bond resolution or trust indenture related to the issuance of bonds, the City Council hereby reserves to itself all rights and powers set forth in Section 53344.1 of the Act (relating to tenders in full or partial payment).

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 14th day of December, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
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

Water System:

Water system improvements include, but are not limited to, wells, water transmission pipelines, interior water mains, other water distribution lines, wellhead treatment systems, surface water supply pipelines, tanks, booster pumps, connections to existing water system, other water supply accessories and land acquisition. Water system improvements may be on-site or off-site. (The "Water System Facilities.")

Wastewater System:

Wastewater system improvements may include, but are not limited to, distribution pipelines, land acquisition, lift station(s), force main(s) and other wastewater system accessories. Wastewater system improvements may be on-site or off-site. (The "Wastewater System Facilities.")

Transportation, Landscaping and Lighting System:

Transportation, lighting and landscaping system improvements include, but are not limited to, land acquisition, arterials and collector streets, round-abouts, 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. (The "Transportation, Landscaping and Lighting System Facilities.")

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 together with the Water System Facilities, the Wastewater System Facilities and the Transportation, Landscaping and Lighting System Facilities, 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

RATE AND METHOD OF APPORTIONMENT

APPENDIX B

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2009-1
(KIERNAN BUSINESS PARK EAST)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

Special Taxes applicable to each Assessor's Parcel in Community Facilities District No. 2009-1 (Kiernan Business Park East) [herein "CFD No. 2009-1" or the "CFD"] shall be levied and collected according to the tax liability determined by the City Council of the City of Modesto, through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2009-1, unless exempted by law or by the provisions of Section H below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2009-1 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 Development Plan.

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5 (commencing with Section 53311), Division 2 of Title 5 of the California Government Code.

"Administrative Expenses" means any or all of the following: the fees and expenses of any fiscal agent or trustee (including any fees or expenses of its counsel) employed in connection with any Bonds, and the expenses of the City carrying out its duties with respect to CFD No. 2009-1 and the Bonds, including, but not limited to, levying and collecting the Special Taxes, the fees and expenses of legal counsel, charges levied by the County Auditor's Office, Tax Collector's Office, and/or Treasurer's Office, costs related to annexing property into the CFD, costs related to property owner inquiries regarding the Special Taxes, costs associated with complying with any continuing disclosure requirements for the Bonds and the Special Taxes, and all other costs and expenses of the City in any way related to the establishment or administration of the CFD.

"Administrator" means the person or firm designated by the City to administer the Special Taxes according to this Rate and Method of Apportionment of Special Tax.

"Annual Facilities Special Tax" means a special tax levied in any Fiscal Year to pay the Annual Facilities Special Tax Requirement, as defined below.

"Annual Facilities Special Tax Requirement" means the amount necessary in any Fiscal Year to: (i) pay principal and interest on Bonds; (ii) pay Administrative Expenses that have not been included in the Annual Maintenance Special Tax Requirement for the Fiscal Year; (iii) create or replenish reserve funds; (iv) cure any delinquencies in the payment of principal or interest on indebtedness of CFD No. 2009-1 which have occurred in the prior Fiscal Year or (based on delinquencies in the payment of the Annual Facilities Special Taxes which have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected; and (v) construct or acquire Authorized Facilities. The amounts referred to in clauses (i) and (ii) of the preceding sentence may be reduced in any Fiscal Year by: (i) interest earnings on or surplus balances in funds and accounts for the Bonds to the extent that such earnings or balances are available to apply against debt service pursuant to a Bond indenture, Bond resolution, or other legal document that sets forth these terms; (ii) proceeds received by CFD No. 2009-1 from the collection of penalties associated with delinquent Annual Facilities Special Taxes; and (iii) any other revenues available to pay debt service on the Bonds as determined by the Administrator.

"Annual Maintenance Special Tax" means a special tax levied in any Fiscal Year to pay the Annual Maintenance Special Tax Requirement, as defined below.

"Annual Maintenance Special Tax Requirement" means that amount necessary in any Fiscal Year to: (i) pay for Authorized Services; (ii) pay Administrative Expenses that have not been included in the Annual Facilities Special Tax Requirement for the Fiscal Year; (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; and (iv) pay debt service on Bonds to the extent permitted in the Bond documents.

"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" means those facilities that are authorized to be funded by CFD No. 2009-1.

"Authorized Services" means those services that are authorized to be funded by CFD No. 2009-1.

"Bonds" means bonds or other debt (as defined in the Act), whether in one or more series, issued, insured, or assumed by CFD No. 2009-1 related to Authorized Facilities.

"Business Park Property" means any Parcel of Developed Property for which a building permit was issued for construction of a building that will be a part of a campus-like environment for office, light production, or warehouse uses in high quality single- or multiple-occupant buildings. Business Park Property may include development focused primarily on research, product development, professional office, or limited manufacturing and distribution land uses, as determined by the Administrator using reasonable and established City zoning and other land use standards.

"Capitalized Interest" means funds in any capitalized interest account available to pay debt service on Bonds.

"CFD Formation" means the date on which the Resolution of Formation to form CFD No. 2009-1 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. 2009-1.

"County" means the County of Stanislaus.

"Developed Property" means, in any Fiscal Year, the following:

For purposes of levying the Annual Maintenance Special Tax, "Developed Property" means:

- for Single Family Property, all Parcels for which a Final Map was recorded prior to June 30 of the preceding Fiscal Year,

- for Multi-Family Property and Non-Residential Property, all Parcels for which a building permit for construction, reconstruction, or expansion of a building structure was issued prior to June 30 of the preceding Fiscal Year. Notwithstanding the foregoing, Parcels of Multi-Family Property and Non-Residential Property on which a vacant building is located that cannot be occupied without demolition or reconstruction of the building shall not be categorized as Developed Property until a permit is issued for construction of a new building or reconstruction of the existing building.

For purposes of levying the Annual Facilities Special Tax, "Developed Property" means:

- for Single Family Property, all Parcels for which a building permit for construction of a Unit was issued prior to June 30 of the preceding Fiscal Year,

- for Multi-Family Property and Non-Residential Property, all Parcels for which a building permit for construction, reconstruction, or expansion of a building structure was issued prior to June 30 of the preceding Fiscal Year. Notwithstanding the foregoing, Parcels of Multi-Family Property and Non-Residential Property on which a vacant building is located that cannot be occupied without demolition or reconstruction of the building shall not be categorized as Developed Property until a permit is issued for construction of a new building or reconstruction of the existing building.

"Development Plan" means an apartment plan, site plan, or other development plan that identifies such information as the type of structure, the acreage, the square footage, and/or the number of Units that will be developed on Multi-Family Property.

"Expected Land Uses" means the Units of Single Family Property, Acres of Multi-Family Property, and Acres of Non-Residential Property expected to be developed within CFD No. 2009-1 at the time of CFD Formation.

"Expected Maximum Annual Facilities Special Tax Revenues" means the amount of annual revenue, conservatively estimated by the Administrator, that would be available from Expected Land Uses if the Maximum Annual Facilities Special Tax was levied. The Expected Maximum Annual Facilities Special Tax Revenues at the time of CFD Formation is shown in Attachment 1.

"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.

"Hotel Property" means any Parcel of Developed Property for which a building permit was issued for construction of a non-residential structure that constitutes a place of lodging providing sleeping accommodations and related facilities for travelers, as determined by the Administrator using reasonable and established City zoning and other land use standards.

"Land Use Class" means one of the seven mutually-exclusive land use classes of Developed Property identified in Table 1 in Section C below and defined in this Section A. The City shall, in its sole discretion, determine the appropriate Land Use Class for Parcels on which a structure was built prior to CFD Formation.

"Maximum Annual Facilities Special Tax" means the greatest amount of Annual Facilities Special Tax that can be levied on an Assessor's Parcel in any Fiscal Year determined in accordance with Sections C and D below.

"Maximum Annual Maintenance Special Tax" means the greatest amount of Annual Maintenance Special Tax that can be levied on an Assessor's Parcel in any Fiscal Year determined in accordance with Sections C and D below.

"Maximum One-Time Facilities Special Tax" means the greatest amount of One-Time Facilities Special Tax that can be levied on an Assessor's Parcel in any Fiscal Year determined in accordance with Sections C and D below.

"Maximum Special Taxes" means, collectively, the Maximum One-Time Facilities Special Tax, Maximum Annual Facilities Special Tax, and Maximum Annual Maintenance Special Tax.

"Multi-Family Property" means any Parcel of Developed Property for which a building permit was issued for construction of a residential structure consisting of apartment Units, as determined by the Administrator using reasonable and established City zoning and other land use standards.

"Net Taxable Acreage" or **"Net Taxable Acre"** means the total acreage within a Final Map or Parcel less arterial road right-of-ways and property that is defined in the Final Map for use as a park site, school site, or City-owned or CFD-owned storm drainage basin. If a Subdivision Map is recorded which is not a Final Map for some or all Parcels created by a subdivision, the Administrator shall calculate the Net Taxable Acreage of such unsubdivided Parcels by identifying the Acreage of the Parcel and (i) adding a portion of the acreage of any non-arterial right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way, and (ii) subtracting a portion of the acreage of any arterial right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way. The Net Taxable Acreage of a Parcel or Final Map shall be determined in the sole discretion of the City.

"Non-Residential Property" means, collectively, Business Park Property, Office Property, Retail Property, Hotel Property, and Other Property.

"Office Property" means any Parcel of Developed Property for which a building permit was issued for construction of a building that will be divided primarily into individual offices (including cubicles or other modular office space) for use by companies to conduct business, as determined by the Administrator using reasonable and established City zoning and other land use standards.

"One-Time Facilities Special Tax" means a Special Tax levied and collected in full by the City prior to a structural building permit being issued for new construction on Taxable Property.

"One-Time Facilities Special Tax Requirement" means the amount determined by the City that is needed to pay facility costs authorized to be funded by CFD No. 2009-1, which will not be paid by the Bonds or Annual Facilities Special Tax.

"Other Property" means any Parcel of Developed Property for which a building permit was issued for construction of a non-residential structure that is not Business Park Property, Office Property, Retail Property, or Hotel Property.

"Proportionately" means, for Developed Property, that the ratio of the actual Annual Facilities Special Tax and actual Annual Maintenance Special Tax levied in any Fiscal Year to the Maximum Annual Facilities Special Tax and Maximum Annual Maintenance Special Tax authorized to be levied in that Fiscal Year, respectively, is equal for all Assessor's Parcels of Developed Property. In addition, for Undeveloped Property, "Proportionately" means that the ratio of the actual Annual Facilities Special Tax and actual Annual Maintenance Facilities Special Tax to the Maximum Annual Facilities Special Tax and Maximum Annual Maintenance Special Tax, respectively, is equal for all Assessor's Parcels of Undeveloped Property.

"Public Property" means any property within the boundaries of CFD No. 2009-1 that is owned by the federal government, State of California, County, City, or other public agency.

"Retail Property" means any Parcel of Developed Property for which a building permit was issued for construction of a building that will include primarily commercial establishments which sell general merchandise, hard goods, personal services, and other items directly to consumers, including but not limited to travel agencies, hardware stores, food stores, automotive dealers, service stations, home furnishing stores, restaurants, bars, banks, repair shops, movie theaters, day care centers, and art galleries, as determined by the Administrator using reasonable and established City zoning and other land use standards.

"Single Family Attached Property" means any Parcel of Developed Property for which a building permit was issued (for purposes of levying the Annual Facilities Special Tax) or will be issued (for purposes of levying the Annual Maintenance Special Tax) for construction of a residential structure consisting of two or more Units that share common walls, have separate Assessor's Parcel numbers assigned to them, and are offered as for-sale Units, including such residential structures that meet the statutory definition of a condominium contained in Civil Code Section 1351.

"Single Family Detached Property" means any Parcel of Developed Property for which a building permit was issued (for purposes of levying the Annual Facilities Special Tax) or will be issued (for purposes of levying the Annual Maintenance Special Tax) for construction of a Unit that does not share a common wall with another Unit.

"Single Family Property" means, collectively, Single Family Attached Property and Single Family Detached Property.

"Special Taxes" means, collectively, the One-Time Facilities Special Tax, the Annual Facilities Special Tax, and the Annual Maintenance Special Tax.

"Square Foot," "Square Footage," or **"Square Feet"** means the floor area square footage reflected on the original construction building permit issued for construction of a building of Non-Residential Property and any Square Footage subsequently added to a building of such Taxable Property after issuance of a building permit for expansion or renovation of such building.

"Subdivision Map" means a Final Map, Development Plan, 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. 2009-1 which are not exempt from the Special Tax pursuant to law or Section H below.

"Taxable Public Property" means, in any Fiscal Year, all Parcels of Public Property within CFD No. 2009-1 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. 2009-1 that are not Developed Property.

"Unit" means: (i) for Single Family Property, an individual single-family unit; and (ii) for Multi-Family Property, an individual unit within an apartment structure.

B. DATA FOR ANNUAL ADMINISTRATION

On or about July 1 of each Fiscal Year, the Administrator shall identify the current Assessor's Parcel numbers for all Parcels of Taxable Property. The Administrator shall also determine: (i) whether each Assessor's Parcel of Taxable Property is Developed Property or Undeveloped Property; (ii) for Developed Property, which Parcels are Single Family Property, Multi-Family Property, and Non-Residential Property; (iii) the Acreage and number of Units for each Parcel of Multi-Family Property; (iv) the Acreage and Square Footage of each Parcel of Non-Residential Property, and (v) the One-Time Facilities Special Tax Requirement, the Annual Facilities Special Tax Requirement, and the Maintenance Special Tax Requirement.

In any Fiscal Year, if it is determined that (i) a Final Map for a portion of property in CFD No. 2009-1 was recorded after January 1 of the prior Fiscal Year (or any other date after which the Assessor will not incorporate the newly-created Parcels into the then current tax roll), (ii) because of the date the 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 Tax for the property affected by recordation of the Final Map by determining the Special Tax that applies separately to each newly-created Parcel, then applying the sum of the individual Special Taxes to the 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. 2009-1 in each Fiscal Year, including the Maximum One-Time Facilities Special Tax, Maximum Annual Facilities Special Tax, and Maximum Annual Maintenance Special Tax.

1. Maximum Special Taxes

The Maximum Special Taxes set forth in Table 1 below shall be used for purposes of calculating the Maximum Special Taxes for all Parcels of Taxable Property. The Maximum Special Tax for any Parcel of Developed Property shall be the per-Unit, per-

Square Foot, or per-Net Taxable Acre amount that produces the greatest Special Tax revenue.

Table 1
Maximum Special Taxes
Fiscal Year 2009-10 *

Land Use Class	Maximum One-Time Facilities Special Tax		Maximum Annual Facilities Special Tax		Maximum Annual Maintenance Special Tax	
	Per Unit or Per Square Foot	*Per Net Taxable Acre*	*Per Unit or Per Square Foot*	*Per Net Taxable Acre*	*Per Unit or Per Square Foot*	*Per Net Taxable Acre*
Single Family Property	$14,634 per Unit	N/A	$1,312 per Unit	N/A	$297 per Unit	N/A
Multi-Family Property	$0 per Unit	$0	$586 per Unit	$14,206	$218 per Unit	$5,283
Business Park Property	$14.00 per Square Foot	$243,850	$0.36 per Square Foot	$6,271	$0.07 per Square Foot	$1,209
Office Property	$21.54 per Square Foot	$833,836	$0.48 per Square Foot	$18,579	$0.03 per Square Foot	$1,209
Retail Property	$22.52 per Square Foot	$873,208	$0.54 per Square Foot	$20,940	$0.03 per Square Foot	$1,209
Hotel Property	$13.64 per Square Foot	$528,909	$0.47 per Square Foot	$18,220	$0.03 per Square Foot	$1,209
Other Property	$22.52 per Square Foot	$873,208	$0.54 per Square Foot	$20,940	$0.07 per Square Foot	$1,209
Undeveloped Property	N/A	N/A	N/A	$20,940	N/A	$5,283

** All Maximum Special Taxes shown in Table 1 are subject to the annual adjustments described in Section D below. N/A means not applicable.*

2. Multiple Land Use Classes on an Assessor's Parcel

In some instances an Assessor's Parcel of Developed Property may contain more than one Land Use Class. The Maximum Special Taxes levied on and Assessor's Parcel shall be the sum of the Maximum Special Taxes for all Units of Single Family Property and the Maximum Special Taxes calculated for Multi-Family Property and Non-Residential

Property (based on the applicable Final Map, parcel map, Development Plan, condominium plan, or other recorded County map) located on that Assessor's Parcel.

D. ESCALATION OF MAXIMUM SPECIAL TAXES

1. One-Time Facilities Special Tax

Beginning in January 2010 and each January thereafter, the Maximum One-Time Facilities Special Taxes shown in Table 1 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 One-Time Facilities Special Tax shall become effective on the subsequent July 1.

2. Annual Facilities Special Tax

Beginning with Fiscal Year 2010-11, and each Fiscal Year thereafter, the Maximum Annual Facilities Special Taxes shown in Table 1 shall be increased by two percent (2%) of the amount in effect in the prior Fiscal Year.

3. Annual Maintenance Special Tax

Beginning in January 2010 and each January thereafter, the Maximum Annual Maintenance Special Taxes shown in Table 1 shall be adjusted annually by the greater of: (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available; or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

E. BACK-UP FORMULA

Each time a new or revised Subdivision Map ("Land Use/Entitlement Change") is proposed any time after the City has issued Bonds, the Administrator shall recalculate the Expected Maximum Annual Facilities Special Tax Revenues based on the proposed Land Use/Entitlement Change. If the proposed Land Use/Entitlement Change will reduce debt service coverage on outstanding Bonds below the amount committed to in the Bond documents, then, before approval of the Land Use/Entitlement Change, the landowner requesting the Land Use/Entitlement Change shall prepay to the City an amount that corresponds to the lost Maximum Annual Facilities Special Tax revenue, as

determined by applying the steps set forth in Section I below to prepay the Annual Facilities Special Tax. Any such prepayment shall be used by the City to call Bonds.

F. 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. 2009-1 and shall be collected as set forth in Section G below.

2. Annual Facilities Special Tax

Commencing with Fiscal Year 2010-11 and for each following Fiscal Year, the Administrator shall determine the Annual Facilities Special Tax Requirement for that Fiscal Year. The Annual Facilities Special Tax shall then be levied on all Parcels of Taxable Property in CFD No. 2009-1 as follows:

Step 1: The Annual Facilities Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Facilities Special Tax for each Parcel for such Fiscal Year until the amount levied on Developed Property is equal to the Annual Facilities Special Tax Requirement prior to applying any Capitalized Interest that is available in the CFD accounts;

Step 2: If additional revenue is needed after Step 1, and after applying Capitalized Interest to the Annual Facilities Special Tax Requirement, the Annual Facilities Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Facilities Special Tax for each Parcel of Undeveloped Property for such Fiscal Year;

Step 3: If additional revenue is needed after applying the first two steps, the Annual Facilities Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Public Property, up to 100% of the Maximum Annual Facilities Special Tax assigned to each Parcel of Taxable Public Property.

3. Annual Maintenance Special Tax

Commencing with Fiscal Year 2010-11 and for each following Fiscal Year, the Administrator shall determine the Annual Maintenance Special Tax Requirement for that Fiscal Year. The Annual Maintenance Special Tax shall then be levied on all Parcels of Taxable Property as follows:

Step 1: The Annual Maintenance Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel for such Fiscal Year;

Step 2: If additional revenue is needed after Step 1, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel of Undeveloped Property for such Fiscal Year;

Step 3: If additional revenue is needed after applying the first two steps, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Public Property, up to 100% of the Maximum Annual Maintenance Special Tax assigned to each Parcel of Taxable Public Property.

G. COLLECTION OF SPECIAL TAX

The Maximum One-Time Facilities Special Tax shall be collected prior to a building permit being issued for new construction of any residential or non-residential structure on Taxable Property within CFD No. 2009-1, and shall be immediately delinquent if not so paid.

The Annual Facilities Special Tax and Annual Maintenance Special Tax for CFD No. 2009-1 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes; provided, however, that prepayments are permitted as set forth in Section I below and provided further that the City may directly bill, collect at a different time or in a different manner, and/or collect delinquent Annual Facilities Special Taxes and Annual Maintenance Special Taxes through foreclosure or other available methods.

The Annual Facilities Special Tax shall be levied and collected until principal and interest on Bonds have been repaid, costs of constructing or acquiring authorized facilities from Annual Facilities Special Tax proceeds have been paid, and all Administrative Expenses have been reimbursed. However, in no event shall an Annual Facilities Special Tax be levied after Fiscal Year 2060-2061. 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 Authorized Services of the CFD and all Administrative Expenses have been reimbursed. Under no circumstances may the Annual Facilities Special Tax on one Parcel in the CFD be increased by more than ten percent (10%) as a consequence of delinquency or default in payment of the Annual Facilities Special Tax levied on another Parcel or Parcels in the CFD.

H. 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.

I. PREPAYMENT OF SPECIAL TAX

The following definitions apply to this Section I:

"Outstanding Bonds" means all Previously Issued Bonds which remain outstanding, with the following exception: if an Annual Facilities Special Tax has been levied against, or already paid by, an Assessor's Parcel making a prepayment, and a portion of the Annual Facilities Special Tax will be used to pay a portion of the next principal payment on the Bonds that remain outstanding (as determined by the Administrator), that next principal payment shall be subtracted from the total Bond principal that remains outstanding, and the difference shall be used as the amount of Outstanding Bonds for purposes of this prepayment formula.

"Previously Issued Bonds" means all Bonds that have been issued on behalf of the CFD prior to the date of prepayment.

"Public Facilities Requirements" means either $6,500,000 in 2009 dollars, which shall increase on January 1, 2010, and on each January 1 thereafter by the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or such lower number as shall be determined by the City as sufficient to fund Authorized Facilities. The Public Facilities Requirements shown above may be adjusted or a separate Public Facilities Requirements identified each time property annexes into CFD No. 2009-1; at no time shall the added Public Facilities Requirement for that annexation area exceed the amount of public improvement costs that are expected to be supportable by the Maximum Annual Facilities Special Tax revenues generated within that annexation area.

"Remaining Facilities Costs" means the Public Facilities Requirements (as defined above), minus costs of Authorized Facilities funded by Outstanding Bonds (as defined above), developer equity, and/or any other source of funding.

The Annual Facilities Special Tax obligation applicable to an Assessor's Parcel in the CFD may be prepaid and the obligation of the Assessor's Parcel to pay the Annual Facilities Special Tax permanently satisfied as described herein, provided that a prepayment may be made only if there are no delinquent Annual Facilities Special Taxes with respect to such Assessor's Parcel at the time of prepayment. The Annual Maintenance Special Tax may not be prepaid. An owner of an Assessor's Parcel intending to prepay the Annual Facilities Special Tax obligation shall provide the City with written notice of intent to prepay. Within 30 days of receipt of such written notice, the City or its designee shall notify such owner of the prepayment amount for such Assessor's Parcel. Prepayment must be made not less than 75 days prior to any redemption date for Bonds to be redeemed with the

proceeds of such prepaid Annual Facilities Special Taxes. The Prepayment Amount shall be calculated as follows (capitalized terms as defined below):

Bond Redemption Amount	
plus	Remaining Facilities Amount
plus	Redemption Premium
plus	Defeasance Requirement
plus	Administrative Fees and Expenses
less	Reserve Fund Credit
equals	Prepayment Amount

As of the proposed date of prepayment, the Prepayment Amount shall be determined by application of the following steps:

Step 1. Compute the total Maximum Annual Facilities Special Tax that could be collected from the Assessor's Parcel prepaying the Annual Facilities Special Tax in the Fiscal Year in which prepayment would be received by the City.

Step 2. Divide the Maximum Annual Facilities Special Tax from Step 1 by the total amount that could be collected if the Maximum Annual Facilities Special Tax was levied on all Parcels of Taxable Property in the CFD in the Fiscal Year in which the prepayment would be received by the City.

Step 3. Multiply the quotient computed pursuant to Step 2 by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (the "***Bond Redemption Amount***").

Step 4. Compute the current Remaining Facilities Costs (if any).

Step 5. Multiply the quotient computed pursuant to Step 2 by the amount determined pursuant to Step 4 to compute the amount of Remaining Facilities Costs to be prepaid (the "***Remaining Facilities Amount***").

Step 6. Multiply the Bond Redemption Amount computed pursuant to Step 3 by the applicable redemption premium, if any, on the Outstanding Bonds to be redeemed (the "***Redemption Premium***").

Step 7. Compute the amount needed to pay interest on the Bond Redemption Amount starting with the first Bond interest payment date after which the prepayment has been received until the earliest redemption date for the Outstanding Bonds, which, depending on the Bond offering document, may be as early as the next interest payment date.

Step 8: Compute the amount of interest the City reasonably expects to derive from reinvestment of the Bond Redemption Amount plus the Redemption

Premium from the first Bond interest payment date after which the prepayment has been received until the redemption date for the Outstanding Bonds.

Step 9: Take the amount computed pursuant to Step 7 and subtract the amount computed pursuant to Step 8 (the ***"Defeasance Requirement"***).

Step 10. Determine the costs of computing the prepayment amount, the costs of redeeming Bonds, and the costs of recording any notices to evidence the prepayment and the redemption (the ***"Administrative Fees and Expenses"***).

Step 11. If and to the extent so provided in the indenture pursuant to which the Outstanding Bonds to be redeemed were issued, a reserve fund credit shall be calculated as a reduction in the applicable reserve fund for the Outstanding Bonds to be redeemed pursuant to the prepayment (the ***"Reserve Fund Credit"***).

Step 12. The Annual Facilities Special Tax prepayment is equal to the sum of the amounts computed pursuant to Steps 3, 5, 6, 9, and 10, less the amount computed pursuant to Step 11 (the ***"Prepayment Amount"***).

J. 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.

K. ENFORCEMENT

All delinquent Annual Facilities Special Taxes, or delinquent Annual Maintenance Special Taxes, billed off the County tax roll shall be subject to an immediate 10% penalty plus interest charges of 1.5 % as of the first day of the month after the delinquency date and on the first day of each month thereafter. Any such delinquent Special Taxes shall, at the City's discretion, be placed on the next secured property tax roll. The amount placed on the roll shall include the 10% penalty and the interest charges through the following January 1. This shall not prevent the City from simultaneously pursing the delinquency by an action on a contract of guarantee against a third party who promised to pay the taxes, or from assigning such right of action to the property owner or other appropriate party.

ATTACHMENT 1

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2009-1
(KIERNAN BUSINESS PARK EAST)

Expected Land Uses and Expected Maximum Annual Facilities Special Tax Revenues

Land Use Class	Expected Number of Units/Acres	Maximum Annual Facilities Special Tax per Unit/Acre FY 2009-10 [1]	Expected Maximum Annual Facilities Special Tax Revenues FY 2009-10 [1]
Single Family Property	262 Units	$1,312 per Unit	$343,740
Multi-Family Property	3.3 Acres	$14,206 per Acre	$46,880
Business Park Property [2]	0.0 Acres	$6,271 per Acre	$0
Office Property	2.3 Acres	$18,579 per Acre	$43,200
Retail Property	9.3 Acres	$20,940 per Acre	$194,400
Hotel Property	4.4 Acres	$18,220 per Acre	$79,900
Expected Maximum Annual Facilities Special Tax Revenues at CFD Formation (Fiscal Year 2009-10 $)			**$708,120**

[1] On July 1, 2010, and each July 1 thereafter, the Maximum Annual Facilities Special Tax and Expected Maximum Annual Facilities Special Tax Revenues shall be increased by two percent (2%) of the amount in effect in the previous Fiscal Year. Revenues may not be exact due to rounding.

[2] All Business Park Property is expected to annex to CFD No. 2009-1 after CFD Formation. At such time as annexations occur, the Administrator shall update this Attachment 1 to reflect the expected Acreage and Expected Maximum Annual Facilities Tax Revenues associated with the annexed property.

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MODESTO CITY COUNCIL
RESOLUTION NO. 2009-577

A RESOLUTION DECLARING THE CITY COUNCIL'S INTENTION TO INCUR BONDED INDEBTEDNESS IN THE AMOUNT NOT TO EXCEED $40,000,000 WITHIN PROPOSED CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2009-1 (KIERNAN BUSINESS PARK EAST)

WHEREAS, pursuant to a resolution adopted on the date hereof (the "Companion Resolution"), this City Council has instituted proceedings for the possible formation of the City of Modesto Community Facilities District No. 2009-1 (Kiernan Business Park East) (the "Community Facilities District") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the "Act") in order to finance (i) the cost of purchasing, constructing, expanding, improving or rehabilitating the facilities listed in Appendix A to the Companion Resolution, and all appurtenances and appurtenant work associated with the foregoing (collectively, the "Facilities") and (ii) the incidental expenses to be incurred in connection with financing the Facilities, including (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"), and to pay the costs of the services listed in Appendix A to the Companion Resolution (collectively, the "Services"), and

WHEREAS, this City Council estimates that the amount of bond proceeds required to finance the Facilities and Incidental Expenses is approximately $40,000,000, and

WHEREAS, in order to finance the Facilities and Incidental Expenses, subject to the formation of the Community District and to the satisfaction of all applicable requirements of law, this City Council intends to authorize the issuance of bonds in the maximum aggregate principal amount of $40,000,000, the repayment of which is to be secured by special taxes levied in accordance with the Act on all property in the Community Facilities District, other than those properties exempted from taxation in the rate and method of apportionment set forth in Appendix B to the Companion Resolution,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby finds and determines as follows:

SECTION 1. The above recitals are true and correct.

SECTION 2. It is necessary to incur bonded indebtedness within the boundaries of the Community Facilities District in an amount not to exceed $40,000,000 to finance certain of the costs of the Facilities and Incidental Expenses, as permitted by the Act.

SECTION 3. The indebtedness will be incurred for the purpose of financing the costs of the Facilities and the Incidental Expenses, including, but not limited to, the funding of reserve funds for the bonds, the financing of costs associated with the issuance of the bonds and all other costs and expenses necessary to finance the Facilities which are permitted to be financed pursuant to the Act.

SECTION 4. It is the intent of this City Council to authorize the sale of bonds in one or more series, in the maximum aggregate principal amount specified in Section 2, and at a maximum interest rate not in excess of 12 percent per annum, or a higher rate not in excess of the maximum rate permitted by law at the time that the bonds are issued. The term of the bonds of each series shall be determined pursuant to a resolution of this City Council authorizing the issuance of the bonds of such series, but such term shall in no event exceed 40 years from the date of issuance of the bonds of such series, or such longer term as is then permitted by law.

SECTION 5. A public hearing (the "Hearing") on the proposed debt issue shall be held at 5:30 p.m., or as soon thereafter as practicable, on January 26, 2010, in the Modesto City Council Chamber, 1010 Tenth Street, Modesto, California 93535 and shall be combined with the public hearing called for in the Companion Resolution.

SECTION 6. At the time and place set forth in this Resolution for the Hearing, any interested persons, including all persons owning land or registered to vote within the Community Facilities District, may appear and be heard.

SECTION 7. The City Clerk is hereby directed to publish a notice (the "Notice") of the Hearing pursuant to Section 6061 of the Government Code in a newspaper of general circulation published in the area of the Community Facilities District. Such publication shall be completed at least seven days prior to the date of the Hearing.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 14th day of December, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-578

RESOLUTION ACCEPTING A $40,000 GRANT ON BEHALF OF THE MODESTO FIRE DEPARTMENT AWARDED BY THE E & J GALLO WINERY, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ANY NECESSARY GRANT ACCEPTANCE DOCUMENTS

WHEREAS, in 2005, the Modesto Fire Department became aware of a new nozzle technology, and

WHEREAS, the new technology allows the nozzle to operate at a lower tip pressure while supplying water at a larger gallon per minute rate than nozzles presently being used, and

WHEREAS, this advanced technology provides more maneuverability for the firefighter as well as more initial knock-down power on the fire, and

WHEREAS, the end result is an increase in safety for the firefighter and an increase in efficiency for the fire attack team, and

WHEREAS, in order to determine the viability of this new technology for the Modesto Fire Department, a thorough testing and experimentation phase was embarked upon that lasted more than two years, and

WHEREAS, at the conclusion of this phase, it was determined that these nozzles would indeed enhance the safety and efficiency of the Modesto Fire Department, and

WHEREAS, in early 2009, the Modesto Fire Department applied for a grant through the E & J Gallo Winery, and

WHEREAS, in September 2009, the Modesto Fire Department was awarded a $40,000 grant, and

WHEREAS, this grant will allow the Modesto Fire Department to purchase the new nozzles and all associated appliances and allow for the implementation of this new technology Department-wide,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts a $40,000 grant on behalf of the Modesto Fire Department awarded by the E & J Gallo Winery.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute any necessary grant acceptance documents.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 14th day of December, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-579

A RESOLUTION AMENDING THE FISCAL YEAR 2009-2010 OPERATING BUDGET TO ESTABLISH GRANT REVENUE ($40,000) AND APPROPRIATE IN ACCOUNT NUMBER 0100-180-1810-0308

WHEREAS, in 2005, the Modesto Fire Department became aware of a new nozzle technology, and

WHEREAS, the new technology allows the nozzle to operate at a lower tip pressure while supplying water at a larger gallon per minute rate than nozzles presently being used, and

WHEREAS, this advanced technology provides more maneuverability for the firefighter, as well as more initial knock-down power on the fire, and

WHEREAS, the end result is an increase in safety for the firefighter and an increase in efficiency for the fire attack team, and

WHEREAS, in order to determine the viability of this new technology for the Modesto Fire Department, a thorough testing and experimentation phase was embarked upon that lasted more than two years, and

WHEREAS, at the conclusion of the phase, it was clearly determined that these nozzles would indeed enhance the safety and efficiency of the Modesto Fire Department, and

WHEREAS, in early 2009 the Modesto Fire Department applied for a grant through the E & J Gallo Winery, and

WHEREAS, in September 2009, the Fire Department was awarded a $40,000 grant from E & J Gallo Winery, and

WHEREAS, this grant will allow the Modesto Fire Department to purchase the new nozzles, and all associated appliances, and allow for the implementation of this new technology Department-wide,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending of the Fiscal Year 2009-2010 Operating Budget to establish grant revenue ($40,000) and appropriate in account number 0100-180-1810-0308.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 14th day of December, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-580

A RESOLUTION APPROVING THE PURCHASE OF NEW NOZZLES AND ALL ASSOIATED APPLIANCES FOR THE MODESTO FIRE DEPARTMENT THROUGH THE USE OF THE COMPETITIVE BIDDING PROCESS, OR VIA SOLE SOURCE, WHERE DEEMED ACCEPTABLE, FOR AN ESTIMATED TOTAL COST OF $40,000

WHEREAS, in 2005, the Modesto Fire Department became aware of a new nozzle technology, and

WHEREAS, the new technology allows the nozzle to operate at a lower tip pressure while supplying water at a larger gallon per minute rate than those nozzles presently being used, and

WHEREAS, this advanced technology provides more maneuverability for the firefighter as well as more initial knock-down power on the fire, and

WHEREAS, the end result is an increase in safety for the firefighter and an increase in efficiency for the fire attack team, and

WHEREAS, in order to determine the viability of this new technology for the Modesto Fire Department, a thorough testing and experimentation phase was embarked upon that lasted more than two years, and

WHEREAS, at the conclusion of the phase, it was determined that these nozzles would enhance the safety and efficiency of the Modesto Fire Department, and

WHEREAS, in early 2009 the Fire Department applied for a grant through the E & J Gallo Winery, and

WHEREAS, in September 2009, the Modesto Fire Department was awarded a $40,000 grant from E & J Gallo Winery, and

WHEREAS, this grant will allow the Modesto Fire Department to purchase the new nozzles and all associated appliances and allow for the implementation of this new technology Department-wide,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the purchase of new nozzles and all associated appliances for the Modesto Fire Department through use of the competitive bidding process, or via sole source, where deemed acceptable, for an estimated total cost of $40,000.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 14th day of December, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-581

RESOLUTION APPROVING A LETTER AGREEMENT AND ACCEPTING A GRANT DEED IN LIEU OF FORECLOSURE FROM LOLA M. HUDSON, FOR THE PROPERTY LOCATED AT 1704 OREGON DRIVE IN MODESTO; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE (1) THE LETTER AGREEMENT, (2) CERTIFICATE OF ACCEPTANCE, (3) SUBSTITUTION OF TRUSTEE AND FULL RECONVEYANCE AND (4) ALL OTHER DOCUMENTS REQUIRED TO COMPLETE OR CLOSE THE TRANSACTION

WHEREAS, Ms. Lola M. Hudson is the owner of real property located at 1704 Oregon Drive, Modesto, California, and

WHEREAS, in 1990, the City entered into a deferred payment housing rehabilitation loan in the amount of $63,581 with Lola M. Hudson, and

WHEREAS, in 1996, the City entered into a second deferred payment loan with Ms. Hudson under the Housing Maintenance Program in the amount of $1,783, and

WHEREAS, as of May 1, 2009, the combined payoff amount for both loans was $101,351, and

WHEREAS, due to poor economic conditions the amount of these loans far exceeds the present value of the home, and

WHEREAS, Ms. Hudson is in declining health and wishes to grant deed the home to the City of Modesto in lieu of foreclosure by the City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Letter Agreement and accepts a grant deed in lieu of foreclosure from Lola M. Hudson, for the property located at 1704 Oregon Drive, Modesto.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute (1) the Letter Agreement, (2) Certificate of Acceptance, (3)

Substitution of Trustee and Full Reconveyance and (4) all other documents required to complete or close the transaction.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 14th day of December, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-582

RESOLUTION AMENDING THE OPERATING BUDGET FOR FISCAL YEAR 2008-09 TO REDUCE THE TRAFFIC SAFETY FUND SALARY AND BENEFITS BUDGET BY $414,802, AND INCREASE THE TRAFFIC OFFENDER FUND SALARY AND BENEFITS BUDGET BY $207,976, WHICH REFLECTS THE AMOUNT EXPENDED, WITH THE REMAINDER $206,826 GOING TO TRAFFIC OFFENDER FUND'S FUND BALANCE

WHEREAS, on October 24, 2006, the City Council, by Resolution No. 2006-672, accepted the Vehicle Impound/DUI/Selective Traffic Enforcement Program (STEP) grant in the amount of $1,000,000, from the State of California Office of Traffic Safety, and

WHEREAS, the grant provided 100% funding for four new full-time motor patrol officers for the first year and 50% funding for the second year, and

WHEREAS, at the end of the grant the positions would be funded with Traffic Offender Funds, and

WHEREAS, following the grant's expiration date the four police officers were budgeted and transferred into the Traffic Safety Fund in error, and

WHEREAS, the Traffic Safety Fund is funded with revenues generated from traffic fines and forfeiture, and

WHEREAS, funding of police officers' salaries using these funds is prohibited per California Vehicle Code Section 42200(a), and

WHEREAS, this resolution is being made to correct the error and move the salaries and benefits budget from the Traffic Safety Fund into the Traffic Offender Fund,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Operating Budget for Fiscal Year 2008-09 to reduce the Traffic Safety Fund salary and benefits budget by $414,802 and increase the Traffic

Offender Fund salary and benefits budget by $207,976, which reflects the amount expended with the remainder $206,826 going to Traffic Offender Fund's fund-balance.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 14th day of December, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-583

A RESOLUTION APPROVING AN AGREEMENT WITH HARRIS & ASSOCIATES FOR PROFESSIONAL SERVICES RELATED TO THE PROPOSITION 218 PROCESS FOR WATER RATES, IN AN AMOUNT NOT TO EXCEED $45,990.00 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $4,599.00 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $50,589.00, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the adopted 2004 water rate and 2005 capacity charge updates reflected the needs of the water system at that time, and

WHEREAS, it was anticipated that both the rates and capacity charges would be updated every few years and City staff has been working on such an update, and

WHEREAS, the Engineer's Report plus the Water Rate and Capacity Charge Study (including their peer review) are both underway and are essential to ensure that rates accurately reflect the cost to provide the necessary operational services, capital improvements, and system maintenance to deliver safe and reliable water, and

WHEREAS, the study will also determine the rate structure needed to allow the City to participate in the Turlock Irrigation District Surface Water Supply Project, and

WHEREAS, initiating the Proposition 218 process work now is necessary to have a water rate update by July 2010, and

WHEREAS, the City Council has taken the following actions to update the existing water rates:

- November 23, 2004, by Resolution No. 2004-627, approved rescinding all previous water fee resolutions, established a single-rate base, updated the City's monthly utility rates (implemented in January 2005), and established the criteria to reevaluate the utility rates every two years.

- May 24, 2005, by Resolution No. 2005-282, approved updating the City's capacity charges (connection fees) for new development (implemented in July

2005), and by Resolution No. 2005-281, established the criteria to reevaluate the capacity charges every three years.

- October 23, 2007, by Resolution No. 2007-614, approved an Agreement with West Yost Associates (WYA) to develop an updated Engineer's Report to support a new Water Rate and Capacity Charge Study.
- January 8, 2008, by Resolution No. 2008-039, approved an Agreement with Jones and Stokes (J&S) to perform environmental review work related to the Engineer's Report.
- February 5, 2008, by Resolution No. 2008-087, approved an Agreement with Financial Consulting Solutions Group (FCS Group) to conduct an updated Water Rate and Capacity Charge Study.
- July 8, 2008, by Resolution No. 2008-416, approved an Agreement with Camp Dresser McKee (CDM) to provide Peer Review services related to work currently underway in the updating of the Water System Engineer's Report and the associated Rate/Capacity Charge Study.

WHEREAS, hiring a consulting firm that has specialized experience in assisting governmental agencies through the Proposition 218 process can mean the difference between success and failure, and

WHEREAS, in compliance with Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, a Request for Proposals was sent to eight pre-qualified consulting firms who have an established record of conducting Proposition 218 processes, and

WHEREAS, three of those firms responded and a selection committee reviewed their proposals for compliance with the project's scope of work (interviews were not conducted), and

WHEREAS, the selection committee determined that Harris, through their extensive knowledge and familiarity with the Proposition 218 process, is the most qualified firm to perform the work for this particular project, and

WHEREAS, in general, the Harris scope of work for conducting the Proposition 218 process includes developing the protest procedures and balloting package (which contains instructions, sample calculations, etc.) 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 76,000 ballots to be sent out to the property owners, and

WHEREAS, City staff recommends entering into an Agreement with Harris Associates for Professional Services Related to the Proposition 218 Process for Water Rates,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Harris & Associates for Professional Services Related to the Proposition 218 Process for Water Rates, in the not-to-exceed amount of $45,990.00 for the identified scope of services, plus $4,599.00 for additional services (if needed), for a maximum total amount of $50,589.00.

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 special meeting of the Council of the City of Modesto held on the 14th day of December, 2009, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-584

A RESOLUTION APPROVING AN AGREEMENT WITH BROWN AND CALDWELL FOR DESIGN SUPPORT DURING CONSTRUCTION OF THE PRIMARY OUTFALL REHABILITATION PROJECT-PHASE I IN AN AMOUNT NOT TO EXCEED $224,436 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $22,444 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $246,880, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto owns and operates approximately 6.5 miles of 60-inch diameter pipeline that transports primary effluent from the Sutter Avenue Primary Water Quality Control Plant (Primary Plant) to the Jennings Road Secondary Plant (Secondary Plant), and

WHEREAS, the existing Primary Outfall Pipeline was constructed in 1969 across mainly agricultural land, and

WHEREAS, the condition of the Primary Outfall pipe has deteriorated due to internal corrosion, and

WHEREAS, the City adopted a Wastewater Master Plan (WWMP) in 2007, which also identified insufficient capacity in this pipe and called for the rehabilitation of the Primary Outfall, and

WHEREAS, on April 1, 2008, by Resolution No. 2008-188, Council approved an Agreement with Brown and Caldwell to prepare the final project design of this project, and

WHEREAS, the final design has been completed, and staff moved forward to seek pre-qualified contractors for Phase I, and

WHEREAS, on July 14, 2009, by Resolution No. 2009-338, Council approved an Agreement with Blackburn Consulting for construction management services of this project, and

WHEREAS, Blackburn's scope of work under this agreement includes constructability review, value engineering, bid evaluation, construction administration, processing and tracking of submittals and requests for information coordination with inspections, coordination with City staff, documentation of daily and weekly field activities, and project closeout, and

WHEREAS, the City opened bids for the construction of Primary Outfall Rehabilitation Project-Phase I on December 1, 2009, and

WHEREAS, due to the complexity of the project, design support services are required during the construction of the project to provide technical support to the construction manager, and

WHEREAS, Brown and Caldwell completed the preliminary design and final design of the project satisfactorily, and

WHEREAS, therefore, City staff recommends approving an agreement with Brown and Caldwell as this will allow for the design support during the construction period for the project, and

WHEREAS, City staff recommends approving an Agreement with Brown and Caldwell as the City does not have the staffing level or subject matter expertise to provide design support during construction for the Primary Outfall Rehabilitation Project-Phase I, 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 Brown and Caldwell for design support during construction for Primary Outfall Rehabilitation Project-Phase I in an amount not to exceed $224,436 for the identified scope of services, plus $22,444 for additional services (if needed), for a maximum total amount of $246,880.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 14th day of December, 2009, by Councilmember Hawn, 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:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-585

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PRIMARY OUTFALL REHABILITATION PROJECT-PHASE I, ACCEPTING THE BID AND APPROVING A CONTRACT WITH EBERT MCGUIRE AND HESTER IN THE AMOUNT OF $3,857,000 FOR THE PRIMARY OUTFALL REHABILITATION PROJECT-PHASE I, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Primary Outfall Rehabilitation Project-Phase I and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Primary Outfall Rehabilitation Project-Phase I were opened at 11:00 a.m. on December 1, 2009, and later tabulated by the Director of Public Works for the consideration of the Council, and

WHEREAS, the Director of Public Works has recommended that the bid of $3,857,000 received from Ebert McGuire and Hester be accepted as the lowest responsible bid and the contract be awarded to Ebert McGuire and Hester,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Primary Outfall Rehabilitation Project-Phase I, accepts the bid of Ebert McGuire and Hester in the amount of $3,857,000, and awards Ebert McGuire and Hester the contract for the Primary Outfall Rehabilitation Project-Phase I.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 14th day of December, 2009, by Councilmember Hawn, 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:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-586

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO WASTEWATER MASTER PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 2006052076): PRIMARY OUTFALL REHABILITATION PROJECT-PHASE I

WHEREAS, on May 27, 1997, the City Council, by Resolution No. 97-290 certified the Master Environmental Impact Report ("EIR") for the Modesto Wastewater Master Plan (SCH No. 2006052076), and

WHEREAS, the City of Modesto proposes to rehabilitate the Primary Outfall line as identified on the adopted Wastewater Collection System Master Plan and in the Wastewater Master Plan Master EIR, and

WHEREAS, Section 15177 of the CEQA Guidelines, relating to reviewing subsequent projects within the scope of a Master EIR, states that the lead agency shall prepare an initial study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR, whether any new additional mitigation measures or alternatives will be required in conjunction with the project, and whether the subsequent project was described in the Master EIR as being within the scope of the project, and

WHEREAS, the City's Public Works Department by Environmental Assessment Initial Study EA/PW 2007-10 reviewed the proposed Primary Outfall Rehabilitation Project-Phase I to determine whether the project is within the scope of the project covered by the Wastewater Master Plan Master EIR, and made the determination that the proposed project will have no additional significant effect on the environment that was not identified in the Master EIR and, further, that no new or additional mitigation

measures or alternatives are required, and that therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines on October 13, 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 December 14, 2009, 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:

1. The type of Project under consideration is described in the Master EIR (MEIR).

2. All applicable policies, regulations, and mitigation measures identified in the MEIR have been applied to the project.

3. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR. It has been determined that the project was described in the MEIR and is within the scope of the MEIR (SCH No. 2006052076), which analyzed the potential impacts of build out of the Wastewater Master Plan.

4. Based on the Initial Study, the City of Modesto finds and determines:

    a. That the proposed subsequent project will have no additional significant effect that was not identified in the MEIR.
    b. That no new or additional mitigation measures or alternatives are required.

5. The Initial Study, Environmental Assessment No. EA/PW 2007-10, provides the substantial evidence to support findings 1 through 4, above.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Public Works Director is hereby authorized and directed to file a notice of determination within five (5) business days with the Stanislaus County Clerk, pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 14th day of December, 2009, by Councilmember Hawn, 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:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, 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/PW 2007-10

City of Modesto

Finding of Conformance to Wastewater Master Plan Update Master EIR:

Initial Study Environmental Checklist
EA/PW No. 2007-10

For the proposed:

Primary Outfall Rehabilitation Project

Prepared by:
City of Modesto
Public Works Department
Capital Improvement Services Division

October 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 (project title) 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: Primary Outfall Rehabilitation Project

B. Address or Location: Stanislaus County, California. The Primary Outfall connects the City of Modesto Primary Wastewater Treatment and Secondary Wastewater Treatment Facilities (1221 Sutter Ave.). The Primary facility is at the south end of Sutter Avenue within the City of Modesto. The Secondary Facility is at 7007 Jennings Road, partially within the corporate limits of the City of Modesto and partially within the County of Stanislaus.

Applicant: Capital Improvement Services Division
Public Works Department
1010 Tenth Street
P. O. Box 642
Modesto, CA 95353

D. City Contact Person:

Project Manager: Violet Jakab, P. E., Senior Civil Engineer
Department: Public Works Department
Phone Number: (209) 571-5869
E-mail address: vjakab@modestogov.com

E. Current General Plan Designation(s): n/a

F. Current Zoning Classification(s): n/a

G. Surrounding Land Uses: the existing pipeline passes through/below agricultural lands and the Tuolumne River corridor

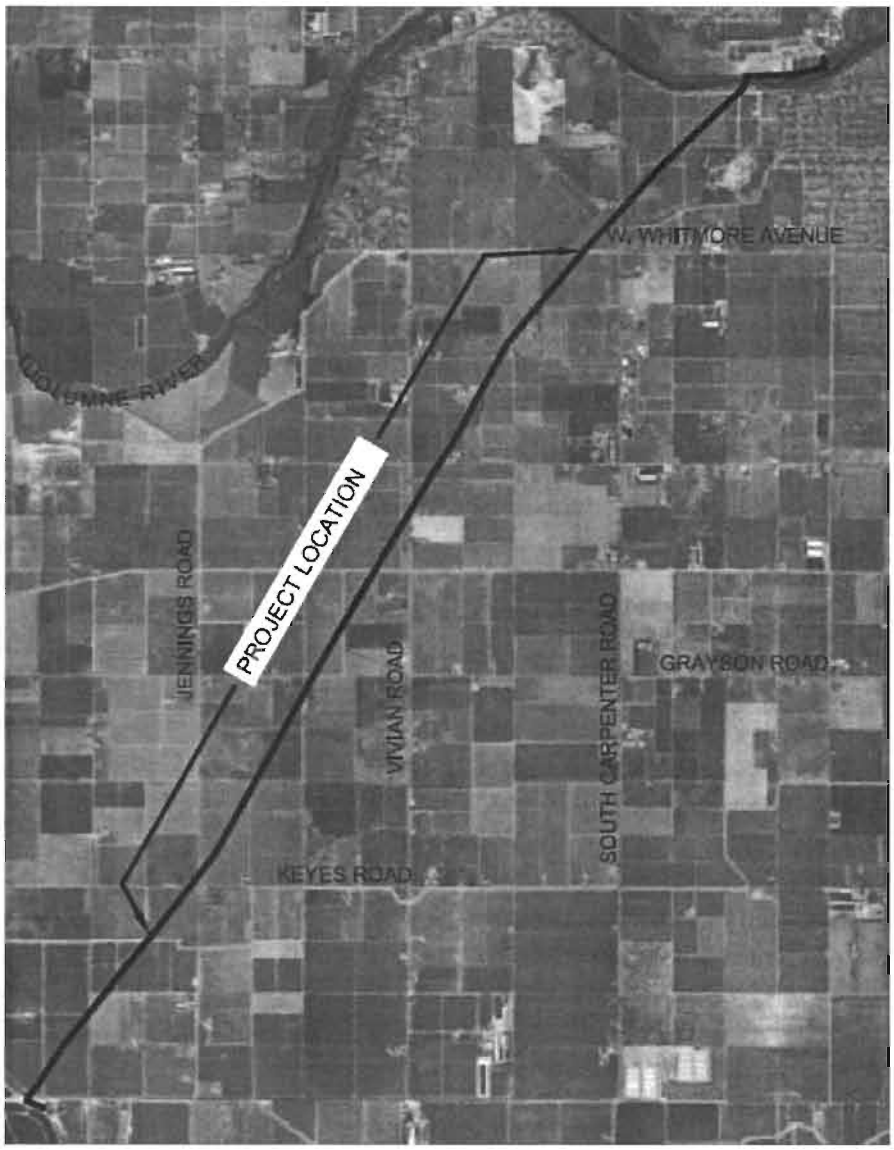
H. Project Description

The project consists of the rehabilitation of an existing 60" outfall line conveying primary treated wastewater from the City's Sutter Road Treatment Facility to the Jennings Road Secondary Treatment Facility. The rehabilitation will be carried out in situ by the lining of the existing pipeline using one or more lining techniques. The purpose of the project is to maintain the structural integrity and reliability of the existing pipeline and to provide additional hydraulic capacity to accommodate peak flows, as identified in the Modesto Wastewater Master Plan. The existing pipeline suffers from sever corrosion on the interior. The project would result in increased hydraulic capacity of the outfall as it would be converted to force main.

The Tuolumne River undercrossing would be rehabilitated using internal joint welding and lining, involving no excavation or surface work within the riparian corridor.

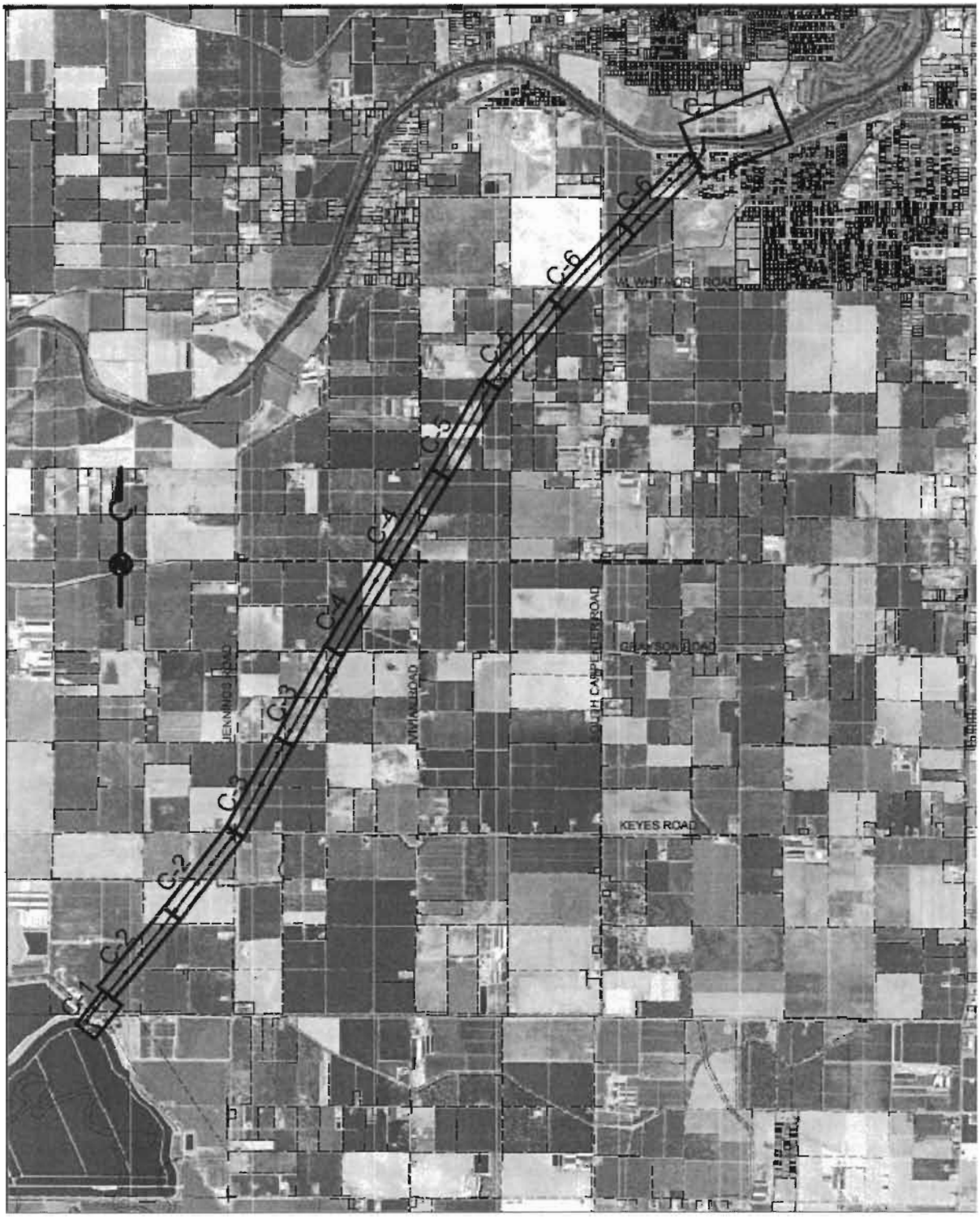
I. Other Public Agencies Whose Approval may be required:

Stanislaus County Department of Public Works
Central Valley Water Quality Control Board
California Department of Fish & Game
California Reclamation Board
United States Army Corps of Engineers
United States Department of Fish & Wildlife



LOCATION MAP

SCALE: NTS



Primary Outfall Rehabilitation Alignment

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.

Violet Jakab, P.E, .Project Manager	Senior Civil Engineer Title	October 2, 2008 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.	☒	☐
(2)	City policies which reduce, avoid or mitigate environmental effects, will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template.	☒	☐
(3)	Federal, State, Regional and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).	☒	☐
(4)	No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	☒	☐
(5)	The project will occur within the boundaries of the planning area as established in the Wastewater Master Plan.	☒	☐
(6)	Development within the project will comply with all mitigation measures identified in the Wastewater Master Plan Master EIR.	☒	☐

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed sections 1 through 20 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any no response must be discussed.

		YES	NO
(1)	Certification of the Wastewater Master Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.	☒	☐
(2)	This project was described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings.	☒	☐
(3)	No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.	☒	☐
(4)	No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available.	☒	☐

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 are listed in Section V, Mitigation Applied to Project.

Discussion:

No new or additional measures or alternatives are required for the 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.	☐	☒
(2)	The project would have a substantial adverse effect on a scenic vista or scenic resources.	☐	☒

(3) The project would substantially degrade the existing visual character or quality of the project site and its surroundings. ☐ ☒

(4) The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area. ☐ ☒

Discussion:

(1) The project is specifically provided for in the Modesto Wastewater Master Plan.

(2) The project is rehabilitation of a pipeline. Above-grade portions of the project will be limited to access structures placed at grade, and air release/vacuum valve assemblies which will not be visually obtrusive nor extend above two feet in height.

(3) The project is rehabilitation of a pipeline. Above-grade portions of the project will be limited to access structures placed at grade, and air release/vacuum valve assemblies which will not be visually obtrusive nor extend above two feet in height.

(4) The project is rehabilitation of a pipeline. No new lighting will be installed, thus 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 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.	☐	☒
(2)	The project will directly result in the development of land outside the Modesto Urban Area General Plan planning area boundaries.	☐	☒
(3)	The project will conflict with existing zoning for agricultural use, or a Williamson Act contract.	☐	☒
(4)	The project will involve other changes in the existing environment which, due to their location or nature, could result in additional conversion of Farmland to non-agricultural use.	☐	☒

Discussion:

(1) The project is rehabilitation of an existing pipeline, as provided for in the Modesto Wastewater Master Plan.

(2) The project is rehabilitation of an existing pipeline, with no direct development of land.

(3) The project is rehabilitation of a pipeline, and as such any above-grade portions of the project will be only temporary, during the course of construction.

(4) The project is rehabilitation of a pipeline, and as such any above-grade portions of the project will be only temporary, during the course of construction.

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 PM_{10} 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.	☐	☒
(2)	The project does not comply with the air quality policies of the Modesto Urban Area General Plan.	☐	☒
(3)	The project would expose sensitive receptors to substantial pollutant concentrations.	☐	☒
(4)	The project would create objectionable odors affecting a substantial number of people.	☐	☒

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 pipeline, and will not increase air pollutant emissions when in operation.

(3) The project is rehabilitation of an existing pipeline, and will not increase air pollutant emissions when in operation.

(4) The project is rehabilitation of an existing pipeline, and will not increase air pollutant emissions when in operation. Air release/vacuum relief valves will be designed to incorporate odor reduction technology and will be placed in locations which are not adjacent to sensitive receptors.

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: 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:

Internal welding and lining technology identified as the preferred alternative in the Preliminary Design Report will be utilized, obviating impacts and mitigation specific to the riparian corridor. There will be no excavation or construction disturbance within any riparian corridor. Lining of the portion of the pipeline underlying the Tuolumne River corridor will be accomplished from pits located beyond the edge of the riparian corridor, within already-developed areas.

The following measures from the Modesto Wastewater Master Plan MEIR shall be followed throughout the Project, where and as applicable to the specific location and method of construction: E.2.1, E.2.2, E.3.1, E.3.2, E.6a, E.6b. These measures are detailed below in Section V.

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.	☐	☒
(2)	Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species.	☐	☒
(3)	The project would conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	☐	☒

Discussion:

(1) The project is rehabilitation of an existing pipeline, as provided for in the Modesto Wastewater Master Plan.

(2) The project is rehabilitation of an existing pipeline, and will not have any new effects on wildlife not anticipated in the MEIR. Potential for effects on special status species will be mitigated by measures identified in the Modesto Wastewater Master Plan MEIR as noted above.

(3) The project is rehabilitation of an existing pipeline. 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 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.	☐	☒
(2)	The project would adversely affect a cultural (historical or archaeological) resource pursuant to § 15064.5.	☐	☒
(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.	☐	☒

Discussion:

(1) The project is rehabilitation of an existing pipeline, as provided for in the Modesto Wastewater Master Plan.

(2) The project is rehabilitation of an existing pipeline, and will not have any new effects on cultural resources.

(3) The project is rehabilitation of an existing pipeline, 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 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.	☐	☒
(2)	The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.	☐	☒

Discussion:

(1) The project is rehabilitation of an existing pipeline, as provided for in the Modesto Wastewater Master Plan.

(2) The project is rehabilitation of an existing pipeline, 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.	☐	☒
(2)	The project does not comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.	☐	☒
(3)	The project contains a contaminated site not identified as of March 2003.	☐	☒
(4)	The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	☐	☒
(5)	The project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	☐	☒

Discussion:

(1) The project is rehabilitation of an existing pipeline, as provided for in the Modesto Wastewater Master Plan.

(2) The project is rehabilitation of an existing pipeline, transporting primary-treated effluent. No hazardous or toxic materials are involved with this project.

(3) The project is rehabilitation of an existing pipeline, with no impact on contaminated sites.

(4) The project is rehabilitation of an existing pipeline, transporting primary-treated effluent. No hazardous or toxic materials are involved with this project.

(5) The project is rehabilitation of an existing pipeline, 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: 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).

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.	☐	☒
(2)	The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	☐	☒
(3)	The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures.	☐	☒
(4)	The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	☒

Discussion:

(1) The project is rehabilitation of an existing pipeline, 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.

(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 pipeline, transporting primary-treated effluent. 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 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.	☐	☒
(2)	The project includes a substantive amendment to the Modesto Urban Area General Plan or any Specific Plan.	☐	☒
(3)	The project would physically divide an established community	☐	☒

Discussion:

(1) The project is rehabilitation of an existing pipeline, 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 pipeline, 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 Mineral Resources.

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 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.	☐	☒
(2)	The project would result in the loss of availability of a known mineral resource, either locally important or of regional/statewide significance.	☐	☒

Discussion:

(1) The project is rehabilitation of an existing pipeline, as provided for in the Modesto Wastewater Master Plan.

(2) The project is rehabilitation of an existing pipeline, 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.9 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.	☐	☒
(2)	The project will exceed the noise policies of the Modesto Urban Area General Plan.	☐	☒
(3)	The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☒
(4)	The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.	☐	☒

Discussion:

(1) The project is rehabilitation of an existing pipeline. 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 pipeline. 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 pipeline and will not result in any permanent increase in ambient noise levels.

(4) The project is rehabilitation of an existing pipeline. 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 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 pipeline, 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 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 pipeline, 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 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.	☐	☒
(2)	Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).	☐	☒
(3)	Result in inadequate emergency access.	☐	☒

Discussion:

(1) The project is rehabilitation of an existing pipeline, 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 pipeline, and will have no effect on traffic design.

(3) The project is rehabilitation of an existing pipeline, 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 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 pipeline, 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:

Air Quality: Wastewater Master Plan EIR Mitigation Measure G.1
Biological Resources: Wastewater Master Plan EIR Mitigation Measures E.2.1, E.2.2, E.3.1, E.3.2, E.6a, E.6b
Hydrology and Water Quality: Wastewater Master Plan EIR Mitigation Measure D.1
Noise: Wastewater Master Plan EIR Mitigation Measure H.1

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 to 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, see p. IV.g.17-18

Biological Resources Measures:

E.2 Burrowing Owl

E.2.1. Avoidance: In conformance with Federal and State regulations regarding the protection of raptors, a pre-construction survey for Burrowing Owls shall be completed, in conformance with CDFG guidelines, prior to the start of construction within suitable habitat. If no Burrowing Owls are located during these surveys, no additional action would be warranted. However, if breeding or resident owls are located on, or immediately adjacent to, the site, the following mitigation measures shall be implemented:

- No burrowing owls would be evicted from burrows during the nesting season (February 1 through August 31). Eviction outside the nesting season may be permitted pending evaluation of eviction plans and receipt of formal written approval from the CDFG authorizing the eviction.
- A 250-foot buffer, within which no new activity would be permissible, would be maintained between project activities and nesting burrowing owls. This protected area would remain in effect until August 31, or at the CDFG's discretion and based upon monitoring evidence, until the young owls are foraging independently.
- If accidental take (disturbance, injury, or death of owls) occurs, the CDFG would be notified immediately.

E.2.2. Compensation for loss of Burrowing Owl habitat: If a pre-construction survey finds that Burrowing Owls occupy the project site and avoiding construction in occupied areas is not feasible, then habitat compensation on off-site mitigation lands should be implemented. Habitat management lands comprising existing Burrowing Owl foraging and breeding habitat shall be acquired and preserved. An area of 6.5 acres (2.6 ha) (the amount of land found to be necessary to sustain a pair or an individual owl) should be secured for each pair of owls, or individual in the case of an odd number of birds. As part of an agreement with the CDFG, the project applicant should secure the performance of its mitigation duties by providing the CDFG with security in the form of funds that would:

- Allow for the acquisition and/or preservation of 6.5 acres (2.6 ha) of Habitat Management lands.
- Provide initial protection and enhancement activities on the Habitat Management lands, potentially including but not limited to such measures as fencing, trash clean-up, artificial burrow creation, grazing or mowing, and any habitat restoration deemed necessary by CDFG.
- Establish an endowment for the long-term management of the Habitat Management lands.
- Reimburse the CDFG for reasonable expenses incurred as a result of the approval and implementation of this agreement.

Pending CDFG approval, Habitat Management lands providing foraging habitat for Swainson's Hawks (see "Loss of Swainson's Hawk Foraging Habitat" below) may also be used to mitigate impacts to Burrowing Owls provided the Habitat Management lands provide existing Burrowing Owl foraging and breeding habitat.

Implementation of either of the mitigation measures would reduce the potential impact on this species to a less-than-significant level.

E.3 Nesting Raptors

E.3.1. Avoidance: To the extent practicable, construction shall be scheduled to avoid the nesting season, which extends from January through August.

E.3.2. Pre-construction Surveys: If it is not possible to schedule construction between August and January, then one of the following options shall be implemented:

- With the approval of the CDFG, trees containing known or potential raptor nest sites may be removed to discourage future nesting attempts on the condition that no raptor pair is currently utilizing the site; or,
- Pre-construction surveys for nesting raptors shall be conducted by a qualified ornithologist or wildlife biologist to ensure that no raptor nests would be disturbed during project

implementation. A pre-construction survey shall be conducted prior to the initiation of demolition/construction activities during the early part of the breeding season (January through April) and prior to the initiation of these activities during the late part of the breeding season (May through August). During this survey, the qualified person shall inspect all trees in and immediately adjacent to the impact areas for raptor nests. If an active raptor nest is found close enough to the construction area to be disturbed by these activities, the ornithologist, in consultation with CDFG, shall determine the extent of a construction-free buffer zone to be established around the nest.

Implementation of either of these mitigation measures would reduce the potential for significant impacts to less-than-significant levels.

E.6 Swainson's hawk nesting

E.6a. Pre-construction surveys: In order to assure that nesting Swainson's Hawks will not be disturbed by construction activities, a qualified ornithologist shall conduct pre-construction surveys of the project site and adjacent areas within one mile of the project site. Survey Period I occurs from January 1 to March 20, Period II from March 20 to April 5, Period III from April 5 to April 20, Period IV from April 21 to June 10 (surveys not recommended during this period because identification is difficult as the adults tend to remain within the nest for longer periods of time), and Period V from June 10 to July 30. No fewer than three surveys shall be completed, in at least each of the two survey periods immediately prior to project initiation. If a nest site is found, consultation with CDFG shall be required to ensure project initiation will not result in nest disturbance.

E.6b. Removal of Nest Trees: Nest trees on the project site(s) should not be removed unless avoidance measures are determined to be infeasible. If a nest tree must be removed, a Management Authorization (including conditions to off-set the loss of the nest tree) must be obtained. The Management Authorization will specify the tree removal period, generally between October 1 and February 1. If construction or other project related activities which may cause nest abandonment or forced fledging are necessary within the buffer zone, monitoring of the nest site by a qualified biologist should be required to determine if the nest is abandoned. If it is abandoned, and if the nestlings are still alive, the City shall fund the recovery and backing (controlled release of captive reared young) of nestling(s).

Implementation of these mitigation measures would reduce the potential impact from nest disturbance to a less-than-significant level.

Cultural Resources Measures:

None.

Geology and Soils Measures:

None.

Hazard and Hazrdous Materials Measures:

None.

Hydrology and Water Quality Measures:

Wastewater Master Plan EIR Mitigation Measure D.1, see p. IV.D.28

Land Use and Planning Measures:

None.

Mineral Resources Measures:

None.

Noise Measures:

Wastewater Master Plan EIR Mitigation Measure H.1, see p. IV.H.11

Community Services Measures:

None.

Transportation/Traffic Measures:

None.

Utility and Service System Measures:

None.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-587

A RESOLUTION ACCEPTING THE CAPITAL FACILITIES FEES ANNUAL REPORT FOR FISCAL YEAR 2008-2009, AND MAKING FINDINGS RELATING TO EACH OF THE FEE CATEGORIES

WHEREAS, Section 8-1.904 of the Modesto Municipal Codes authorizes the Council, by resolution, to establish Capital Facilities Fees ("CFF"), and

WHEREAS, California Government Code Section 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 pubic improvements that will be needed as a result of new development, and

WHEREAS, on January 24, 2008, the City Council, by Resolution No. 2006-055, established the nexus for fees imposed by each land use, 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 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 Parks and Recreation CFF Fund was established to accrue funds for the development of additional regional parks, community centers, neighborhood parks, expansion of 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 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 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 CFF program is a pay-as-you go program that enables improvements to be constructed when enough monies have been accumulated, and

WHEREAS, the Fiscal Year 2008-2009 Capital Facilities Fee Report 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 December 14, 2009, 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. 2006-055 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. 2006-055 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. 2006-055 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, 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. 2006-055 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. 2006-055 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. 2006-055 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. 2006-055 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. 2006-055 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 2008-2009 Capital Facilities Fees Report as described in **Exhibit "A", attached** hereto and incorporated herein by reference.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 14th day of December, 2009, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, 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"

Exhibit A

City of Modesto

CAPITAL FACILITIES FEES ANNUAL REPORT

Fiscal Year 2008-2009

Prepared By:

Community & Economic Development
Infrastructure Financing Programs

November 16, 2009

Introduction

This CFF Annual Report for Fiscal Year 2008-2009 has been prepared as an annual requirement by the State of California in accordance with Section 66006 of the Government Code. The City of Modesto collects Capital Facilities Fees (CFF) on new development to fund infrastructure improvements that are necessary to accommodate new growth.

State law requires that the City make the following information available to the public for each separate fund on an annual basis, and that the City Council review that information at a public meeting. The law requires the report to include the following information for each individual fund for the fiscal year:

- The beginning and ending balance of the fund
- The amount of the fees collected and interest earned
- The amount of refunds made
- A description of each interfund transfer or loan made by the fund
- Identification of each public improvement on which fees were expended and the amount expended on each improvement

If the agency no longer needs the funds for the purposes collected, or if the agency fails to make required findings, or perform certain administrative tasks prescribed by AB 1600, the agency may be required to refund, on a prorated basis to owners of the properties upon which the fees for the improvement were imposed, the monies collected for that project and any interest earned on those funds.

Beginning and Ending Balance of Funds, Amount of Fees Collected and Interest Earned

Table 1 "Combining Statement of Revenues, Expenditures, and Changes in Fund Balances" outlines the beginning and ending balance of each fund for Fiscal Year 2008-2009. Detailed expenditures are shown under each fund description. Once all maps that were vested prior to 2003 or that have an associated Development Agreement have been completed or expire, revenue for those programs will no longer be generated. Furthermore, since this is a pay-as-you-go program, the City must accrue enough revenue to construct a project. This results in an "aging" of fund balances. The aging or accumulation occurs until enough revenue is generated to construct a project.

Table 1. CAPITAL FACILITY FUNDS COMBINING STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANC
Year ended June 30, 2009

	1310 Police Dept Cap fees	1320 Fire Dept Cap fees	1350 Parks Dept Cap fees	1380 City Hall Expansion Cap fees	1390 Admin Cap fees	1410 Streets Cap Fees	1420 Public Trans Cap Fees	1430 Air Quality Cap fees	Total Capital Facilities
REVENUES:									
Intergovernmental			$			$ 1,285,467			$ 1,285,467
Charges for services	$ 51,900	$ 8,705	142,655	$ 25,477	$ 32,546	1,894,183	$ 20,638	$ 40,276	2,216,380
Interest and rent	24,535	(29,316)	196,646	33,416	12,597	979,764	8,203	16,324	1,242,169
Net change in fair value of investments	6,720	427	61,154	9,000	3,826	297,644	742	5,743	385,256
Miscellaneous						8			8
Total revenues	83,155	(20,184)	400,455	67,893	48,969	4,457,066	29,583	62,343	5,129,280
EXPENDITURES:									
Current:									
General government					195,264				195,264
Highways and streets						10,550,642			10,550,642
Public works									
Parks and recreation			115,791						115,791
Public safety									
Capital outlay:									
Debt service:									
Principal retirement									
Interest									
Total expenditures			115,791		195,264	10,550,642			10,861,697
EXCESS (DEFICIENCY) OF REVENUES OVER (UNDER) EXPENDITURES	83,155	(20,184)	284,664	67,893	(146,295)	(6,093,576)	29,583	62,343	(5,732,417)
OTHER FINANCING SOURCES (USES):									
Transfers in									
Transfers out	(520,000)		(1,078,591)	(653,159)		44,065		(15,000)	(2,222,685)
Sale of assets									
TOTAL OTHER FINANCING SOURCES (USES)	(520,000)		(1,078,591)	(653,159)		44,065		(15,000)	(2,222,685)
EXCESS (DEFICIENCY) OF REVENUES AND OTHER SOURCES OVER (UNDER) EXPENDITURES AND OTHER USES	(436,845)	(20,184)	(793,927)	(585,266)	(146,295)	(6,049,511)	29,583	47,343	(7,955,102)
FUND BALANCES, July 1	942,900	(1,027,224)	6,691,728	1,633,687	490,903	38,216,843	55,730	600,702	47,605,269
FUND BALANCES, June 30	$ 506,055	$ (1,047,408)	$ 5,897,801	$ 1,048,421	$ 344,608	$ 32,167,332	$ 85,313	$ 648,045	$ 39,650,167

Refunds

There were a total of five CFF refunds, which are outlined in Table 2 below. Refunds are not uncommon and can occur for a variety of reasons such as a property owner deciding not to build a project, but the fees were paid or at times an overpayment was paid.

Table 2. 2008-2009 Capital Facilities Fess Payment Refunds

Date	Applicant	Permit Number	Amount	Reason
9-26-08	Charles Evins	BLD 2003-76307	$2072.22	Not Constructed
9-26-08	Phil Mastagni	BLD 2007-55307	$292,618.70	CFF Deferred per City Council Resolution No. 2008-532
1-23-09	Burkett	BLD 2007-51854	$21,260.24	Not Constructed
7-6-09	Modesto E & T	BLD 2008-63699	$524,160.00	Applicant protested amount of CFF based on pre-existing use. Staff investigated, and concurred. This was located in the City's Sphere of Influence.
7-6-09	Modesto E&T	BLD 2009-70325	$8,640.00	
		Total	**$848,751.16**	

Revenues

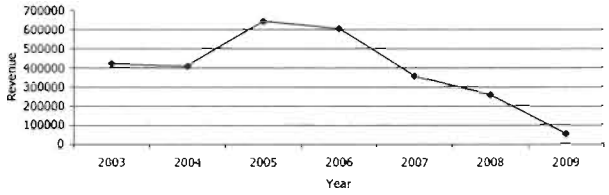
Table 3 "Six Year Revenue History of CFF Funds" illustrates the revenue over a six year period. As noted, since these funds are based on new development, it is anticipated that the revenues will decline for the next two years at least as development continues to wane. Overall, revenues decreased from the fiscal year 2008 to fiscal year 2009 by 56%.

Figure 1 depicts the six year revenue for each CFF fund from 2003 to 2009. The highest revenue years for all funds were in 2005 and 2006, and thus far, the lowest has been in 2009. Figure 2 illustrates all of the revenue for each CFF fund by year.

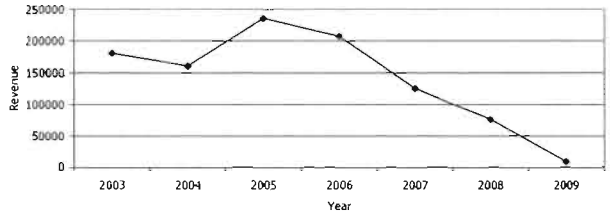
Table 3. Capital Facilities Fees - Revenue (Fiscal Years 2003-2004 through 2008-2009)

FUND	FY 03-04	FY 04-05	Difference between 03/04 and 04/05	FY 05-06	Difference between 04/05 and 05/06	FY 06-07	Difference between 05/06 and 06/07	FY 07-08	Difference between 06/07 & 07/08	FY 08-09	Difference between 07/08 & 08/09	6 Year Total
1310 - POLICE	413,764	661,737	60%	637,907	-4%	418,848	-34%	347,000	-17%	83,156	-76%	$ 1,486,911
1320 - FIRE	139,883	223,368	60%	140,374	-37%	67,008	-52%	45,634	-32%	(20,184)	-144%	$ 232,832
1350 - PARKS	2,047,616	3,456,313	69%	2,659,996	-23%	1,981,690	-26%	1,347,151	-32%	400,451	-70%	$ 6,389,288
1380 - GENERAL GOV'T.	449,084	568,613	27%	483,154	-15%	337,016	-30%	264,469	-22%	67,894	-74%	$ 1,152,533
1390 - CFF ADMIN	133,437	256,613	92%	212,475	-17%	161,731	-24%	156,335	-3%	48,966	-69%	$ 579,507
1410 - STREETS	5,361,745	9,954,489	86%	8,610,286	-14%	7,927,736	-8%	9,077,130	14%	4,457,065	-51%	$ 30,072,217
1420 - TRANSIT	164,427	189,736	15%	131,400	-31%	100,906	-23%	100,841	0%	29,581	-71%	$ 362,728
1430 - AIR MITIGATION	122,102	301,327	147%	356,754	18%	317,174	-11%	253,505	-20%	62,343	-75%	$ 989,776
TOTAL ALL FUNDS - ALL PROGRAMS	$ 8,832,056	$ 15,612,196	77%	$ 13,232,346	-15%	$ 11,312,109	-15%	$ 11,592,065	2%	$ 5,129,273	-56%	$ 41,265,793

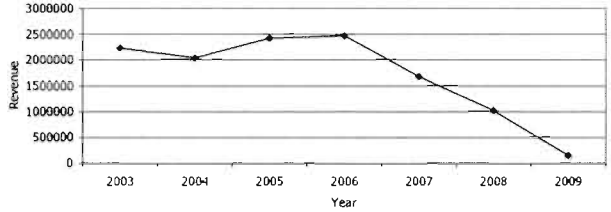
Fund 1310 - Police CFF



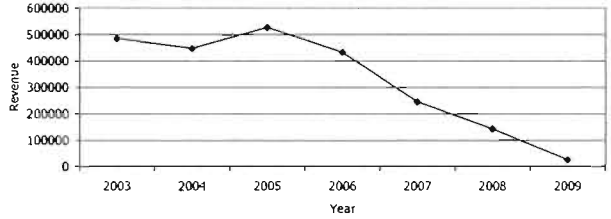
Fund 1320 - Fire CFF



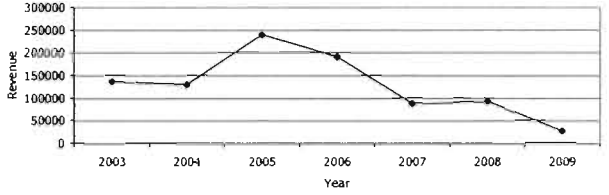
Fund 1350 - Parks CFF



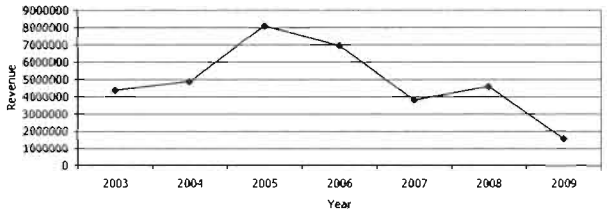
Fund 1380 - General Government CFF



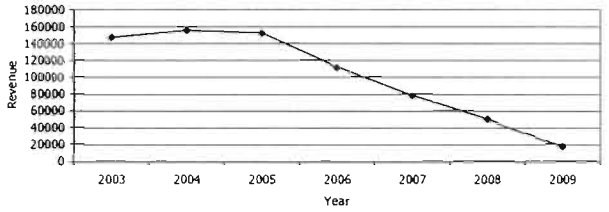
Fund 1390 - CFF Admin



Fund 1410 - Streets CFF



Fund 1420 - Transit CFF



Fund 1430 - Air Mitigation CFF

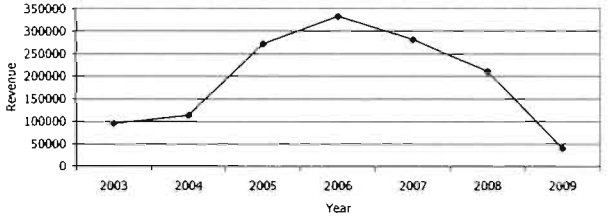
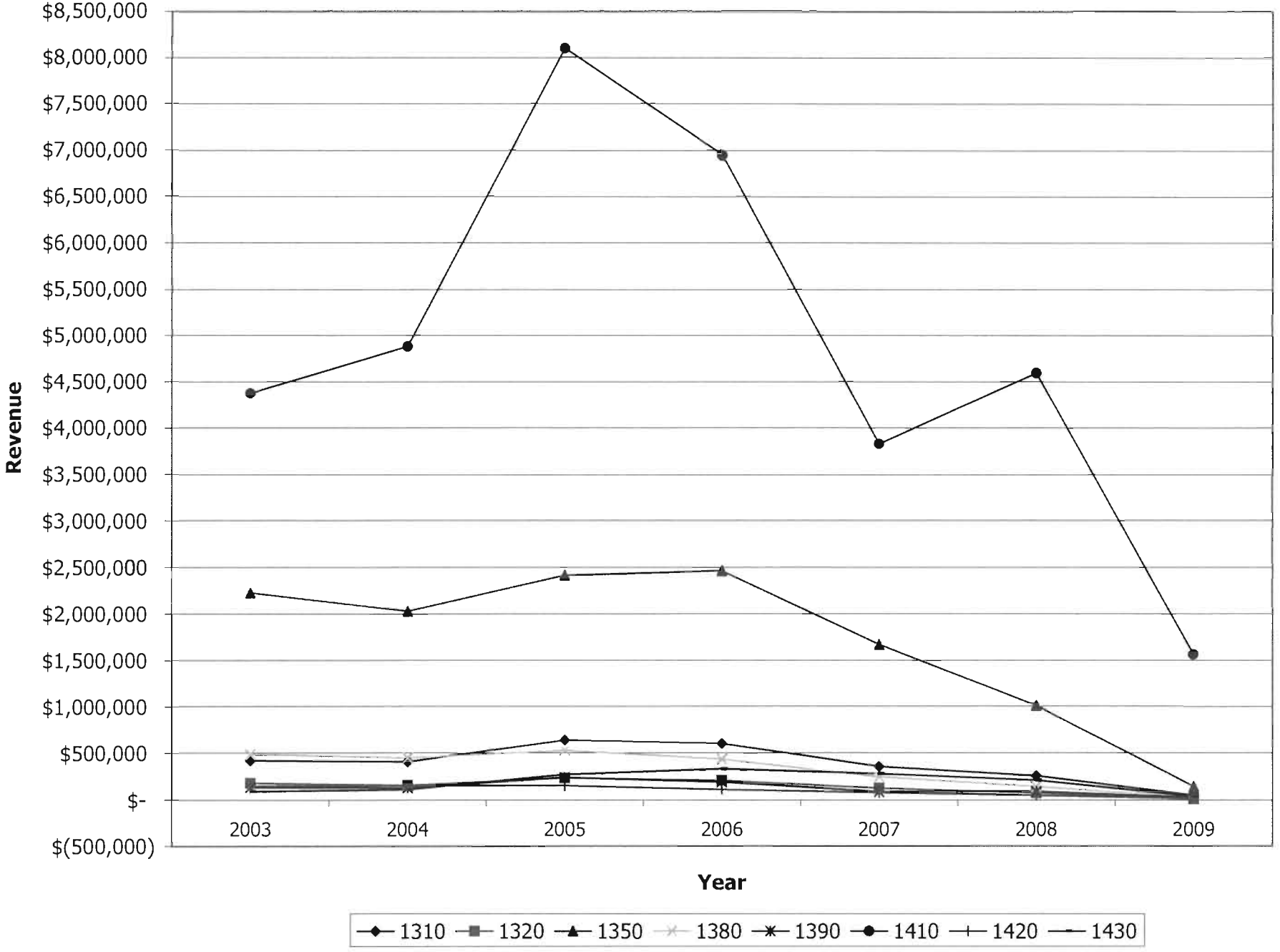


FIGURE 2. CFF Revenue for ALL Funds (FY 2003 - 2009)



CFF Expenditures & Transfers

Capital Facilities Fees mitigate the impacts caused by new development on certain public facilities. They are used to finance the acquisition, construction and improvement of public facilities needed as a result of this new development. Separate funds have been established to account for the impact of new development on the following types of public facilities listed below. Unless otherwise noted, for each project, 100% of the project was funded through the impact fee program.

Areas of Impact and Fiscal Year 2008-2009 Expenses:

Fund 1310 - Police Capital Facilities Fee
The fees collected and deposited into this fund are for the Police Tactical Training Center and police vehicles and equipment.

Fund 1320 - Fire Capital Facilities Fee Fund
The fees collected and deposited into this fund are for fire facility expansion, fire vehicles such as engines and ladder trucks and other fire equipment.

Fund 1350 - Parks Capital Facilities Fee Fund
The fees collected and deposited into this fund are for neighborhood parks, community and regional parks, sports facilities and community buildings.

Fund 1380 - City Hall and Other Facilities Capital Facilities Fee Fund
The fees collected and deposited into this fund are for City Hall and related parking facilities, the corporation yard and related facilities, City vehicles, and the City's information technology expansion.

Fund 1390 - Capital Facilities Fee Administration Fund
The fees collected and deposited into this fund are for the administration of the CFF Program to include the preparation of the Annual and Five Year Capital Facilities Fee Reports, and periodic Capital Facilities Fee Updates. Other administrative requirements include the day to day management of CFF funded Capital Improvement Program (CIP) projects which includes the preparation of annual CIP budgets and the preparation of the Capital Facility Fee proformas for all eight sub-funds that make up the CFF proforma. Pursuant to Government Code Section 66000 requiring the preparation of the Annual and Five-Year Report, the City has included this fund as a means to document and fund the Administrative costs associated with this State Mandated reporting requirement.

Fund 1410 - Streets Capital Facilities Fee Fund
The fees collected and deposited into this fund are for roadway improvements (such as expressways, arterials and collectors, as well as their intersections and traffic signals).

Fund 1420 - Public Transit Capital Facilities Fee Fund
The fees collected and deposited into this fund are for buses, bus shelters, bus stops, the Bus Maintenance Facility, and the Northeast Transfer Station.

Fund 1430 - Air Quality Mitigation Capital Facilities Fee Fund.
The fees collected and deposited into this fund are 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, bike paths and bike storage, footpaths and pedestrian access.

Table 4 "2008-2009 Expenses by Fund" outlines all CFF expenses by fund. It should be noted that these are projects that were planned for in the CFF program and that most if not all span two to three fiscal years as there is considerable time to plan, acquire right of way, design and construct the projects.

Summary

This is an Annual Report as required by Section 66006 of the Government Code. The City collects these fees on a pay-as-you-go basis. This Report reflects the requirements as stipulated in the Government Code.

Table 4. Capital Facilities Fees Expenditures & Transfers by Fund for 2009

POLICE			
FUND	ORG	DESCRIPTION	EXPENDITURES
1310	M168	(T-fer) Police Tactical Training Center	292,000
1310	7000	(T-fer out to 0100)	228,000
		Total	**520,000**
FIRE			
FUND	ORG	DESCRIPTION	EXPENDITURES
1320		No Expenditures	-
		Total	**-**
PARKS			
FUND	ORG	DESCRIPTION	EXPENDITURES
1350	P341	Lighting Play and Shade FY 07-08	23,721
1350	P380	Phase I Lighting, Playground and Shade Structures	11,971
1350	P402	Sanders Neighborhood Park	12,947
1350	P469	Sylvan & Marshall Park Spray Grounds	296
1350	P501	Mary E Grogan Community Park	533
1350	P855	Sharp Parkhouse Removal & Improvements	8,165
1350	P856	NE Community Services Center	58,159
1350	A087	(T-fer) Virginia Corridor	489,128
1350	M163	(T-fer) Neighborhood Center at Marshall Park	-
1350	P502	(T-fer) Monterosso Trailhead	540,525
1350	X536	(T-fer) Sylvan/Litt Intersection	48,938
		Total	**1,194,382**
GENERAL GOVERNMENT			
FUND	ORG	DESCRIPTION	EXPENDITURES
1380	7000	(T-fer out to 0100)	653,159
		Total	**653,159**
CFF ADMINISTRATION			
FUND	ORG	DESCRIPTION	EXPENDITURES
1390	0260	CFF Adminisration	160,195
1390	0266	CFF 5 Year Update	35,069
		Total	**195,264**
STREETS			
FUND	ORG	DESCRIPTION	EXPENDITURES
1410	E286	Traffic Control Devices	545
1410	E305	Dale Road CCTV Cameras	31,405
1410	E306	Right Turn Lanes - 4 Intersections	10,506
1410	E332	New Traffic Signals - 2008	21,739
1410	E635	Arterial Roundabouts (119)	7,633
1410	E659	7th & B Street Signal Modification	14,246
1410	E674	Claus/Sylvan/Floyd/Lincoln-Carpenter	568,363
1410	E677	Upgrade Signals Briggsmore/Carpenter	128,452
1410	E678	Roselle/Hillgeln Kodiak Signal	610
1410	E689	Pelandale CCTV/Fiber Optics	219,810

Table 4. Capital Facilities Fees Expenditures & Transfers by Fund for 2009

1410	E740	Pelandale Interchange Preliminary Design and Environme	359,695
1410	H001	Claratina-McHenry BN &SF Plan Line	4,285
1410	H012	Coffee & Claratina Intersection Improvements	5,182
1410	H137	Oakdale Road Widening	2,532
1410	H421	NWS1 - Bangs/Prescott Intersection Improvements	4,809
1410	H422	NWS1 - Pelandale/Dale Intersection Improvements	223,892
1410	H424	NWS1 - Pelandale/Sisk to SR99 Northbound On-Ramp	164,984
1410	H455	Claratina - Oakdale to Roselle	50,858
1410	H458	Claus Rd-Briggsmore to Sylvan	9,860
1410	H461	Pelandale - 6 Lanes Dale to McHenry	7,344,770
1410	H465	Carpenter Road Bridge - Seismic Retrofit	22,301
1410	H470	Claratina-Oakdale to Roselle	1,924
1410	H579	Pelandale/Dale to McHenry	36,254
1410	M283	Claus Road Plan Line	101
1410	N060	(T-fer) Scenic & Bodem Right Turn Lane	(44,423)
1410	N068	(T-fer) Five Traffic Signals Modesto - State 102	358
1410	Q210	Claratina - Coffee to Oakdale	1,315,884
		Total	**10,506,575**
TRANSIT			
FUND	**ORG**	**DESCRIPTION**	**EXPENDITURES**
1420		No Expenditures	-
		Total	**-**
AIR MITIGATION			
FUND	**ORG**	**DESCRIPTION**	**EXPENDITURES**
1430	P502	(T-fer out to 2330)	15,000
		Total	**15,000**
		GRAND TOTAL	**13,084,380**

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MODESTO CITY COUNCIL
RESOLUTION NO. 2009-588

A RESOLUTION RE-PROGRAMMING AND ACCEPTING CONGESTION MITIGATION AIR QUALITY (CMAQ) FUNDS IN THE AMOUNT OF $3,938,795, WITH NEW FUNDS OF $197,944; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY GRANT DOCUMENTS

WHEREAS, on April 4, 2006, the City Council authorized City Traffic staff to submit grant applications for the Congestion Mitigation Air Quality (CMAQ) Grant Program, and

WHEREAS, in addition, in 2009, City Traffic staff was able to secure additional CMAQ funding,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves re-programming and accepting CMAQ funds in the amount of $3,938,795, with new funding of $197,944.

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 special meeting of the Council of the City of Modesto held on the 14th day of December, 2009, by Councilmember Olsen, 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:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-589

RESOLUTION AMENDING THE FISCAL YEAR 09/10 CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET TO REMOVE, MODIFY, AND ADD CIP'S, AND APPROPRIATE ADDITIONAL MATCH FUNDING IN THE AMOUNT OF $4,396,266 ($3,938,795 CMAQ GRANT AND $457,471 CITY MATCH)

WHEREAS, in an effort to reduce additional layoffs in the Community & Economic Development Department and to provide engineering services, staff proposed changes to Capital Improvement Program (CIP) projects with Congestion Mitigation Air Quality (CMAQ) funding to the Council at their June 23, 2009 meeting, and

WHEREAS, Council approved these proposals and staff followed through with StanCOG for formal Amendments 8 and 9, and

WHEREAS, as a result, the Fiscal Year 09/10 CIP budget needs to be amended to reflect the changes to meet Council direction from the June 23, 2009 meeting, and

WHEREAS, with the re-programming of CMAQ grants (see **Exhibit A**), the CIP budget needs to be adjusted to reflect these changes (see **Exhibit B**), and

WHEREAS, the revised appropriations will result in CIP amounts totaling $4,396,266, and

WHEREAS, additional match funding will be required in the amount of $263,835 from fund 1410,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 09/10 Capital Improvement Program budget to remove, modify, and add CIP's and appropriate additional match funding in the amount of $4,396,266 ($3,938,795 CMAQ grant and $457,471 City match).

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 14th day of December, 2009, by Councilmember Olsen, 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:	Geer, Hawn, Lopez, Marsh, Muratore, Olsen, 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 - CMAQ Grant Changes

CMAQ Grants	Current Funding	Expected Funding	Total Grant Expected	Proposed Change	Final Grant $$
CML-5059(154) Roundabouts {E739}	115,089	1,102,199	1,217,288	(1,217,288)	0
14th & D Plan to ask for these funds to be redistributed to two new Briggsmore Rt Turn Lanes					
CML-5059(134) Sisk/Orangeburg {E663}	917,746	708,240	1,625,986	(708,240)	917,746
Want to deobligate a portion of the grant so that the funds can be redistributed to the Rt Turn lane for Briggsmore to McHenry and Rt Turn lane (4) locations					
New Right-turn Lane McHenry to Briggsmore	0	0	0	717,093	717,093
New Right-turn Lane Briggsmore to McHenry	0	0	0	574,561	574,561
CML-5059(149) Right-turn Lanes (4)	379,677	517,900	897,577	831,818 *	1,729,395
		2,328,339	3,740,851	**197,944**	3,938,795

*This reflects an additional $197,944 in CMAQ reserves received from StanCOG

Exhibit B - CIP Changes

CMAQ Funded Projects	Revenue-Legal Budget Current	Change	Revised	Expenses-Legal Budget Current	Change	Revised
E739-SR132 @ DRoundabout	115,089	-115,089	0	130,000	-130,000	0
Match from 1410	14,911	-14,911	0			
			0			0
E663 - Sisk/Orangeburg	973,830	-56,084	917,746	1,107,822	-56,084	1,051,738
Match from 0700	133,992		133,992			
			1,051,738			1,051,738
New-RTL McHenry to Briggsmore	0	717,093	717,093	0	810,300	810,300
Match from 1410	0	93,207	93,207			
			810,300			810,300
New-RTL Briggsmore to McHenry	0	574,561	574,561	0	649,001	649,001
Match from 1410	0	74,440	74,440	0		
			649,001			649,001
E306-Rt Turn Lanes (4)	379,677	1,349,718	1,729,395	390,000	1,495,227	1,885,227
Match from 1410	44,733	111,099	155,832			
			1,885,227			1,885,227
				REVISED CIP AMOUNT:		***4,396,266***

Additional Match Money:

E286 Primary Traffic Control Devices	759,500	263,835	495,665	759,500	-263,835	495,665
(1410 Match Account)						
			495,665			495,665